

Translated from French

Annex

Criminal accountability of United Nations officials and experts on mission

General Assembly resolution 74/181 of 18 December 2019 concerns the criminal accountability of United Nations officials and experts on mission.

This document contains information and comments on the implementation of the resolution, in particular with respect to paragraphs 10, 12, 13, 15, 18 and 20, and any practical problems encountered in that regard.

On 21 April 2016, Togo passed Act No. 2016 008 establishing the new Code of Military Justice. Articles 46, 47, 48 and 49 of the Act cover the jurisdiction of the military courts.

Under article 46, military courts may deal with both public prosecutions and criminal indemnification proceedings, in accordance with the provisions of the Code of Military Justice itself, the Criminal Code and the Code of Criminal Procedure. Unless otherwise stated in specific laws, the competences of the military courts are those determined in the Code of Military Justice.

Under article 47, in both peacetime and war, the military courts are competent to investigate and try:

- (1) Military offences specified in the Code;
- (2) Offences against the internal and external security of the State involving military and related personnel;
- (3) Offences of any kind committed by military and paramilitary personnel:
 - In the discharge of or during service;
 - In military barracks, quarters or establishments, or in a place of billeting;

The phrase "place of billeting" means the place where the military or paramilitary personnel referred to in article 49 are lodged. When a deployment takes place within national territory, the phrase refers only to the outbuildings or home of the person who is housing the military or paramilitary personnel. When a deployment takes place in foreign

territory, the term refers to any part of that territory;

The following are classified as military establishments: any permanent or temporary facilities used by the armed forces or similar institutions, naval vessels, military aircraft, vehicles and any other means of transportation used by the military, whatever their location;

(4) Offences of any kind committed by military or related personnel, their accomplices and accessories using means belonging to the armed forces and similar institutions.

Under article 48, the following persons may be tried in the military courts:

(1) Members of the Togolese armed forces and personnel of the paramilitary units under the Ministry of Security who are on active duty, on detachment, on non-active duty or serving in special positions;

(2) Related personnel;

(3) Members of the operational reserve;

(4) Prisoners of war.

Under article 49, related personnel are:

(1) Members of the paramilitary units of other ministries, solely when using the military means made available to them;

(2) Non-military individuals prosecuted for a military offence;

(3) Individuals on board.

For the purposes of the Code, individuals on board are persons who, for any reason, have boarded a vessel, aircraft, vehicle or other means of transportation belonging to the armed forces or similar institutions;

(4) Persons who, without having a legal or contractual relationship with the armed forces, are brought or kept under their control and serve with them;

(5) Civilian personnel employed in military services and establishments;

(6) Members of prize crews.

To date, Togo has not encountered any practical problems in the implementation of this resolution.
