

**Statement by Germany**  
**Sixth Committee**  
**Universal Jurisdiction**

Thank you Mr. / Madam Chair,

**Germany has found universal jurisdiction** to be an effective and proportionate tool to pursue accountability for the worst international crimes. While we would prefer for the Security Council to give the ICC more possibilities to try the most serious crimes under international law, we find it valuable to be able to do our part in achieving accountability. You may have heard of cases regarding torture in Syrian prisons by the Syrian regime as well as crimes by members of Da'esh currently heard by German courts.

Since 2002, German prosecutors can exercise universal jurisdiction under the **Code for Crimes against International Law** (Völkerstrafgesetzbuch). Investigations and prosecutions can be initiated into genocide (§ 6 VStGB), crimes against humanity (§ 7 VStGB) and war crimes (§§ 8-12 VStGB).

There are no **material conditions to the applicability of universal jurisdiction** for these crimes. The Code for Crimes against International Law also applies to crimes committed outside Germany, regardless of the nationality of the victim or perpetrator or any other connections to Germany (§ 1 VStGB). German law does not provide for criminal liability of companies or other legal persons. Also, immunity rationae personae may need to be taken into account. In order to be tried before a German court, the defendant needs to be present in Germany. A trial *in absentia* is not foreseen in our legal system. However, prosecutor and police can commence preparatory investigations to preserve evidence and allow for a swift commencement of proper proceedings once the accused has entered Germany.

**Specialized units** have been created within our Federal Criminal Police (BKA) and the Federal Prosecutor General (Generalbundesanwalt) to investigate international crimes. The Federal Prosecutor General often initiates investigations into international crimes based on information received from the German migration authority (BAMF). The federal prosecutor also runs a number of structural investigations ("Strukturermittlungsverfahren") to investigate the background of largescale crimes. Structural investigations serve to gather and preserve evidence in preparation of future proceedings. Since 2011, the Federal Prosecutor General runs such a structural investigation concerning crimes against humanity and war crimes regarding acts committed by members of the Syrian Regime. This may also include the alleged use of chemical weapons. These Structural investigations have led to **several trials**.

A trial concerning crimes against humanity commenced on 23 April 2020 against two members of the **Syrian Arab Republic's intelligence** services. One of them is charged with overseeing the torture of more than 4000 persons. A significant number of the victims is presumed not to have survived the torture and sexual assaults in a prison close to in Damascus.

A German national is currently tried for her alleged involvement in war crimes while she was a member of Da'esh, causing the **death of a young Yazidi** girl. A foreign national has been extradited to Germany to face charges of **genocide** for crimes committed against the **Yazidi** community in Iraq.

Further trials and convictions concern persons associated with Da'esh in the Syrian Arab Republic or Iraq who have **returned to Germany**. Due to the German nationality of many of the concerned, these may not be cases of universal jurisdiction; however they have led to interesting developments regarding the application of international criminal law. German courts have found that the **occupation of a flat** from which victims of Da'esh had fled can constitute the **war crime** of appropriation of property (§ 9 VStGB). Also, it was found that a mother committed the **war crime of conscripting or enlisting children** for handing her own child to a Da'esh military training camp (§ 8 Abs. 1 Nr. 5 VStGB). Both of these decisions are final.

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.

I thank you Mr. / Madam Chair.