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The Permanent Mission of Austria to the United Nations presents its compliments to the Secretary-General of the United Nations, and in reference to the request by the General Assembly for information and observations on the resolution 71/149 of 13 December 2016 entitled "The scope and application of the principle of universal jurisdiction" (LA/COD/59/1, LA/COD/59/2), has the honour to convey the enclosed written comments by Austria.

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, 1 May 2017



To the
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1 Enclosure

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, rape, sexual coercion and torture) committed outside Austria regardless of locally applicable law. In cases where no other Austrian interests are affected, Austrian courts are competent if the alleged perpetrator is present on Austrian territory and cannot be extradited.

Under **Section 64 (6)** of the Austrian Penal Code, 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.

Moreover, **Section 64 (1) (4c)** of the Austrian Penal Code provides for full complementary jurisdiction of Austrian courts over international crimes under the Rome Statute of the International Criminal Court (RS), in particular genocide (Section 321), crimes against humanity (Section 321a), war crimes (Sections 321b to 321f) and the crime of aggression (Section 321k), which are incorporated in Chapter 25 of the Austrian Penal Code. Accordingly, Austrian Courts can exercise jurisdiction over the crimes incorporated in Chapter 25 and committed in foreign countries in all cases, regardless of locally applicable law, 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.