



Sixth Committee – Agenda item 85
The scope and application of the principle of universal jurisdiction

Statement by the Federal Republic of Germany
15 October 2024

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Since 2002, German prosecutors can exercise universal jurisdiction under the Code of Crimes against International Law (*Völkerstrafgesetzbuch* - VStGB). Investigations and prosecutions can be initiated into genocide (§ 6 VStGB), crimes against humanity (§ 7 VStGB) and war crimes (§§ 8-12 VStGB). Allow me to give an update on the scope and application of universal jurisdiction in Germany, first with regard to developments in our national law and second with regard to the actual cases brought by our Federal Public Prosecutor General in our national courts.

First, on the law: On 3 August 2024, the law on the further development of international criminal law came into effect in Germany. The amendments of our Code of Crimes against International Law contained therein serve to further develop substantive international criminal law, strengthen victims' rights and improve the impact of our trials and judgements relating to international criminal law by making them more broadly accessible. The law aims to further facilitate the prosecution of crimes against humanity and war crimes, particularly with regard to crimes which involve sexualized violence. For example, the Code now allows the prosecution of the offences of sexual slavery, sexual assault and forced abortions not only under certain other criminal offences, but under explicit provisions on these specific crimes. In response to the difficulties observed in previous proceedings, the law further focuses on strengthening victims' rights by enabling so called accessory prosecution for offences under the Code. Now the victim can more easily participate through a status of joint plaintiff, even in the criminal proceedings. The Code also facilitates access to psycho-social support during the trial proceedings. In order to improve public awareness and accessibility of international criminal proceedings and judgments, certain proceedings may now be recorded for academic and historical purposes. Additionally, foreign media representatives will receive better access to courtroom interpreters. These amendments will contribute to the advancement of international criminal law and support survivor-centered justice.

Second, on our practice: After having led several successful prosecutions before German courts in the past years on the basis of the principle of universal jurisdiction, the Federal Public Prosecutor General continues to seek accountability for core crimes committed

inter alia in Syria. In March 2024, two proceedings based on the universal jurisdiction principle were concluded with final effect.

The Federal Court of Justice confirmed the conviction by the Higher Regional Court of Koblenz of the former senior officer of the Syrian Secret Service, Anwar R., in the so-called “Al-Khatib trial”. This brought the first case on state-operated torture in Syria worldwide to an end. The Federal Court of Justice rejected the procedural objections made by the convicted and held that the Higher Regional Court was permitted to introduce and use the reports of the Independent Commission of Inquiry of the United Nations Human Rights Council as documentary evidence. It further found that the Higher Regional Court correctly assumed that the accused, who committed his contributions to the offences in his official capacity as a state employee, was not entitled to functional immunity based on customary international law.

The Federal Court of Justice further dismissed the appeal of the Da’esh-returnee Jennifer W. who was convicted to 14 years of imprisonment for, among other crimes, committing the crime against humanity of enslavement resulting in death. It found that the Higher Regional Court of Munich had made no errors in law when it found that the case at hand was not a less serious offence and therefore applied the correct sentencing framework. The Da’esh-returnee, together with her husband, had enslaved and abused a Yazidi woman and her daughter, which eventually resulted in the death of the five-year-old child.

In November 2023, the Higher Regional Court of Celle rendered a judgment which was the first of its kind worldwide concerning the accountability for international crimes committed in The Gambia. It sentenced a former soldier from The Gambia to life imprisonment for murder in conjunction with crimes against humanity for killing in three cases, one of which was attempted. Between 2003 and 2006, the defendant formed part of a Gambian special military unit for which he worked as a driver. He was convicted of having participated in the attempted murder of a lawyer, the murder of a government-critical journalist and the murder of a former soldier. The judgment found that he acted at the command of Yahya Jammeh, the former president of The Gambia, who wanted to intimidate or eliminate all opposition forces. The court relied on statements made by the defendant in 2013 and 2014, a large number of witnesses, as well as on public sources and records of the Gambian Truth, Reconciliation and Reparations Commission to reach its verdict.

Let me conclude by saying that when it comes to effective transnational and international investigation and prosecution, Germany acknowledges that a strong network involving public actors, NGOs and international investigative mechanisms is crucial. German prosecutors are currently conducting 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 in Germany. Justice will be served for the victims and survivors.

Thank you.