

THE REPUBLIC OF SERBIA

SEVENTIETH SESSION

SIXTH COMMITTEE

AGENDA ITEM 86: The scope and application of the Principle of Universal Jurisdiction

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S T A T E M E N T

by

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Mr. Chairman,

The principle of universal jurisdiction is a valuable tool for prosecuting crimes of a grave nature, particularly gross violations of International Humanitarian Law. As regards to the application, however, a number of issues remain unresolved and the debate on the need to agree on essential elements is timely, particularly with regard to the scope of acts that could be prosecuted.

In this respect, Serbia strongly believes that war crimes, crimes against humanity and the crime of genocide could never fall under exclusive jurisdiction of a State on whose territory such crimes were committed and that they are, as such, recognized as a concern of the international community as a whole. Having that in mind, we consider that national jurisdiction, which has to be complementary to international jurisdiction, can be a valuable tool in fighting impunity for these grave breaches of International Humanitarian Law.

With respect to the above, the practice of Serbia in application of the universal/regional jurisdiction over war crimes may be of interest to the deliberations in the Committee. Thus, the 2003 Law on Organization and Competence of Government Authorities in War Crimes Proceedings of the Republic of Serbia has provided for jurisdiction over war crimes committed in the territory of the former Yugoslavia, regardless of the nationality of the suspect of the victim, and regardless of the presence of the suspect on the territory of Serbia, although none have so far been conducted in absentia. This provision was necessary due to the fact that among 300,000 refugees that had found shelter in Serbia, there were a number who had perpetrated the most horrific war crimes. The defendants have mainly been those found in the territory of Serbia and who were not indicted by the neighbouring countries. The trials conducted under this law are monitored by the OSCE Mission in Serbia and have become a part of the monitoring of the ICTY during the process of its completion strategy.

Let me recall that the European Union recognizes that the existence of universal jurisdiction for genocide, crimes against humanity and war crimes is well established under both treaty and customary interantional law and that a number of EU member states have adopted laws granting universal jurisdiction for such crimes to their domestic courts.

Thank you.