



Sixth Committee – Agenda item 84
The scope and application of the principle of universal jurisdiction

Statement by the Federal Republic of Germany
12 October 2023

In 2002, the German Code of Crimes against International Law (*CCAIL* or *Völkerstrafgesetzbuch - VStGB*) came into force. It allows German authorities to prosecute core crimes under international criminal law such as genocide, crimes against humanity, and war crimes in accordance with the concept of universal jurisdiction (*Weltrechtsprinzip*). While we would prefer to have the most serious crimes under international law tried by the respective national authorities and by international tribunals, in particular the ICC if the applicable complementarity criteria are met, the Code of Crimes against International Law and the principle of universal jurisdiction ensure that all potential loopholes are closed when it comes to holding perpetrators accountable.

In July 2023, the Federal Ministry of Justice presented a draft bill on the advancement of international criminal law to further close impunity gaps and strengthen victims' rights in proceedings concerning international trials. Regarding procedural aspects, the paper suggests simplifying the cumulative representation of victims in courts, providing courtroom interpretations for foreign media, ensuring legal and psychological support for victims and allowing them to participate in trials as private plaintiffs. When it comes to reforming material aspects, the paper foresees changes in the crimes of sexualized violence, sexual slavery, forced abortion as well as the prohibition of certain weapons of war in order to further align the *CCAIL* with the Rome Statute.

Germany is taking an active role in ensuring accountability. Structural investigations have led to several trials and convictions related to members of terrorist organizations in particular Da'esh who have returned to Germany. Prosecuting terrorism-related offences combined with acts of core international crimes ensures the full criminal responsibility of perpetrators and results in higher sentences.

Several judgments have been delivered in relation to crimes committed against the Yazidi community. In three of them, the accused have been convicted for genocide or aiding and abetting genocide. One of them concerned a former Iraqi member of Da'esh who in November 2021 was convicted by the Higher Regional Court in Frankfurt to a lifelong sentence for genocide of the Yazidi people, crimes against humanity and war crimes. He

and his wife, a German national, had abused a Yazidi woman and her daughter as slaves. He chained the girl up in the blazing midday sun and let her die. This universal jurisdiction landmark judgement was the first to recognize the atrocities of the Da'esh against the Yazidi community as genocide. In November 2022, the Federal Court of Justice confirmed this first-ever conviction of an ISIS member, pointing out that “[t]he defendant's actions, which caused serious harm to Reda [and her mother], in conjunction with similar actions by other ISIS members, were capable of destroying the Kurdish religious group of the Yazidi faith”. The Court added that “[i]t was precisely the organised enslavement of women and girls, especially in connection with religious re-education, that served to destroy the Yazidi religious minority in order to establish an Islamic caliphate. All in all, the approach was capable of bringing about ... the (partial) destruction of this group as such.”

In the immediate aftermath of Russia's illegal attack on Ukraine, the Federal Public Prosecutor General initiated a structural investigation concerning war crimes committed in Ukraine in the context of the **Russian war of aggression**. This was later extended to crimes against humanity. It is currently gathering evidence, including statements by Ukrainian refugees. A specialized unit has been created within the Federal Public Prosecutor General to support these investigations. As a result of these efforts and in agreement with the Prosecutor General of Ukraine, the Federal Prosecutor General has initiated investigations against five individuals. Members of the Russian armed forces allegedly fired on Ukrainian civilians in at least ten cases, punishable as war crimes.

When it comes to effective transnational and international investigation and prosecution, Germany acknowledges that a strong network involving public actors and NGOs is crucial. German prosecutors are currently running over 100 investigations into international crimes. The message is clear: those who commit atrocities cannot feel safe. They will eventually be held accountable. There is no safe haven for perpetrators of international crimes against criminal prosecution in Germany. Justice will be served for the victims and survivors.

Thank you.