
Translated from Spanish

Permanent Mission of the Dominican Republic to the United Nations

MPRDNY-1313-11

New York, 3 August 2011

The Permanent Mission of the Dominican Republic to the United Nations presents its compliments to the Secretary-General of the United Nations and takes this opportunity to refer to his Note LA/COD/59/1 of 20 January 2011, requesting Member States to submit information and observations relating to their implementation of General Assembly resolution 65/33 of 6 December 2010, entitled "The scope and application of the principle of universal jurisdiction".

In that regard, the Permanent Mission submits herewith the report received from its authorities, which contains relevant information on the national situation of the Dominican Republic for consideration.

The Permanent Mission of the Dominican Republic to the United Nations takes this opportunity to convey to the Secretary-General of the United Nations* the renewed assurances of its highest consideration.

The Secretary-General of the United Nations

New York

* Translator's note: The Spanish original refers to the Permanent Mission of Mexico, but it is clear from the rest of the note verbale that the addressee is the Secretary-General.

Report of the Government of the Dominican Republic on the scope and application of universal jurisdiction

The offences subject to application of the principle of universal jurisdiction are crimes that affect the international community and thus violate the rules and provisions of international law. In such cases, the gravity of the issue in itself justifies prosecution by any member State of the international community.

Article 26 of the Constitution of the Republic, which was promulgated on 26 January 2010, provides that:

The Dominican Republic is a member State of the international community, open to cooperation and bound to adhere to the provisions of international law. Therefore: (1) It recognizes and applies the provisions of general international law and American law, in so far as its public authorities have adopted them; (2) The provisions of the international conventions that it has ratified shall be applicable as domestic law following their official publication...

Article 56 of the Code of Criminal Procedure grants Dominican courts the competence to exercise universal jurisdiction over certain crimes.

Article 56: Criminal jurisdiction is exercised by the judges and courts established by this Code and applies to Dominicans and foreigners for purposes of the investigation and prosecution of offences which are committed fully or partially in the national territory or which produce effects therein, unless otherwise provided in international treaties or conventions adopted by public organs or in the principles recognized by general international law and American law. The national courts have the authority to prosecute cases involving genocide, war crimes or crimes against humanity, wherever committed, provided that the accused person is resident, even temporarily, in the country or that the acts caused harm to Dominicans.

In addition, article 62 of the Code establishes the competent tribunal for application of the principle of universal jurisdiction, indicating that: "The Santo Domingo court of first instance shall have competence for cases in which a national court must investigate offences committed outside the national territory".

The Supreme Court of the Dominican Republic has ruled on the principle of universal jurisdiction on several occasions, as, for example, in the 16 December 2009 judgment of the Criminal Chamber (now Division) of the Supreme Court of Justice. The judgment states:

...with regard to the jurisdiction and competence of the Dominican criminal courts, article 56 of the Code of Criminal Procedure grants our courts the legal capacity to investigate and prosecute only offences of which Dominican or foreign persons are accused and which were committed fully or partially in the national territory or produced effects therein... Furthermore, article 62 of the Code of Criminal Procedure provides that Dominican courts may investigate offences committed outside of the national territory -- which thus fall into the category of universal jurisdiction -- and although that provision does not specify the offences in question, it is clear that these are very serious crimes such as genocide, crimes against humanity, money-laundering, international drug trafficking, etc., which does not apply in this case..."**

The judgment also states that owing to the universal nature of some offences committed by organized crime, which were, until recently, unheard of, and to the extreme seriousness and transboundary nature that define them as crimes against humanity, all the States that have fallen victim to these offences must be permitted to prosecute and sentence the perpetrators.

** Translator's note: The words after "etc." refer to the specific case considered in the Court's judgment. See <http://www.suprema.gov.do/sentscj/sentencia.asp?B1=VR&llave=118930017>.

Universal jurisdiction has become a necessary tool for combating impunity for certain actions or offences, the seriousness of which justifies the application of justice at the international level. The judiciary of the Dominican Republic therefore applies and considers universal jurisdiction on a case-by-case basis.