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Permanent Mission of the Czech Republic to the United Nations

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The scope and application of the principle of universal jurisdiction

Statement by

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on behalf of S3 (Austria, the Czech Republic and Slovakia)

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Mr. / Madam Chair,

I have the honour to speak on behalf of three countries belonging to the Slavkov trilateral format (S3): Austria, the Czech Republic and Slovakia.

Mr. / Madam Chair,

Our delegations have stated, over the past years, that universal jurisdiction is an important jurisdictional basis for the prosecution of the most serious crimes under international law in cases where jurisdiction based on the principle of territoriality or personality cannot or will not be exercised. At the same time, universal jurisdiction is distinct from the jurisdiction of international courts and tribunals. Our understanding has not changed. The most serious crimes under international law must not go unpunished irrespective of who committed them or where they are perpetrated. Universal jurisdiction is a tool that can help deliver justice to victims, prevent further crimes and close the impunity gap in keeping with the guarantees of a fair trial, due process and other applicable norms of international law.

We would like to thank the Secretary-General and the Office of Legal Affairs for this year's report. It provides a useful summary of States' submissions regarding universal jurisdiction and evidence of extensive State practice in the exercise of universal jurisdiction. Together with the previous reports, they have facilitated our deliberations in this Committee since 2009 and we appreciate the exchange of views on this topic so far.

However, over the past years, the discussions have stalled and the progress towards common understanding of the definition and the scope of the universal jurisdiction halted. The S3 countries, therefore, have proposed two avenues how to reinvigorate our deliberations: 1) taking stock of the views and submissions presented so far on the topic; and 2) requesting the International Law Commission to provide this Committee with a legal analysis of universal jurisdiction.

With regard to our first point, we welcome the inclusion into the last year's resolution of the mandate for the Secretariat to review all the previous views and submissions, and to identify, on that basis, areas of convergence and divergence among delegations. The S3 countries believe that a report by the Secretariat should be published well in advance before next year's session of this Committee, in order to allow sufficient time for delegations to study it and prepare for a meaningful discussion.

Regarding our second point, the delegations of the Slavkov trilateral format believe that the expert analysis of the International Law Commission would be of much needed added value in order to iron out differences on the three elements – definition, scope and application, and mostly to strip this topic of political sensitivities. This analysis would be without prejudice to the final decision on the topic, which would, as with any other ILC outputs, remain with States and this Committee. The S3 delegations find it difficult to understand, how such contribution of the ILC could be detrimental to our discussions. On the contrary, it could bring about legal clarity and certainty. It is in this context that we

invite the ILC again to include the topic of universal jurisdiction in its short-term programme of work.

In the meantime, our delegations stand ready to engage constructively in discussions about universal jurisdiction in this Committee.

Thank you.