



# CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

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**Agenda Item 86**

## **The Scope and Application of the Principle of Universal Jurisdiction**

**Statement by**

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Mr. Chairman,

As it is the first time the Czech delegation is taking the floor in this session, allow me to congratulate you and the Bureau on your election. We believe that you will provide wise and effective leadership to the Sixth Committee and we assure you of our full support and cooperation.

We continue to believe that the scope and application of the principle of universal jurisdiction is purely a legal and expert question. As such, we proposed last year to refer this issue to the International Law Commission that could prepare a study on this topic. We understand that the support for this proposal within the Sixth Committee has been so far rather limited. Nevertheless, we still maintain the view that the ILC is the best forum for such a complex legal issue. The ILC can build on its previous work on the topic *aut dedere aut judicare*, which would most probably be terminated without substantive outcome.

The aim of last year's Informal paper by the Chairman of Working Group was to discuss essential elements of the definition of universal jurisdiction this year. The Czech Republic would like to say the following to the five items on Informal paper: Universal jurisdiction is one of the jurisdictional principles recognized in the criminal law of the Czech Republic. As we know from the U.S. case *Kiobel v Royal Dutch Petroleum*, the universal civil jurisdiction is also quite relevant, although a different legal principle and may also be a topic for separate discussion in the future. The jurisdiction of international criminal tribunals is not an issue in this context, as international criminal tribunals follow distinctive jurisdictional principles provided for in their respective statutes. From this perspective, the universal jurisdiction is part of national laws. Nevertheless, both mechanisms have the same ratio, i.e., fight against impunity for the most serious crimes. Our aim is universal acceptance of the Rome Statute of the International Criminal Court, so that - legally speaking - its jurisdiction, based on the principles of territoriality and personality, would have universal (global) reach.

The Czech Republic distinguishes between universal jurisdiction and the obligation *aut dedere aut judicare* reflected, on national level, by the principle of subsidiary universality. The necessary condition for the exercise of subsidiary universality is refusal of extradition of an offender from the Czech Republic. No extradition request is needed in case of universal jurisdiction. According to international law, there is no prohibition to the effect that States may not extend the application of their laws and the jurisdiction of their courts to persons, property and acts outside their territory and every State remains free to adopt the principles which it regards as best and most suitable. In the Czech Republic, universal jurisdiction is limited to only some of offences criminalized under international law. This limitation is an expression of the Czech Republic's choice of self-restraint.

The Sixth Committee operates as a political body, constantly under time pressure, while the ILC is an expert body with adequate allocation of time for deliberation. As our two years of discussion clearly showed, the best solution how to move forward is the referral to the ILC. The Chairman's Informal Paper with essential elements of a definition of universal jurisdiction could serve as a term of reference for future work of the ILC on this issue.

As we are aware of the fact that there may not be consensus on our proposal yet, we are ready to participate constructively in the meetings of the Working Group. At the same time, we want to emphasize that the Czech Republic would not support any further development of the Informal Paper suggesting the establishment of an international

mechanism that would have the power to interfere with national criminal proceedings initiated on the basis of universal jurisdiction. Such step would not comply with our understanding of the independence and impartiality of judiciary.

Thank you, Mr. Chairman.