



CROATIA

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Statement by

**Mr. Sebastian Rogač
Legal Advisor, First Secretary**

on

Agenda item 86

**The scope and application of the principle
universal jurisdiction**

**70th Session of the General Assembly
Sixth Committee**

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Mr. Chairman,

Universal jurisdiction is a powerful subsidiary tool in ending impunity for core international crimes. Croatia fully supports and itself applies this principle. The Croatian criminal law, in its normative regulation of the principle of universal jurisdiction, ensures the application of the criminal jurisdiction of Croatia for the most serious violations of international law, regardless of the location of the crime and the nationality of the perpetrator or the victim, while setting limitations aimed at ensuring the implementation of this principle in good faith and in accordance with international law. Accordingly, Croatia strongly believes that universal jurisdiction and its implementation should be based on well-established principles and norms, including those related to international cooperation in criminal matters. At the same time, universal jurisdiction should be exercised responsibly and as an exceptional last resort measure, in order to prevent its unwarranted or politically motivated use. Furthermore, universal jurisdiction must be clearly distinguished from the jurisdiction of international tribunals (international criminal jurisdiction).

Mr. Chairman,

a State implementing universal jurisdiction needs to, first and foremost, observe its universal character, that is implement it solely on the nature of the crime and without limitation to state territories. At the same time, a State implementing universal jurisdiction should also fully respect the principle of subsidiarity, that is, resort to universal jurisdiction only if the State, whose citizens committed crimes or against whose citizens crimes were committed or on whose territory crimes were committed, is unwilling or unable to prosecute them. Furthermore, in the implementation of universal jurisdiction, a State also needs to respect international due process norms, as well as the exclusivity of application of such jurisdiction. Finally, universal jurisdiction needs to be implemented in good faith, in a reasonable, predictable and responsible manner, and in accordance with all the applicable rules and fundamental principles of various fields of international law and international comity.

In this regard, we encourage Serbia to introduce in its legislation universal jurisdiction for core international crimes in its proper form and to strictly follow the aforementioned principles of its implementation. Unfortunately, Serbia's current legislation (2003 Law on the Organization and Competence of State Authorities in War Crime Proceedings), is neither universal (since it applies only to a specifically defined number of neighbouring states), nor subsidiary (since it applies irrespective of the basic principles of the application of universal jurisdiction). Such an arbitrary and legally flawed precedent hampers not only desired international cooperation in criminal matters but ultimately also the supposed main purpose - the efficient fight against impunity. If Serbia wanted to apply universal jurisdiction properly, including, *eo ipso*, to serious violations committed on the territory of the former Yugoslavia, it should have extended the institute of universal jurisdiction from its own Criminal Code to grave violations of international law already incorporated into that same Code. Furthermore, Serbia can easily prosecute the worst international crimes without enacting this controversial Law according to the principle of active personality, since most of the accused are Serbian

nationals. As regards other, far less often cases involving nationals of neighbouring States, Serbia should use existing mutual assistance mechanisms in criminal matters between States, international comity, as well as bilateral agreements and acts in force.

Mr Chairman,

Croatia strongly supports the role and the results of international criminal justice mechanisms, including the unequivocal recognition and full implementation of ICTY decisions. Croatia repudiates the idea that any State could ever try to impose itself in place of those mechanisms by restriction of universal jurisdiction to "regional jurisdiction/encroachment". Finally, Croatia reiterates its commitment to the proper application of the principle of universal jurisdiction and international and regional cooperation in criminal matters in accordance with basic principles and rules of international law, including international criminal law.

Thank you.