



In some instances, Brazil also admits the extraterritorial exercise of its jurisdiction, based on the active nationality principle. According to article 7 II of the Brazilian Criminal Code, its laws apply to crimes committed by Brazilians outside its territory. Brazil may also exercise its jurisdiction based on the passive personality, when a crime is committed by a foreigner against a Brazilian abroad. In this case, there must be no extradition request (or it must have been denied), and there must be a requisition by the Minister of Justice,

Furthermore, based on the protective principle, Brazil applies its laws to crimes committed outside its territory against the life or freedom of the President of the Republic, and against the Public Administration, according to article 7 I of the Brazilian Criminal Code.

1993, Ext. 658 of 1996, Ext. 1151 of 2011, Ext. 1275 of 2012, and Ext. 1300 of 2013. In none of these cases the Supreme Court has applied the universal jurisdiction, but it has mentioned doctrinal comments and observed that the principle has been adopted in the domestic system of several countries. According to the Court, the principle is an expression of international solidarity in combating crime (Ext. 595/1993). However, the Supreme Court has also stated that the presence of the alleged criminal in the territory of the state is a previous condition for the exercise of the jurisdiction (Ext. 1300/2013).



Likewise, Law 9.455 of 1997, that criminalizes torture, applies to crimes committed outside the Brazilian territory, as long as the victim is a Brazilian national or the criminal is in a place under the Brazilian jurisdiction. According to the Brazilian defense in the Herzog Case in the Inter-American Court of Human Rights, in 2016, this law against torture states the principle of "mitigated universal jurisdiction".

Therefore, under no circumstance Brazil may exercise its jurisdiction "in absentia", when the offender is not in its territory. Furthermore, Brazil could only exercise this kind of jurisdiction over serious crimes objectively recognized in international treaties.

From the Brazilian perspective, the universal jurisdiction should not be applied but in a responsible and judicious manner, based on clear and objective parameters, in order to prevent its abuse and misuse. First, Brazil believes that the exercise of state jurisdiction based on the universal principle should be limited to serious crimes, prescribed in



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