

22 April 2024

Translated from Spanish

Permanent Mission of Panama to the United Nations, New York

The Republic of Panama wishes to report that the principle of territoriality is provided for in the Panamanian legal system, in article 18 in book I, title I, chapter II (Territorial scope of criminal law), of the Criminal Code, which establishes that criminal law shall be applicable to punishable acts committed in the national territory and other places subject to the jurisdiction of the State, except in cases provided for in the international rules and agreements in force in Panama.

For the purposes of criminal law, the territory of the Republic of Panama consists of the mainland and island areas, the territorial sea, the continental shelf, the subsoil and the airspace above them, as well as Panamanian ships and aircraft and everything that, under the rules of international law, is covered by the concept of territory.

However, in accordance with article 19 of the Criminal Code, Panamanian criminal law can be applied extraterritorially to the following crimes, i.e. even when committed abroad: crimes against humanity, against the legal personality of the State, against public health, against the national economy and against public administration, as well as the crimes of enforced disappearance, trafficking in persons, falsification of Panamanian public credit documents or official documents, stamps or seals, and counterfeiting of Panamanian currency or other currencies that are legal tender in Panama if, in the last case, they were brought into or were intended to be brought into the national territory.

In addition, article 20 of the Criminal Code establishes that Panamanian criminal law is also applicable to crimes committed abroad when:

- They produce or are intended to produce results in the territory of Panama
- They are committed against a Panamanian or in breach of his or her rights
- They are committed by Panamanian diplomatic agents, officials or employees who have not been prosecuted in the place where the crime was committed for reasons of diplomatic immunity
- A national authority has denied the extradition of a Panamanian or a foreigner.

Article 21 of the Criminal Code states that, notwithstanding the laws in force in the place where the crime was committed and the nationality of the person accused of the crime, Panamanian criminal law shall apply to those who commit acts punishable under the international treaties in force in the Republic of Panama, provided that the treaties give it territorial jurisdiction. In that regard, in accordance with article 4 of the Constitution, the Republic of Panama abides by the rules of international law.

Furthermore, article 22 of the Panamanian Criminal Code establishes that Panamanian

criminal law shall apply to all persons, without distinction, with the exception of:

- Foreign Heads of State
- The diplomatic agents of other States and other persons who enjoy immunity under the international agreements in force in the Republic of Panama
- Cases provided for in the Constitution and the laws.

However, the second paragraph of the aforementioned article states that the exceptions mentioned shall not apply to the crimes referred to in book two, title XV (Crimes against humanity), of the Criminal Code, or to the crime of enforced disappearance.

International treaties applicable in relation to universal jurisdiction

By Act No. 14 of 13 March 2002, the Republic of Panama approved the Rome Statute of the International Criminal Court. In accordance with article 1 of the Statute, the Court has the power to exercise its jurisdiction over persons for the most serious crimes of international concern. However, the Court is complementary to national jurisdictions. The crimes covered by the Statute are:

- The crime of genocide
- Crimes against humanity
- War crimes
- The crime of aggression.

In that regard, in the Panamanian Criminal Code, violations of international human rights law are criminalized under chapter I of book II, title XV (Crimes against humanity), and crimes against persons and property protected under international humanitarian law are criminalized under chapter II.

In addition, the Republic of Panama has ratified the Geneva Conventions of 1948 and the Protocols thereto; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto; and the International Convention for the Protection of All Persons from Enforced Disappearance, among others.

It should be noted that currently no steps have been taken in the Republic of Panama to exercise universal jurisdiction. However, Panama has the appropriate legal system and institutional structure to be able to exercise it.
