

Translated from French

Questionnaire on criminal accountability of United Nations officials and experts on mission

In response to the note verbale from the Secretary-General of the United Nations dated 10 January 2020 concerning criminal accountability of United Nations officials and experts on mission, the Kingdom of Belgium has the honour to transmit herewith an update to the questionnaire referred to in paragraph 29 of General Assembly resolution 74/181 dated 18 December 2019 and annexed to the relevant report of the Secretary-General (A/71/167).

The replies transmitted by Belgium in 2016 and 2018 need to be updated owing to changes in Belgian legislation. The changes are shown in bold, both in the replies given below and in the text of the provisions of the Belgian Criminal Code and the preliminary section of the Code of Criminal Procedure set out in the annex.

Preliminary note: the provisions of the Belgian Criminal Code and of the preliminary section of the Code of Criminal Procedure referred to below are set out in the annex.

1. Please indicate the available forms of jurisdiction and list the relevant national provision(s) through which criminal law is applicable to nationals while serving as United Nations officials or experts on mission; please also specify whether specific legislation applies to United Nations officials and experts on mission.

Belgian law does not provide specific rules on the jurisdiction of the Belgian judicial authorities over Belgian nationals serving as United Nations officials or experts on mission.

The Belgian judicial authorities could therefore exercise jurisdiction over such persons according to the rules of ordinary law based on their territorial and extraterritorial jurisdiction. These rules are described below.

These rules apply, with the reservation for immunities and jurisdictional privileges binding on Belgium under international law¹ and, at the national level, under article 1 bis of the preliminary section of the Code of Criminal Procedure (see below, question 4 (I) (d)).

¹ See, inter alia, the Convention on the Privileges and Immunities of the United Nations, adopted at New York on 13 February 1946, ratified by Belgium on 25 September 1948.

(a) Territorial jurisdiction

Offences committed in Belgian territory by Belgians or by foreign nationals shall be punished in accordance with the provisions of Belgian legislation (article 3 of the Criminal Code).

Without prejudice to the privileges and immunities accorded to United Nations officials and experts on mission,² Belgian criminal law is thus applicable to them if they commit an offence in the territory of Belgium.

(b) Nationality

In some cases, the preliminary section of the Code of Criminal Procedure of Belgium allows the Belgian judicial authorities to prosecute Belgian nationals and persons having their principal residence in Belgian territory when they have committed a crime or offence outside the territory of Belgium. Such jurisdiction is not unconditional and varies depending on the type of offence.

In general, any Belgian or any person whose principal residence is in Belgium who is found guilty of an act defined as a crime or offence under Belgian law may be prosecuted in Belgium, if the act is punishable under the laws of the country where it was committed (general requirement of dual criminal liability). When the offence is committed against a foreigner, prosecution can take place only under additional conditions: it can be undertaken only by order of the Public Prosecutor's Office and must be preceded by a complaint from the foreigner who was the victim of the crime or his or her family or by a formal notice provided to the Belgian authorities by the authorities of the country in which the offence was committed (article 7 of the preliminary section of the Code of Criminal Procedure).

In cases specified by the law, prosecution is possible without the above conditions being met (articles 6, 10 ter and 10 quater of the preliminary section of the Code of Criminal Procedure).

These are:

- Crimes and offences against the security of the State.
- Serious violations of humanitarian law³ (in Belgian law, this category includes war crimes, crimes of genocide and crimes against humanity).
- Terrorist offences.⁴

² See article 1 bis of the preliminary section of the Code of Criminal Procedure: below, under question 4 (I) (d).

³ Book II, section I bis of the Criminal Code.

⁴ Book II, section I ter of the Criminal Code.

- Crimes or offences against public trust, such as counterfeiting currency⁵ or forging negotiable securities,⁶ seals, postage stamps, hallmarks,⁷ if the crime or offence involves the euro or currency that may or may not serve as legal tender in Belgium, or articles intended for their manufacture, forgery, tampering or falsification, or if it involves materials, papers, seals, postage stamps, marks or hallmarks of the State or of Belgian or foreign public administrations or establishments.
- The prostitution of minors or adults⁸, and child pornography⁹, including as part of a criminal association.
- Human trafficking¹⁰ and migrant smuggling¹¹.
- **Trafficking in organs, in the case of the removal of organs, whether carried out or planned, in exchange for profit or for a comparable benefit¹².**
- Voyeurism¹³, indecent assault and rape¹⁴ of a minor, and grooming¹⁵.
- Genital mutilation of a minor female¹⁶.
- Corruption of persons performing a public function¹⁷.
- Corruption of persons performing a public function in a foreign State or in an organization of public international law¹⁸.

In addition, there have been two expansions of the scope of jurisdiction based on the active personality principle. On the one hand, any person subject to Belgian military law who has committed any offence in the territory of a foreign State may be prosecuted in Belgium. On the other, the same applies to persons who are attached in any capacity to a Belgian army detachment serving in foreign territory and to persons who are authorized to accompany military units forming part of such detachments (article 10 bis of the preliminary section of the Code of Criminal

⁵ Book II, section III, chapter I of the Criminal Code.

⁶ Book II, section III, chapter II of the Criminal Code.

⁷ Book II, section III, chapter III of the Criminal Code and articles 497 and 497 bis of the Criminal Code.

⁸ Articles 379, 380 and 381 of the Criminal Code.

⁹ Article 383 bis, paragraphs 1 and 3 of the Criminal Code.

¹⁰ Articles 433 quinquies to 433 octies of the Criminal Code.

¹¹ Articles 77 bis to 77 quinquies of the Act of 15 December 1980 on the admission into the territory, residence, settlement and removal of aliens.

¹² **Articles 433 novies/2 to 433 novies/10 of the Criminal Code.**

¹³ Article 371, paragraph 1 of the Criminal Code.

¹⁴ Articles 372-377 of the Criminal Code.

¹⁵ Article 377 quater of the Criminal Code.

¹⁶ Article 409 of the Criminal Code.

¹⁷ Article 246-249 of the Criminal Code.

¹⁸ Article 250 of the Criminal Code.

Procedure). Furthermore, a foreign co-perpetrator or accomplice to a crime committed outside Belgian territory by a Belgian may be prosecuted in Belgium, together with the Belgian defendant or after that defendant's conviction (article 11 of the preliminary section of the Code of Criminal Procedure).

The general supplement provided by article 12 bis of the preliminary section of the Code of Criminal Procedure, which permits prosecution of offences under a rule of conventional or customary international law or a rule of law derived from the European Union binding on Belgium that requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (article 12 bis of the preliminary section of the Code of Criminal Procedure). This rule is a supplement in the sense that it covers only those offences not already covered by a specific Belgian rule of procedural law.

(c) Passive personality

Response no.1 (b) is applicable if question no.1 relates solely to the types of jurisdiction that could be invoked in Belgian law to enable the Belgian authorities to prosecute a national serving as a United Nations official or expert on mission who has committed an offence.

However, the principle of passive personal jurisdiction may be invoked for the Belgian judicial authorities to prosecute a foreigner who, outside the territory of Belgium, has committed:

- A serious violation of international humanitarian law defined in Book II, section I bis, of the Criminal Code (in Belgian law, this category includes crimes of genocide, war crimes and crimes against humanity) committed against a person who was, at the time of the offence, a Belgian national, a recognized refugee in Belgium whose place of habitual residence is in Belgium, within the meaning of the Convention relating to the Status of Refugees and its Additional Protocol, adopted in Geneva in 1951, or a person who has effectively, habitually and legally resided in Belgium for at least three years (article 10, paragraph 1 bis, of the preliminary section of the Code of Criminal Procedure).
- In wartime, a crime of intentional homicide or bodily injury, rape, indecent assault or denunciation to an enemy committed against a Belgian national, a foreigner residing in Belgium at the time of the outbreak of hostilities, or a national of a country that is an ally of Belgium in the sense of paragraph 2 of article 117 of the Criminal Code ¹⁹ (10,

¹⁹ "For application of this provision, an ally of Belgium is defined as any State which, even independently of a treaty of alliance, engages in war against a State with which Belgium itself is at war."

paragraph 4, of the preliminary section of the Code of Criminal Procedure).

- One of the terrorist offences provided for in articles 137, 140 and 141 of the Criminal Code committed against a Belgian national (article 10 ter, paragraph 4, of the preliminary section of the Code of Criminal Procedure).
- A crime against a Belgian national if, under the law of the country where it was committed, the act is punishable by a maximum penalty that exceeds five years' deprivation of liberty (article 10, paragraph 5, of the preliminary section of the Code of Criminal Procedure).
- Offences (not specifically defined in Belgian law) under a rule of conventional or customary international law or a rule of law derived from the European Union binding on Belgium that requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (article 12 bis of the preliminary section of the Code of Criminal Procedure).

(d) Effects doctrine

N/A

(e) Protective jurisdiction principle

The Belgian judicial authorities may prosecute any person, irrespective of nationality, who is found guilty, outside of Belgian territory, of any of the following:

- A crime or offence against the security of the State (articles 6, paragraph 1, and 10, paragraph 1, of the preliminary section of the Code of Criminal Procedure).
- Crimes or offences against public trust, such as counterfeiting currency²⁰ or forging negotiable securities²¹, seals, postage stamps, hallmarks, etc., if the crime or offence involves the euro, which serves as legal tender in Belgium, or articles intended for their manufacture, forgery, tampering or falsification, or if it involves materials, papers, seals, postage stamps, marks or hallmarks²² of the State or of Belgian public administration or establishments (articles 6, paragraph 2, and 10, paragraph 2, of the preliminary section of the Code of Criminal Procedure).
- One of the offences provided for in articles 77 bis to 77 quinquies of the Act of 15

²⁰ Book II, section III, chapter I of the Criminal Code.

²¹ Book II, section III, chapter II of the Criminal Code.

²² Book II, section III, chapter II of the Criminal Code.

December 1980 on the admission into the territory, residence, settlement and removal of aliens and in articles 10-13 of the Act of 9 March 1993 to regulate and monitor the activities of marriage brokering companies (article 10 ter, paragraph 3, of the preliminary section of the Code of Criminal Procedure).

- One of the terrorist offences²³ committed against a Belgian institution, or against an institution of the European Union or a body that was created in accordance with the Treaty establishing the European Community or the Treaty on European Union and that has its headquarters in Belgium (article 10 ter, 4, of the preliminary section of the Code of Criminal Procedure).
- Corruption of a person performing a public function in an organization of international law headquartered in Belgium²⁴ (article 10 quater, part 1, paragraph 2, of the preliminary section of the Code of Criminal Procedure).
- Offences (not specifically defined in Belgian law) under a rule of conventional or customary international law or a rule of law derived from the European Union binding on Belgium that requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (article 12 bis of the preliminary section of the Code of Criminal Procedure).

(f) Universality

Any person, irrespective of nationality, who commits one of the following offences outside the territory of Belgium may be prosecuted by the Belgian judicial authorities whether or not he or she is present in Belgium²⁵:

- A serious violation of international humanitarian law (in Belgian law, this includes war crimes, crimes of genocide and crimes against humanity)²⁶.
- Offences (not specifically defined in Belgian law) under a rule of conventional or customary international law or a rule of law derived from the European Union binding on Belgium that requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (article 12 bis of the preliminary section of the Code of Criminal Procedure).

²³ Articles 137, 140 and 141 of the Criminal Code.

²⁴ Criminal Code, article 250.

²⁵ Article 12 of the preliminary section of the Code of Criminal Procedure.

²⁶ Book II, section I bis of the Criminal Code.

Furthermore, any person guilty of one of the following offences outside the territory of Belgium can be prosecuted in Belgium, provided that he or she is present in Belgium:

- A crime or offence against public trust, if the crime or offence involves currencies that are not legal tender in Belgium or articles for their manufacture, forgery, tampering or falsification, or materials, paper, seals, postage stamps, marks or hallmarks of a foreign country (articles 6, paragraph 3, and 10, paragraph 3, of the preliminary section of the Code of Criminal Procedure).
- An offence set forth in article 2 of the European Convention on the Suppression of Terrorism, adopted at Strasbourg on 27 January 1977, which has been committed in the territory of a State party to the Convention, when the alleged offender is present in the territory of Belgium and the Belgian Government has not granted extradition to that State for one of the reasons mentioned in article 2 or article 5 of the Convention, or article 11 of the European Convention on Extradition, adopted at Paris on 13 December 1957, or because extradition is likely to have exceptionally serious consequences for the person sought, including on the grounds of his or her age or state of health (article 10, paragraph 6, of the preliminary section of the Code of Criminal Procedure).
- The prostitution of minors or adults²⁷ and child pornography²⁸, including as part of a criminal association (article 10 ter, paragraph 1, of the preliminary section of the Code of Criminal Procedure).
- Trafficking in human beings²⁹, **trafficking of migrants³⁰ and offences against Act of 9 March 1993 regulating and controlling the activities of matchmaking companies** (article 10 ter, paragraphs 1 and 3, of the preliminary section of the Code of Criminal Procedure).
- **Trafficking in organs, in the case of the removal of organs, whether carried out or planned, in exchange for profit or for a comparable benefit³¹** (article 10 ter, paragraph 1 bis of the Preliminary Section of the Code of Criminal Procedure).
- Voyeurism³², indecent assault and rape³³ of a minor (article 10 ter, paragraph 2, of the

²⁷ Articles 379, 380 and 381 of the Criminal Code.

²⁸ Article 383 bis, paragraphs 1 and 3 of the Criminal Code.

²⁹ Articles 383 bis, paragraphs 1 and 3, 433 sexies, 433 septies and 433 octies of the Criminal Code.

³⁰ Articles 77 bis to 77 quinquies of the Act of 15 December 1980 on the admission into the territory, residence, settlement and removal of aliens.

³¹ **Articles 433 novies/2 to 433 novies/10 of the Criminal Code.**

³² Articles 433 novies/2 to 433 novies/10 of the Criminal Code.

³³ Criminal Code, articles 372-377.

preliminary section of the Code of Criminal Procedure).

- Genital mutilation of a minor female³⁴ (article 10 ter, paragraph 2, of the preliminary section of the Code of Criminal Procedure).
- Corruption of persons performing a public function³⁵ (article 10 quater, item 1, paragraph 1 of the preliminary section of the Code of Criminal Procedure).

2. To what extent do national provisions establish jurisdiction *ratione personae* over crimes committed extraterritorially by nationals while serving as United Nations officials and experts on mission?

In Belgian law, no provision of criminal law or criminal procedure specifically applies to United Nations officials and experts on mission. A fortiori, nor is there a provision that specifically applies to Belgian nationals who are United Nations officials and experts on mission. The provisions applicable to Belgian nationals are thus those that are applicable to all Belgian nationals, subject to the immunities and jurisdictional privileges recognized under international law³⁶. Consequently, apart from this limit, the jurisdiction *ratione personae* of Belgian judicial authorities is governed by the ordinary law regime explained in the previous question.

(a) General application to all persons:

Yes, within the limits covered in question 1 (b)-(f).

(b) Jurisdiction over nationals and persons having their principal residence in Belgium:

Yes, within the limits covered in question 1 (b)-(f).

(c) Jurisdiction over stateless persons:

Yes, within the limits covered in question 1 (b)-(f).

(d) Jurisdiction over foreign nationals:

Yes, within the limits covered in question 1 (c)-(f), and provided that it falls within the scope of question 2, which appears only to concern offences committed by nationals.

³⁴ Criminal Code, article 409.

³⁵ Criminal Code, articles 246-249.

³⁶ See article 1 bis of the Preliminary section of the Code of Criminal Procedure: below, under question 4 (I) (d).

(e) Specific legislation for particular categories of persons:

In Belgian law, no provision of criminal law or criminal procedure specifically applies to United Nations officials and experts on mission, whether military or civilian. See again the replies to question 1 (a)-(f).

It should be noted, however, that, if those persons are subject to Belgian military laws or are attached in any capacity to an army detachment serving in foreign territory or if those persons are authorized to accompany military units forming part of such detachments, they may be prosecuted by the Belgian judicial authorities for any offence committed in the territory of a foreign State by virtue of article 10 bis of the preliminary section of the Code of Criminal Procedure, once again subject to the immunities and jurisdictional privileges recognized under international law.³⁷

Belgian law does not break down its provisions into the categories listed below. Where appropriate, however, all those categories may be grouped under article 10 bis of the preliminary section of the Code of Criminal Procedure.

i. Military United Nations officials and experts on mission

See comment above.

ii. Police United Nations officials and experts on mission

See comment above.

iii. Civilian United Nations officials and experts on mission

See comment above.

iv. Public officials acting in foreign jurisdictions

See the rules of ordinary law explained in question 1 (a)-(f) and note the relevance for that category of persons of article 10 quater, part 1, paragraph 2, and part 2 of the preliminary section of the Code of Criminal Procedure.

v. Other (if any)

3. To what extent do national provisions establish jurisdiction *ratione personae* over crimes

³⁷ See article 1 bis of the Preliminary section of the Code of Criminal Procedure: below, under question 4 (I) (d).

committed extraterritorially by nationals while serving as United Nations officials and experts on mission?

(a) General application of criminal law: see replies to question 1 (a)-(f).

(b) Application limited to international treaty obligations: see replies to question 1 (a)-(f).

Application limited to crimes of a “serious nature”: see replies to question 1 (a)-(f).

Application limited to “international crimes”, including genocide, crimes against humanity and war crimes: see replies to question 1 (a)-(f).

Application limited to crimes accompanied with minimum imprisonment term (e.g. 3/5 years): see replies to question 1 (a)-(f).

Application limited to crimes affecting “essential interest(s) of the State”: see replies to question 1 (a)-(f):

Application limited to crimes affecting public security: see replies to question 1 (a)-(f).

Application limited to specific list of crimes: see replies to question 1 (a)-(f).

(c) Other limitations to the application *ratione materiae* of domestic law (if any): N/A

4. Which, if any, prerequisites are placed before the application of extraterritorial jurisdiction for United Nations officials or experts on mission?

I.

(a) Agreement (SOFA/SOMA) with host State on extraterritorial jurisdiction – No.

(b) Agreement (SOFA/SOMA) with host State with respect to United Nations officials or experts on mission: No.

(c) Any other agreement: No.

(d) National law:

In Belgian law, no provision of criminal law or criminal procedure specifically applies to the immunities and jurisdictional privileges of United Nations officials and experts on mission. The ordinary law regime therefore applies, as stated in article 1 bis of the preliminary section of the

Code of Criminal Procedure:

“Part 1. In accordance with international law, proceedings may not be brought against:

“- Heads of State, Heads of Government and ministers for foreign affairs while in office, and other persons with immunity recognized by international law;

– persons who enjoy full or partial immunity on the basis of a treaty binding on Belgium.

Part 2. In accordance with international law, no restraining measure pertaining to prosecution may be imposed, during their stay, on any persons officially invited to stay in the territory of the Kingdom by the Belgian authorities or by an international organization based in Belgium with which Belgium has concluded a headquarters agreement.”

II.

(a) Offence must be extraditable – N/A

(b) Double criminality – article 7 of the preliminary section of the Code of Criminal Procedure.

(c) The offender must be present in Belgian territory

In Belgian law, the presence of the alleged offender in national territory is a general condition for extraterritorial jurisdiction of the Belgian judicial authorities, with the exception (art. 12 of the preliminary section of the Code of Criminal Procedure) of:

- the following offences committed by a Belgian national or any person whose principal residence is in Belgium:
 - o crime or offence against the security of the State (article 6, paragraph 1, of the preliminary section of the Code of Criminal Procedure);
 - o serious violation of international humanitarian law defined in book II, section I bis of the Criminal Code (this category includes genocide, war crimes and crimes against humanity) (article 6, paragraph 1 bis, of the preliminary section of the Code of Criminal Procedure);
 - o terrorist offence specified in article 137 of the Criminal Code (article 6, paragraph

- 1 ter, of the preliminary section of the Code of Criminal Procedure);
 - o crime or offence against public trust under chapters I, II and II, section III, book II of the Criminal Code, or an offence under articles 497 and 497 bis, if the crime or offence involves the euro, that is the currency with legal tender in Belgium, or objects intended for their manufacture, forgery, modification or falsification of euros, or involves materials, papers, seals, postage symbols, marks or hallmarks of the State or Belgian public administrations or establishments (article 6, paragraph 2, of the preliminary section of the Code of Criminal Procedure);
 - o **The offences provided for under articles 347 bis, 393 to 397 and 475 of the Criminal Code (article 7 of the preliminary section of the Code of Criminal Procedure).**
- the following offences committed by a foreigner whose principal residence is not in Belgium:
- o a crime or offence against the security of the State (article 10, paragraph 1, of the preliminary section of the Code of Criminal Procedure);
 - o a serious violation of international humanitarian law defined in book II, section I bis of the Criminal Code (this category includes genocide, war crimes and crimes against humanity) committed against a person who, at the time of commission of the offence, is a Belgian citizen, a recognized refugee in Belgium whose place of usual residence is in Belgium, within the meaning of the Convention relating to the Status of Refugees and its Additional Protocol, adopted in Geneva in 1951, or a person who has effectively, habitually and legally resided in Belgium for at least three years (article 10, paragraph 1 bis, of the preliminary section of the Code of Criminal Procedure);
 - o a crime or offence against public trust under chapters I, II and II, section III, book II of the Criminal Code, or an offence under articles 497 and 497 bis, if the crime or offence involves the euro, that is the currency with legal tender in Belgium, or objects intended for their manufacture, forgery, modification or falsification of euros, or involves materials, papers, seals, postage stamps, symbols or hallmarks of the State or Belgian public administrations or establishments (article 10, paragraph 2, of the preliminary section of the Code of Criminal Procedure);

- o the offences under articles 347 bis³⁸, 393-397³⁹ and 475⁴⁰ of the Belgian Criminal Code, if these are punishable by over five years' deprivation of liberty by the State in which the offences were committed (article 10, paragraph 5, of the preliminary section of the Code of Criminal Procedure);
 - any offence committed by persons who are subject to Belgian military laws or attached in any capacity to an army detachment serving in foreign territory or persons who are authorized to accompany military units forming part of such detachments (article 10 bis of the preliminary section of the Code of Criminal Procedure).
 - terrorist offences specified in article 137 of the Criminal Code committed by any individual against a Belgian national or institution, or against an institution of the European Union or body that was created in accordance with the Treaty establishing the European Community or the Treaty on European Union and has its headquarters in Belgium (article 10 ter, paragraph 4, of the preliminary section of the Code of Criminal Procedure);
 - offences under a rule of conventional or customary international law or a rule of law derived from the European Union binding on Belgium when that rule requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (art. 12 bis of the preliminary section of the Code of Criminal Procedure).
- (d) Application of principles of ne bis in idem - article 13, paragraph 1, of the preliminary section of the Code of Criminal Procedure.
- (e) Permission to prosecute required by Public Prosecutor/Attorney-General/other specific government official(s)

In the following cases, prosecutions, including criminal investigation, may only take place at the request of a federal prosecutor (or, in certain cases, a crown prosecutor) who assesses any complaints:

- offences committed against a foreigner by a Belgian national or resident of Belgium (art. 7, para. 2, of the preliminary section of the Code of Criminal Procedure);
- serious violation of international humanitarian law (in Belgian law, this category includes war crimes, genocide and crimes against humanity) committed by a foreigner outside

³⁸ Crimes related to hostage-taking

³⁹ Murder, assassination, infanticide, parricide, poisoning

⁴⁰ Murder to facilitate theft or extortion or to ensure impunity

Belgian territory (article 10, paragraph 1 bis of the preliminary section of the Code of Criminal Procedure);

- offence under a rule of conventional or customary international law or a rule of law derived from the European Union binding Belgium when that rule requires Belgium to submit the case by any means to its competent authorities for the purpose of prosecution (article 12 bis of the preliminary section of the Code of Criminal Procedure).

5. What is the legal basis for the application of rules of immunity to United Nations officials or experts on mission?

- (a) Convention on the Privileges and Immunities of the United Nations 1946, ratified by Belgium on 25 September 1948 – Yes.

- (b) Specific agreement with the United Nations (SOFA/SOMA/other)

The SOFA and SOMA agreements contain specific provisions relating to the immunities enjoyed by members of Belgian contingents deployed in peacekeeping operations.

- (c) Specific agreement with the host State (SOFA/SOMA/other)

The SOFA and SOMA agreements contain specific provisions relating to the immunities enjoyed by members of Belgian contingents deployed in peacekeeping operations.

- (d) Other general privileges and immunities applicable, including those accorded by national law

General immunities and jurisdictional privileges: article 1 bis of the preliminary section of the Code of Criminal Procedure (see above).

Given that experts on mission for the United Nations may be judges, Belgian law recognizes a jurisdictional privilege in that regard by establishing specific provisions in the case of offences committed while off or on duty: see section IV, chapter III of the Belgian Code of Criminal Procedure (art. 479 ff.). This privilege consists of a special procedure. It is not a jurisdictional privilege in the sense of the primacy of the jurisdiction of one State over the jurisdiction of another; it is therefore not a jurisdictional privilege in the traditional sense of international law.

6. To what extent is military and/or civilian law applicable to crimes committed by United Nations officials or experts on mission?

- (a) Exclusive application of military law to military personnel deployed as United Nations officials or experts on mission: – No.
- (b) Exclusive use of military courts for military personnel deployed as United Nations officials or experts on mission: – No.
- (c) Potential application of civilian law/courts to military personnel:

The use of military courts in peacetime was abolished by the Act of 10 April 2003 and may only be reinstated in time of war. The Military Code of Criminal Procedure was also abolished.

Belgian military personnel are therefore subject to civilian courts and civilian law. They are also subject to specific provisions of the Belgian Military Criminal Code, which provides for military sentences and criminalizes:

- Treason and espionage
- Actions that undermine military duties
- Insubordination and rebellion
- Violence and offensive behaviour
- Desertion
- Misappropriation, theft and sale of military items
- The violation of certain foreign legal and regulatory provisions relating to forestry, rural matters, hunting and fishing, road traffic, tax, foreign exchange and the regulation of imports or exports.

Furthermore, all persons subject to military laws who have committed any offence on the territory of a foreign State may be prosecuted in Belgium without any notice being given to the Belgian authorities by the foreign authorities and without regard as to whether the perpetrator is in Belgian territory (arts. 10 bis and 12 of the preliminary section of the Code of Criminal Procedure). The same applies to persons who are attached in any capacity to an army detachment serving in foreign territory or persons who are authorized to accompany military units forming part of such detachments (arts. 10 bis and 12 of the preliminary section of the Code of Criminal Procedure).

Lastly, the sentences handed down by courts and tribunals may also affect the status of military personnel and prohibit them from serving in the Belgian armed forces.
