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The Permanent Mission of the Republic of Turkey to the United Nations presents its compliments to the Office of Legal Affairs of the Secretariat of the United Nations and, with reference to the latter's Note no: LA/COD/59/1 dated 9 January 2019, in relation to the General Assembly resolution 73/208 of 20 December 2018, entitled "The scope and application of the principle of universal jurisdiction", has the honour to submit the following information.

Universal jurisdiction is regulated in Article 13 of the Turkish Penal Code. According to this article, Turkish law shall apply for the crimes listed below, if they are committed abroad by a Turkish citizen or a foreign national:

- Crimes whose prosecution depends on a request by the Minister of Justice: genocide, crimes against humanity, migrant smuggling, human trafficking, torture, crimes against relations with foreign states, intentional pollution of the environment, production and trade of narcotics or psychotropic substances, facilitation of the use of narcotics or psychotropic substances, counterfeiting of money, manufacturing and trading of instruments used in the issuance of money and valuable seals, counterfeiting of seals, prostitution, seizing control or hijacking of sea, rail or air transport vehicles, and offences relating to the damaging of such vehicles;

- Crimes that can be prosecuted *proprio motu*: crimes against the insignia of sovereignty of the State and against the respectability of its organs, crimes against the security of the State, crimes against the constitutional order and the functioning of that order, crimes against national defense, crimes involving State secrets and espionage.

Further, the crimes that fall under the second category above, as well as genocide, crimes against humanity, migrant smuggling, human trafficking and crimes against relations with foreign states, can be prosecuted in Turkey upon the request of the Minister of Justice, even if there exists a conviction or acquittal decision given in a foreign country regarding the concerned crime.

In addition to the foregoing, various international treaties to which Turkey is party include provisions regarding the principle of "prosecute or extradite", which relate to the concept of universal jurisdiction. This fact is also highlighted in the legal commentary pertaining to Article 13 of the Turkish Penal Code mentioned above. The international agreements listed as examples in the said commentary are as follows: Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed in 1963; the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, signed in 1970; Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, dated 23 September 1971; New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, dated 14 December

1973; Single Convention on Narcotic Drugs, dated 1961; Convention on Psychotropic Materials, signed in Vienna on 21 February 1971; and the European Convention on the Suppression of Terrorism, opened for signature by the Council of Europe on 27 January 1977.

Needless to say, Turkey acknowledges the importance of preventing impunity for international crimes. On the other hand, considering that the obligation to investigate and prosecute may likely fall on the state where the crime was committed or whose citizen is the offender, in accordance with rules relating to jurisdiction, we would like to underline that fulfilling the requests of extradition and legal assistance made by the judicial bodies of these states also carries high importance.

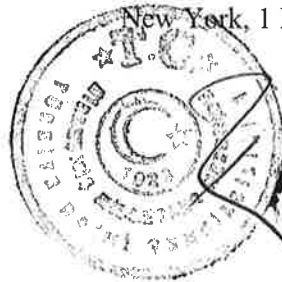
Furthermore, both UN General Assembly resolution 73/208 of 20 December 2018 and the Sixth Committee's report 73/550 (Section III entitled "Advice of the Sixth Committee") mention that concerns have been voiced by member states regarding the possible misuse or abuse of universal jurisdiction. Some scholars also express the view that while universal jurisdiction aims to protect the common values of the international community, it can cause erosion in human rights, disrupt the international social order and violate state sovereignty as well as the principle of sovereign equality of states, if it is used in bad faith and for political purposes.

As a matter of fact, in the Sixth Committee meetings held in New York on 20-26 October 2018, within the scope of the 73rd Session of the UN General Assembly, during which the International Law Commission's Report on the work of its 70th Session was discussed, our representative pointed out that developments in the area of universal jurisdiction, which Turkey closely follows, need to be scrutinized in more detail and with caution. In this regard, we also highlighted that the principles of lawfulness and non-retroactivity should be safeguarded, and that private law disputes should be left outside the scope of universal jurisdiction.

In conclusion, Turkey considers it crucial that the delicate balance between ensuring the legitimacy and the reliability of universal jurisdiction on the one hand and preventing impunity for international crimes on the other is observed with due attention, and that the scope and limits of universal jurisdiction are carefully considered.

The Permanent Mission of the Republic of Turkey to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the Secretariat of the United Nations the assurances of its highest consideration.

New York, 1 May 2019



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