

Ireland

Statement by

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at the

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Agenda item 84:

The scope and application of the principle of universal jurisdiction

Mr Chair

1. As this is the first time for me to take the floor in the 6th Committee, allow me to congratulate you and the members of the Bureau on your election. I can assure you of the full cooperation of the Irish delegation throughout the session.

2. Ireland welcomes this opportunity to comment today on the scope and application of universal jurisdiction. This is an important issue, although it is a topic on which there has often been much confusion. The debate and the upcoming Working Group are a worthwhile opportunity for us to exchange views and experiences.

3. For the purposes of today's debate, I would like to first briefly set out Ireland's general view on universal jurisdiction; before making some comments on our preferred approach to future consideration of this issue.

Universal jurisdiction in the Irish domestic context

4. In our view the topics of universal jurisdiction; other categories of extra-territorial jurisdiction; the jurisdiction of international criminal tribunals; and the question of immunities are generally related, but must be considered and applied as separate and distinct concepts.

5. Exercise of extra-territorial jurisdiction of any type – including universal jurisdiction - is exceptional under Irish law.

6. In our view, universal jurisdiction consists of the exercise of jurisdiction over an offence irrespective of the place in which it was committed, the nationality of the accused, the nationality of the victim, or any other link with Ireland.

7. In Ireland exercise of universal jurisdiction is possible in only the most limited circumstances, for example in cases of torture or grave breaches of the Geneva Conventions. Prosecutions are not controlled by Government. In general, they are a matter for the Director of Public Prosecutions, which is a statutory office independent of the Government; and for the police, who are operationally independent of Government.

Preferred approach to further discussion of universal jurisdiction

8. Concerning the debate at this session, we note that the upcoming Working Group of 6th Committee is tasked by General Assembly Resolution 65/33 with undertaking a “thorough discussion of the scope and application of universal jurisdiction”. We look forward to that discussion and would like to thank the Secretary General for his Report on this item, contained in document A/66/93, which will assist us in that regard.

9. Ireland has reviewed with particular interest Part VI of the Secretary General’s Report, which contains an account of the proposals of certain States for the further discussion of this item.

10. We have noted in particular the proposal of certain States (as set out at paragraph 168 of the Report) that the UN should establish an international commission, subsidiary to the General Assembly, to act as a “regulatory body on the exercise of universal jurisdiction”. Ireland is of the view that such a regulatory body would not be compatible with the purpose or character of universal jurisdiction.

11. We would also have concern about the proposal for either a general or a specific moratorium on the exercise of universal jurisdiction pending exhaustive debate on the issue in the General Assembly.

12. We are instead inclined to support the Swiss proposal (reflected at paragraph 149 of the Report) that, given its legal and technical character, the topic could usefully be added to the agenda of the International Law Commission.

13. In this regard, we note that the ILC already has some related topics on its agenda, namely the obligation to extradite or prosecute; and immunity of state officials from foreign criminal jurisdiction. Referring this issue to the ILC could therefore be a fruitful approach, as it would allow detailed, expert study of the scope and application of universal jurisdiction. If necessary, additional discussion of the topic by States in the framework of the 6th Committee could then be undertaken, on foot of the outcome of the ILC's work.

Mr Chair

14. The discussions of this Committee may sometimes be technical, but they are of real and concrete importance. This is particularly true of an item such as universal jurisdiction.

15. The technical aspects of our work should not obscure in our minds the reality that universal jurisdiction may often be the last defence against impunity. Ireland hopes our discussions can support that protection of last resort, on which we all rely.

Thank you