



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

**Statement by Mats Jacobs**

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Madam/Mr. Chair,

The Kingdom of the Netherlands aligns itself with the statement given by European Union on behalf of the EU and its Member States. In addition to this statement, the Kingdom of the Netherlands would like to share the following.

In the view of the Kingdom of the Netherlands, universal jurisdiction is an important tool in the fight against impunity for the most serious crimes under international law. Furthermore, universal jurisdiction contributes to implementing the principle of complementarity under the Rome Statute of the International Criminal Court. This topic has been discussed in the Sixth Committee for some years now and even though some progress has been achieved, it is also clear that the views and practices of States concerning the scope and application of the principle of universal jurisdiction vary widely.

For the Netherlands, the most relevant piece of legislation concerning universal jurisdiction is the International Crimes Act of 19 June 2003, which entered into force in October 2003. This act replaced several pieces of legislation on genocide, war crimes and torture. In addition, the 2003 International Crimes Act ("Wet internationale misdrijven") codified crimes against humanity in Dutch national law. One of the main aims of the adoption of the International Crimes Act was the full implementation of the Rome Statute of the International Criminal Court, which the Netherlands ratified on 17 July 2001 and which entered into force on 1 July 2002.

Article 2 of the International Crimes Act states that, without prejudice to the relevant provisions of the Criminal Code and the Code of Military Law, Dutch criminal law shall apply to:

- a) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the suspect is present in the Netherlands;
- b) anyone who commits any of the crimes defined in this Act outside the Netherlands, if the crime is committed against a Dutch national;
- c) a Dutch national who commits any of the crimes defined in this Act outside the Netherlands.

In terms of providing a basis for the exercise of universal jurisdiction by the Netherlands, the first element mentioned above is the most relevant part, as it allows the authorities to investigate and prosecute the crimes covered by the International Crimes Act when these have been committed abroad by foreign nationals.

However, the International Crimes Act does not provide for full, unlimited jurisdiction in respect of international crimes. The judicial authorities of the Netherlands cannot open an investigation into alleged international crimes committed abroad by foreigners against non-nationals without the suspect having been identified and present in the country. Investigations into a general situation are not possible, unless the victim(s) and/or the alleged perpetrator(s) are Dutch nationals (Article 2). In other cases, Dutch authorities are therefore only competent to investigate universal jurisdiction cases if the suspect is present on the territory during the investigation. In such cases, the decision to investigate and prosecute is based on a decision by the public prosecutor's office.

In addition to the International Crimes Act, the Netherlands Criminal Code (Article 381) provides a basis for the exercise of universal jurisdiction by the Netherlands over the crime of piracy committed on the high seas.

Under Dutch law dual criminality is not a prerequisite for the investigation and prosecution of international crimes.

The Kingdom of the Netherlands supports the ILC study and awaits its results.

Thank you, Madam/Mr. Chair