

TURKEY'S CONTRIBUTIONS TO THE REPORT OF THE SECRETARY-GENERAL

In its submissions of 2018 and 2019 to the Secretariat of the United Nations, Turkey had provided information on Turkish legislation and practice relating to the subject of criminal accountability of United Nations officials and experts on mission, as well as comments on the report of the Group of Legal Experts.

The mentioned submissions included information on establishment of jurisdiction over crimes committed abroad by nationals, cooperation with third States and the United Nations in the exchange of information and the facilitation of investigations and prosecutions, and protection of victims and witnesses.

Please find below additional contributions regarding the concerned topic:

- As explained in previous communications, Article 11 of the Turkish Criminal Code stipulates the following: "If a Turkish citizen commits an offence, excluding offences in Article 13, which requires a punishment of at least one year of imprisonment according to Turkish laws, in a third country, and if the perpetrator is present in Turkey, he/she shall be tried and punished in Turkey in accordance with Turkish laws, provided that there is no conviction given by the courts of a third country for the same offence and the conditions for prosecution in Turkey are met".

The same article furthermore provides that, in cases where the offence in question requires a minimum punishment that is lower than one year of imprisonment according to Turkish laws, the prosecution of such crime in Turkey shall be subject to the filing of a complaint by the injured person or the relevant foreign government within six months after the accused Turkish citizen enters Turkey.

- Article 10 of the Turkish Criminal Code was also explained in Turkey's previous communications. This article stipulates that a person who commits an offence in a third country while performing an official duty in the name of Turkey shall be tried in Turkey, even if he/she was convicted in a third country for the same offence.

It shall be noted that, in the context of any such reprosecution to be carried out in Turkey, the relevant legal safeguards, including especially the deduction of periods already served in a third country, would be observed.

Further, the Turkish Criminal Procedural Code designates the courts of Ankara (the capital of Turkey) as the competent courts to prosecute crimes committed by Turkish public officers who are abroad and who enjoy diplomatic privileges and immunities.

- Article 19 of the Turkish Criminal Code provides, with certain exceptions, that the sentence to be given by Turkish courts for crimes committed abroad shall not exceed the upper limit of the sentence stipulated in the laws of the country in which the crime was committed.

- On the other hand, Article 13 of the Turkish Criminal Code stipulates that certain categories of crimes that are committed abroad shall be prosecuted in Turkey, regardless of whether the perpetrator is a Turkish citizen or a foreign national, subject to the conditions and requirements set by the law. These crimes include but are not limited to genocide, crimes against humanity, torture, human trafficking, migrant smuggling, prostitution, production and trade of narcotics or psychotropic substances, and crimes against the State.

- As regards military crimes committed abroad by Turkish soldiers while serving on official duty, Article 5 of the Military Criminal Code stipulates that such crimes shall be considered to have been committed in Turkey and shall be subject to reprosecution before Turkish courts even if there exists a conviction given by the courts of a third country for the concerned crime, upon a request by the Minister of Defense of Turkey to that end.

In the context of any such reprosecution, the relevant legal safeguards would be observed, as emphasized above.

On the other hand, for non-military crimes committed abroad by Turkish soldiers, the relevant provisions of the Turkish Criminal Code apply.

- Turkish legislation is in place to ensure that jurisdiction is fully exercised with regard to the crimes committed abroad by Turkish nationals, including those who serve as United Nations officials or experts on mission.

- Turkey would also like to take this opportunity to emphasize that the Partnership for Peace Training Center, established under the Turkish Armed Forces, constitutes one of the few training centers in the world that is competent in offering "United Nations Military Observer Course". The successful completion of this training is mandatory for all Turkish military personnel who are to be assigned to UN peace operations.