



MISIONI I PËRHERSHËM
I REPUBLIKËS SË SHQIPËRISË
PRANË OKB-SË
NJU JORK

PERMANENT MISSION
OF THE REPUBLIC OF ALBANIA
TO THE UNITED NATIONS
NEW YORK

STATEMENT
BY
THE DELEGATION OF ALBANIA
TO THE UNITED NATIONS
TO
THE 68TH SESSION OF THE SIXTH COMMITTEE
ON
THE AGENDA ITEM 86: SCOPE AND APPLICATION OF THE PRINCIPLE OF
UNIVERSAL JURISDICTION

Check Against Delivery

OCTOBER 18, 2013

Mr. Chairman,

We appreciate the continued interest of the Sixth Committee on this important topic on the scope and application of the principle of universal jurisdiction and look forward to continuation of discussions in the context of the Working Group on the scope and application of the principle of the universal jurisdiction to commence its work next week.

We also welcome the compilation of the States' practices and legislation in this regard, as listed in the report of the Secretary General contained in document A/68/113.

Mr. Chairman,

Albanian Criminal Code establishes territorial jurisdiction as a primary source of jurisdiction over foreigners who commit an offence in the territory of the Republic of Albania. It also establishes active personality jurisdiction with respect to the crimes committed by our citizens outside the territory of Albania and the protective jurisdictions with respect to some specified crimes against the interest of the Albanian state or an Albanian citizen.

With a view to enable the exercise of the principle of universal jurisdiction, Albania has enacted specific legislation within its Criminal Code. In accordance with Article 7/a of the Criminal Code of the Republic of Albanian, universal jurisdiction may be exercised by a competent Albanian court in order to try a person duly accused of committing serious crimes under international law.

According to this provision, the enactment of the principle of universal jurisdiction is established in two ways:

Firstly through the provision of the universal jurisdiction for a category of serious crimes, which must amount to a) crimes against humanity; b) war crimes, c) genocide d) crimes with terrorist purposes, e) torture, as stipulated expressively in the Albanian Criminal Code.

Secondly, through the applicability of the criminal law of the Republic of Albania to a foreigner who commits outside of the territory of the Republic of Albania one of the criminal offenses for which specific laws or international agreements, in which Albania is party, provide the applicability of Albanian criminal law.

However, in the case of universal jurisdiction, the criminal code of the Republic of Albania, in its article 7(a), limits the application of the principle of universal jurisdiction to the establishment of two factors: first the establishment of the fact that the foreigner who has committed the crime outside the territory of Albania is present in the territory of Albanian and second, the alleged offender is not extradited.

Mr. Chairman,

Albania considers the principle of the universal jurisdiction for certain crimes of a serious nature as an additional tool to ensure support for the fight against impunity and the quest for seeing the justice done. We consider it as a bridge of the impunity gap between the unwillingness or not being able to prosecute the perpetrators of the most serious crimes nationally and the international criminal jurisdiction of the international criminal mechanisms, permanent or ad hoc.

Mr. Chairman,

This committee has discussed for years this agenda item and we have benefited greatly from the opinions of member states and observers. It has become obvious that the application of the principle of universal jurisdiction has some conflicting points with the notion of immunity of the state officials from criminal jurisdiction and the principle of “aut dedere aut judicare” (to extradite or prosecute) arising from treaty based obligations. Together with differences among states as to the definition and the scope of application of the principle of universal jurisdiction, its appropriate use and the non abuse for political reasons have been cautioned throughout the years.

In doing so year after year, without prejudice to the ongoing discussions in the Committee and the upcoming ones in the Working Group, we feel that this body must recognize its limits in dealing with a highly diversified legal issue. Therefore, Albania sees merit in the proposal as put forward by several countries that discussions take place elsewhere, separately or jointly, as this Committee will deem necessary, in a reliable expert body, such as the International Law Commission.

Thank you.