

**PERMANENT MISSION OF AUSTRIA TO THE UNITED NATIONS
MISSION PERMANENTE DE L'AUTRICHE AUPRES DES NATIONS UNIES**

No: New-York-ÖV/RECHT/0068/2015

The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to Note LA/COD/59/1 regarding General Assembly resolution 69/124 of 18 December 2014 entitled "The scope and application of the principle of universal jurisdiction", has the honor to submit the following information:

According to Section 64 of the Austrian Penal Code, Austrian courts have jurisdiction concerning certain crimes (e.g. extortive abduction, slave trade, trafficking in human beings, organized crime, drugs-related crime, air piracy, terrorism-related acts) committed outside Austria regardless of locally applicable law, if certain Austrian interests are affected. Under this provision Austrian courts are also competent for other crimes committed outside Austria regardless of locally applicable law if Austria is under an obligation to prosecute under international treaties.

In the past years the number of crimes that are listed in Section 64 of the Austrian Penal Code has been increased. This section now also includes crimes like rape, sexual coercion and torture.

To the
Secretary-General of the United Nations
Office of Legal Affairs, Codification Division
United Nations Headquarters
New York

On 1 January 2015 an amendment of the Austrian Penal Code entered into force which introduced a new Chapter 25 and incorporated specific international crimes under the Rome Statute (RS) of the International Criminal Court (ICC) into Austrian law, in particular "crimes against humanity" set out in Article 7 RS and "war crimes" set out in Article 8 RS in order to provide for full complementary jurisdiction of Austrian courts for these crimes.

In this context a new Section 64 (1)(4c) of the Penal Code was introduced, which provides that Austrian Courts can exercise jurisdiction over the crimes in the new Chapter 25 "Genocide, Crimes against Humanity, War Crimes" in all cases where

- a) the perpetrator or the victim is an Austrian citizen,
- b) other Austrian national interests are infringed by the act, or
- c) the perpetrator is a foreigner who has his habitual residence in Austria or is present in Austria and cannot be extradited.

According to Section 65 of the Austrian Penal Code, Austrian courts have jurisdiction concerning other crimes committed outside Austria if they are punishable under locally applicable law and if the perpetrator is caught on Austrian territory and cannot be extradited for a reason other than the nature or character of his act.

The Permanent Mission of Austria to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 30 April 2015