



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

Statement by the Federal Republic of Germany
12 October 2022

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). Cases currently heard by German courts deal with torture in Syrian prisons by the Syrian regime as well as crimes by members of Da'esh, including against the Yazidi community. While we would prefer to have the most serious crimes under international law tried by international tribunals, in particular the ICC if the applicable complementarity criteria are met, the Code of Crimes against International Law allows us to work towards accountability for these crimes on a national level.

In March 2022, 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. An additional specialized unit has been created within the Federal Public Prosecutor General to support these investigations.

Many structural investigations have already led to trials and convictions in individual cases.

In January 2022, the Higher Regional Court in Koblenz delivered the judgment against the main defendant regarding torture in a Syrian prison. It sentenced a senior officer of the General Syrian Intelligence Service in Damascus to life imprisonment for crimes against humanity. The defendant was found guilty of being the co-perpetrator of 27 murders and 4000 cases of severe deprivation of liberty. The crimes he committed as part of a widespread and systematic attack against the civilian population of Syria also include rape and sexual assault.

In another case currently heard by the Higher Regional Court in Frankfurt, a Syrian doctor is accused of having committed crimes against humanity including torture and murder in Syrian prisons.

Further trials and convictions concern persons associated with Da'esh, Jabhat al Nusra or other terrorist organisations in Syria or Iraq who have returned to Germany. In

Germany, the competent authorities have implemented the concept of Cumulative Prosecution at an early stage. They hold Foreign Fighters accountable for war crimes, crimes against humanity or the crime of genocide, in addition to terrorism-related offences. Prosecuting terrorism offences combined with acts of core international crimes ensures the full criminal responsibility of perpetrators, may result in higher sentences, and delivers more adequate justice for victims and survivors.

Several judgments have been delivered in relation to crimes committed against the Yazidi community. One of them concerned a former Iraqi member of Da'esh who was convicted by the Higher Regional Court in Frankfurt to a lifelong sentence for genocide, crimes against humanity and war crimes causing death. He and his wife, a German national, had abused a Yazidi woman and her daughter as slaves. His wife was convicted by the Higher Regional Court of Munich for aiding and abetting membership in a foreign terrorist organization, aiding and abetting murder by omission and crimes against humanity causing death. Another German woman was convicted by the Higher Regional Court of Hamburg for membership in a foreign terrorist organization, aiding and abetting genocide, war crimes and crimes against humanity. She had abused a Yazidi woman as a slave with her husband.

The advantages of Cumulative Prosecution become particularly relevant for addressing acts of former members of Da'esh returning to Germany. German courts have found that several female returnees committed the war crime of appropriation of property (§ 9 VStGB) by occupying a flat from which victims of Da'esh had fled. In other cases, it was found that women committed the war crime of conscripting or enlisting children for handing over their own children to a Da'esh military training camp (§ 8 Abs. 1 Nr. 5 VStGB). In June and July, 2022, German Higher Regional Courts handed sentences of several years to three women for war crimes and membership in a terrorist organisation after their return from northeast Syria.

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.