

REPUBLICA MOLDOVA

Misiunea Permanenta pe
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REPUBLIC OF MOLDOVA

Permanent Mission to the
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The Permanent Mission of the Republic of Moldova to the United Nations presents its compliments to the Secretariat of the United Nations and referring to the Note of the Secretary General ref: LA/COD/59/1 dated 31 December 2012 requesting information relating to the implementation of the General Assembly Resolution 67/98 on the scope and application of the principle of universal jurisdiction, has the honor to enclose herewith the information provided by the Government of the Republic of Moldova in this connection, as a contribution to the Report of the Secretary General at the sixty-eighth session of the United Nations General Assembly in 2013.

The Permanent Mission of the Republic of Moldova to the United Nations avails itself of this opportunity to renew to the Secretariat of the United Nations the assurances of its highest consideration.



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SECRETARIAT
OF THE UNITED NATIONS
New York

35 East 29th Street, New York, N.Y. 10016
Tel: (212) 447-1867; Fax: (212) 447-4067
E-mail: urmoldova@aol.com

The application of the principle of universal jurisdiction in the Republic of Moldova

In the Republic of Moldova (RM) the principle of universal jurisdiction is regulated by the article 11, paragraph 3 of its Penal Code (PC) which stipulates: *"If not convicted in a foreign state, foreign citizens and stateless persons without permanent residence on the territory of the Republic of Moldova who commit crimes outside the territory of the Republic of Moldova shall be criminally liable under this Code and shall be subject to criminal liability on the territory of the Republic of Moldova provided that the crimes committed are adverse to the interests of the Republic of Moldova or to the peace and security of humanity, or constitute war crimes including crimes set forth in the international treaties to which the Republic of Moldova is a party."*

Concerning the application of the abovementioned principle, the PC of the RM in art.2, par. 1 expressly states that *"Criminal law protects persons from crimes; persons' rights and freedoms; property; the environment; constitutional order; the sovereignty, independence, and territorial integrity of the Republic of Moldova; the peace and security of humanity as well as the rule of law in its entirety"*. The provisions referring to the crimes against the peace and security of humanity and war crimes are listed in the Special Part of the PC, art. 135-144.

As regard to the prescription of criminal liability, pursuant to art. 60, par. 8 of the PC *"The limitation period shall not apply to persons who commit crimes against the peace and security of humanity, war crimes, or other crimes set forth in international treaties to which the Republic of Moldova is a party"*.

In case there are any discrepancies with international acts on fundamental human rights, the international regulations shall take precedence and be applied directly (art. 1, par. 3 of the PC of the RM). In this context, the international documents related to the principle of universal jurisdiction that RM acceded to are mentioned below:

- Geneva Conventions of 1949 and the Additional Protocols thereto;
- Convention for the Prevention and Punishment of the Crime of Genocide of 1948;
- Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;
- Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, 1990;
- European Convention on the Suppression of Terrorism, 1977;
- Rome Statute on the International Criminal Court of 1997 and other international legal restrictions in the use of certain methods and means in the conduct of hostilities.

In order to ensure the application of the principle of universal jurisdiction to persons who commit crimes, the constitutive elements of crime stipulated in international treaties that Republic of Moldova acceded to have been introduced into the domestic criminal law. However, even though the Republic of Moldova ratified the Rome Statute (Law no. 212 of 9 September 2010), not all the crimes provided in the Statute are criminalized under the domestic legislation.

Therefore, the Law no. 45 of 7 February 2013 amending the PC has been adopted by the Parliament of RM in the second lecture on 4 April 2013. The amendments refer to:

- Art. 127¹ – Persons protected by the international humanitarian law;
- Art. 130 – Mercenaries;
- Art. 135 – Genocide;
- Art. 135¹ – Crimes against humanity;
- Art. 137 – War crimes against humanity;
- Art. 137¹ – War crimes against property and other rights;
- Art. 137² – Use of prohibited means in the conduct of war;
- Art. 137³ – Use of prohibited methods in the conduct of war;
- Art. 137⁴ – Unlawful use of distinctive international humanitarian law signs.

Regarding the application of the principle of universal jurisdiction, according to the existing data, currently there is no domestic judicial practice in this respect. In the period from 2004-2013, the national courts did not examine any criminal case initiated under art. 135 – 144 of the PC of RM.