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The scope and application of the principle of universal jurisdiction

Statement by

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Mr. Chairman,

The Czech Republic considers the universal jurisdiction to be an important and useful tool for bringing the perpetrators of the crimes under international law to justice. It is the nature and severity of these crimes that shock the conscience of the international community as a whole and that is the reason for which it is in the interest of all States to prosecute and punish those responsible for it without any connection of such State to the crime committed. Global fight against impunity for these crimes and denial of safe haven of its perpetrators is also justified by the fact that such crimes violate universal values. In our view, exercising universal jurisdiction does not mean only holding the perpetrators of such crimes accountable, but also providing justice for victims and strengthening respect for international law.

In this context, we would like to recall that universal jurisdiction is a generally recognized principle of public international law. We believe that defining its scope and application is purely legal question and should not be burdened by political considerations which are unavoidable within the Sixth Committee. Having said that, we commend the work of the Working Group and note the progress that has been made since its establishment. Although some elements of the scope and application of the universal jurisdiction as they appear in the Informal paper have been agreed upon, there are still many differences among States on key aspects such as issues of customary nature of universal jurisdiction, in absentia trials and so on. Hence, it seems that the discussions in the Working Group can go *ad infinitum*. Besides, we also recognize a very limited time that is devoted to the discussions in the Working Group which does not allow for substantive progress.

However, this topic is a practical one and therefore legal certainty regarding the scope and application of universal jurisdiction among international community is very desirable. The Czech Republic as one of the States that has incorporated universal jurisdiction in its national law would welcome further progress in this respect. In our opinion, the topic merits thorough legal analysis which can be best carried out by an independent expert body such as the International Law Commission. The Commission can dedicate more time for its consideration and use its knowledge from other studies that have relevance to this topic. Furthermore, by its nature the ILC can hardly be labelled as political and therefore any outcome of its work might enable to advance discussions on those aspects where differences among States prevail.

On the basis of the above-mentioned, the Czech Republic has in the last years proposed to refer this topic to the International Law Commission. In 2018 the Commission itself noted the lack of meaningful progress of the discussions in the Working Group due to political disagreements concerning potential selective and arbitrary application of universal jurisdiction. At the same time, the Commission recognized the need for clarification of certain aspects concerning universal jurisdiction and decided to include the topic of universal criminal jurisdiction in a long-term programme of work. Accordingly, the Commission would limit its work only to some legal concerns which can serve as guidance to the Sixth Committee. It might also elaborate expert proposals that would allow States to have a clearer legal basis from which the discussions may be started in order to reach a compromise.

Referring this topic to the Commission would demonstrate commitment of the Sixth Committee to the idea of strengthening its interaction with the Commission. The Sixth Committee would still retain final responsibility for the treatment of this topic, because the outcome of the Commission's work on the universal jurisdiction would necessarily come back to the Sixth Committee for any action the Committee would then consider appropriate. Therefore, as in the previous years, we propose to refer this issue to the ILC to prepare a study on this topic. We remain firmly convinced that exploring such an avenue would bring positive outcomes.

Thank you, Mr. Chairman.