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### **The scope and application of the principle of universal jurisdiction**

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### **Report of the Secretary-General**

#### *Summary*

The present report has been prepared pursuant to General Assembly resolution [77/111](#), in which the Assembly requested the Secretary-General to prepare a report on the basis of information and observations received from Member States and relevant observers, as appropriate, on the scope and application of universal jurisdiction, including, where appropriate, information on the relevant applicable international treaties and on their national legal rules and judicial practice.

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\* [A/78/150](#).



## I. Introduction

1. The present report has been prepared pursuant to General Assembly resolution [77/111](#), on the basis of comments and observations submitted by Governments and observers. It contains a summary of such comments and observations received since the issuance of the previous report on the subject ([A/77/186](#)) and should be read together with it and with prior reports.<sup>1</sup>
2. In accordance with resolution [77/111](#), section II of the present report, together with tables 1 to 3, focuses on specific information regarding the scope and application of universal jurisdiction on the basis of relevant national legal rules, applicable international treaties and judicial practice. Information received from observers is provided in section III. Section IV contains a synopsis of issues raised by Governments for possible discussion.
3. Responses were received from Austria, Brazil, Bulgaria, Denmark, Hungary, Ireland, Malaysia, Morocco, the Kingdom of the Netherlands, Oman, Saudi Arabia and Türkiye.
4. The Council of Europe, the International Maritime Organization (IMO), the Organisation for the Prohibition of Chemical Weapons (OPCW) and the International Committee of the Red Cross (ICRC) also submitted responses.
5. The complete submissions are available on the website of the Sixth Committee of the General Assembly ([www.un.org/en/ga/sixth](http://www.un.org/en/ga/sixth)).

## II. Scope and application of universal jurisdiction on the basis of relevant national legal rules, applicable international treaties and judicial practice: comments by Governments

### A. Basic legal rules

#### 1. Relevant national legal rules<sup>2</sup>

##### Austria<sup>3</sup>

6. Austria reiterated comments previously submitted regarding sections 64 and 65 of its Penal Code. Austria highlighted that section 64 (1)(4c) of its Penal Code provides for full complementarity jurisdiction of Austrian Courts over international crimes under the Rome Statute of the International Criminal Court, in particular genocide, crimes against humanity, war crimes and the crime of aggression, which are incorporated in chapter 25 of the Penal Code. As a result, Austrian courts can exercise jurisdiction over the crimes incorporated in chapter 25 and committed in foreign countries in all cases, regardless of locally applicable law, where: (a) the perpetrator or victim is an Austrian citizen; (b) other Austrian national interests are infringed by the act; or (c) the perpetrator is a foreigner who has his habitual residence in Austria or is present in Austria and cannot be extradited.

<sup>1</sup> [A/65/181](#), [A/66/93](#) and [A/66/93/Add.1](#), [A/67/116](#), [A/68/113](#), [A/69/174](#), [A/70/125](#), [A/71/111](#), [A/72/112](#), [A/73/123](#) and [A/73/123/Add.1](#), [A/74/144](#), [A/75/151](#) and [A/76/203](#).

<sup>2</sup> Table 1 contains a list of crimes concerning which universal jurisdiction is established by various codes, as mentioned in the comments by Governments. Table 2 contains specific legislation relevant to the subject, based on information submitted by Governments.

<sup>3</sup> For previous comments submitted by Austria, see [A/65/181](#), [A/69/174](#), [A/70/125](#) and [A/72/112](#).

### **Brazil<sup>4</sup>**

7. Brazil reiterated previous comments regarding the territoriality principle, the active nationality principle, articles 5, 6 and 7 of its Criminal Code and Law No. 9455/1997 regarding torture (see tables 1 and 2 below).

### **Bulgaria<sup>5</sup>**

8. Bulgaria reiterated that article 6 of its Criminal Code provides for the principle of universal jurisdiction, which allows for Bulgarian law to apply to foreign citizens who have committed crimes against peace and humanity abroad in which the interests of another State or of foreign citizens have been affected. Bulgaria reported that its Criminal Code applies to other crimes committed by foreign citizens abroad when that is stipulated in an international agreement to which Bulgaria is a party. Crimes against peace and humanity are codified in chapter XIV of the Criminal Code of Bulgaria (arts. 407–419 A).

### **Denmark**

9. Denmark reported that its Criminal Code has four rules on universal jurisdiction, which apply to Danish criminal law in general.

10. Section 8 (5) stipulates that Danish law applies, regardless of the domicile of the perpetrator, where the act is covered by an international convention pursuant to which Denmark is under an obligation to exercise criminal jurisdiction. According to Denmark, this provision will cover, inter alia, the four Geneva Conventions of 1949, which all provide for States to have universal jurisdiction. Denmark reported that section 8 (5) would also provide for universal jurisdiction in cases covered by the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft, highlighting that section 8 (b) specifically concerns jurisdictions regarding unlawful seizure of vessels.

11. Section 8 (6) stipulates the principle of *aut dedere aut judicare*. According to Denmark, such provision establishes that Danish criminal law applies where transfer of the accused for legal proceedings in another country is rejected and where the act, provided that it is committed within the jurisdiction of a foreign State, is punishable according to the law of such State, and provided that, according to Danish law, the act is punishable with a sentence more severe than one year of imprisonment.

12. Section 8 (a) stipulates that Danish criminal law applies in cases covered by the Rome Statute if the perpetrator is present in the territory of Denmark at the time criminal charges are brought.

13. Section 8 (b) provides that Danish criminal law applies in cases of unlawful seizure of an aircraft, a ship or other vessel for collective transportation or transportation of goods.

14. Denmark further reported that there are other Danish rules on universal jurisdiction. Section 134 (5) of the Danish Road Traffic Act provides that Danish criminal law always applies to certain criminal offences, namely: those covered by article 19 (2), first sentence, of European Union Regulation No. 561/2006 on the harmonization of certain social legislation relating to road transport and those covered by European Union Regulation No. 165/2014 on tachographs in road transport.

<sup>4</sup> For previous comments submitted by Brazil, see [A/76/203](#) and [A/77/186](#).

<sup>5</sup> For previous comments submitted by Bulgaria, see [A/65/181](#), [A/73/123](#) and Add.1, and [A/74/144](#).

**Hungary<sup>6</sup>**

15. Hungary stated that its Criminal Code provides for the territoriality principle under article 3. In addition, Hungarian criminal law may apply extraterritorially in the following cases: (a) based on the active personality principle, by which Hungarian criminal law applies to any act of Hungarian citizens committed outside the territory of Hungary, provided that such acts are criminalized in accordance with Hungarian law; and (b) when an offence is committed against non-Hungarian citizens, if the offence constitutes a crime under both Hungarian criminal law and the criminal law of the State in whose territory the crime was committed (the double criminality principle).

16. With respect to the latter case, Hungary noted that there are two exceptions. The first exception concerns the application of the principle of universal jurisdiction. In this connection, Hungary reiterated previous comments and noted that its Criminal Code applies to: (a) any act that is qualified as an offence against the State, regardless of whether the act is punishable in accordance with the law of the country where it was committed (excluding espionage against allied armed forces and espionage against European Union institutions); and (b) acts that constitute a criminal act under chapter XIII (crimes against humanity, which includes genocide) or chapter XIV (war crimes), or any other criminal offences that are to be prosecuted under an international treaty ratified by and promulgated in Hungary. The second exception concerns the passive personality principle, whereby Hungarian criminal law applies to any act committed by non-Hungarian citizens abroad against a Hungarian national or against a legal entity established under Hungarian law and which is punishable under Hungarian law.

17. Hungary also stated that the extraterritorial application of its criminal law entails the assessment of rules of international law, including treaty law and customary international law. According to Hungary, observance of complementarity is key to ensuring effective justice, noting that the State in which the offence was committed is generally best placed to collect and preserve evidence and conduct the criminal proceedings.

**Ireland**

18. Ireland stated that the exercise of extraterritorial jurisdiction of any type, including universal jurisdiction, is exceptional in Ireland and is framed by article 29.8 of the Constitution of Ireland. According to article 29.8, Ireland may exercise extraterritorial jurisdiction in accordance with the generally recognized principles of international law.

19. Ireland may exercise universal jurisdiction for piracy, as piracy *jure gentium* is an offence under common law in Ireland. In addition, the Geneva Conventions Act 1962, as subsequently amended to ratify the two Additional Protocols, provides that any person, whatever his or her nationality, who, whether inside or outside the State, commits or aids, abets or procures the commission by any other person of a grave breach of any of the scheduled Conventions or Protocol I shall be guilty of an offence.

20. Moreover, the International Criminal Court Act 2006 makes it an offence in national law to commit within the State any act constituting genocide, a crime against humanity or a war crime as defined by the Rome Statute. Under sections 12 (1) and 12 (3) of said Act, jurisdiction is asserted over any such act committed within the territory of Ireland or where the alleged perpetrator is an Irish national. Section 12 (2)

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<sup>6</sup> For previous comments submitted by Hungary, see [A/68/113](#).

of the Act asserts universal jurisdiction over war crimes constituting grave breaches of the Geneva Conventions.

21. With respect to torture, the Criminal Justice (United Nations Convention against Torture) Act 2000 gives effect to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Sections 2 and 3 thereof extend universal jurisdiction to torture to cover the following: (a) a public official, whatever his or her nationality, who carries out an act of torture on a person, whether within or outside the State, shall be guilty of the offence of torture; (b) a person, whatever his or her nationality, other than a public official, who carries out an act of torture on another person, whether within or outside the State, at the instigation of, or with the consent or acquiescence of, a public official shall be guilty of the offence of torture; (c) a person, whatever his or her nationality, whether within or outside the State, who: (i) attempts to commit or conspires to commit the offence of torture, or (ii) does an act with the intent to obstruct or impede the arrest or prosecution of another person, including a person who is a public official, in relation to the offence of torture. Any such person shall be guilty of an offence and shall be liable to imprisonment for life.

#### **Morocco<sup>7</sup>**

22. Morocco reiterated comments submitted previously regarding chapter 10 of its Criminal Code and the applicability of Moroccan legislation to persons on Moroccan territory.

23. Morocco also reiterated comments submitted previously regarding article 704 of its Code of Criminal Procedure and the jurisdiction of its courts, highlighting that Moroccan courts have competence to prosecute any Moroccan citizen who commits, outside Morocco, a major or minor offence under articles 707 and 708 of its Code of Criminal Procedure, and that, under article 710, Moroccan courts have competence when a major offence is committed against a Moroccan citizen outside the territory of Morocco.

24. Morocco reiterated that, under articles 705 and 706, Moroccan law applies to Moroccan ships and aircraft wherever they are located, except for cases that are subject to foreign law by virtue of international law and that, with respect to terrorism, according to article 711 (1) of its Code of Criminal Procedure and chapter 218 (1)(1) of its Criminal Code, specialized courts have the power to prosecute and try any individual who has committed a terrorist offence outside Morocco, whether as a perpetrator, accomplice or accessory and whether or not the offence was intended to harm Morocco or its interests.

#### **Netherlands (Kingdom of the)<sup>8</sup>**

25. The Kingdom of the Netherlands reiterated comments made previously on the International Crimes Act 2003 and the Criminal Code with respect to the crime of piracy committed on the high seas, highlighting that the Act governs crimes such as genocide, war crimes, crimes against humanity, torture and enforced disappearance. The Kingdom of the Netherlands also reiterated comments made previously regarding article 2 of the International Crimes Act 2003, outlining that Dutch criminal law applies to: (a) anyone who commits any of the crimes defined in the Act outside the Netherlands, if the suspect is present in the Netherlands; (b) anyone who commits any of the crimes defined in the Act outside the Netherlands, if the crime is committed against a Dutch national; and (c) a Dutch national who commits any of the crimes defined in the Act outside the Netherlands. It was pointed out that the definition of

<sup>7</sup> For previous comments submitted by Morocco, see [A/77/186](#).

<sup>8</sup> For previous comments submitted by the Kingdom of the Netherlands, see [A/65/181](#) and [A/76/203](#).

“nationals” for the purpose of article 2 includes persons with permanent residency in the Netherlands and, concerning (c) above, persons who receive Dutch nationality after the commission of the crime. It was stressed that article 2 is without prejudice to relevant provisions of the Criminal Code and the Code of Military Law.

### **Oman<sup>9</sup>**

26. Oman reiterated that it has always sought to emphasize the principle of universal jurisdiction through national legislation and the conclusion of international agreements. In 2022, Oman adopted a number of laws and agreements in that regard (see table 3 below), including: Royal Decree No. 87/2022, issuing the Code of Military Justice; Royal Decree No. 57/2022, reorganizing the Human Rights Commission of Oman; resolution No. 1/2022 of the National Counter-Terrorism Committee, issuing a list of procedures for the implementation of Security Council resolutions issued under Chapter VII of the Charter of the United Nations, on the suppression and combating of terrorism, terrorist financing and the proliferation of weapons of mass destruction, and related resolutions; decision No. 130/2022 of the Ministry of Justice and Legal Affairs, issuing the regulations for controlling lawyers and law firms regarding the combating of money-laundering and terrorist financing; and decision No. 621/2022 of the Ministry of Commerce, Industry and Investment Promotion, issuing the regulation for controlling accounting and auditing offices and firms and precious metals and gemstones companies regarding the combating of money-laundering and terrorist financing.

### **Saudi Arabia**

27. Saudi Arabia provided a list of international conventions to which it is party, including articles reflecting, in its view, the application of the principle of universal jurisdiction, together with an indication of the date of issuance of Royal Decrees (see tables 1 to 3 below).

### **Türkiye<sup>10</sup>**

28. Türkiye provided excerpts of several provisions contained in the Turkish Penal Code No. 5237, such as: article 8 (application in respect of location), article 9 (conviction in a foreign country), article 10 (offences committed during the performance of a duty), article 11 (offences committed by citizens), article 12 (offences committed by foreigners), article 13 (other offences), article 14 (investigation in alternative punishment), article 15 (calculation of penalty in cases where this is a condition of investigation), article 16 (deduction of punishment), article 17 (disqualification from certain rights) and article 19 (consideration of foreign laws). Excerpts of several provisions contained in the Turkish Criminal Procedure Code, Law No. 5271, were also provided: article 13 (special jurisdiction), article 14 (jurisdiction for offences committed in a foreign country) and article 15 (jurisdiction for offences committed in or with maritime, air or railway vehicles).

29. Türkiye also reiterated its comments regarding the treaties to which it is a party that include “prosecute or extradite” provisions (see table 3 below).

## **2. Applicable international treaties**

30. On the basis of information received from Governments, a list of the treaties referred to by Governments is provided in table 3 below.

<sup>9</sup> For previous comments submitted by Oman, see [A/77/186](#).

<sup>10</sup> For previous comments submitted by Türkiye, see [A/73/123](#), [A/74/144](#) and [A/75/151](#).

### 3. Judicial practice

#### Austria

31. Austria reported that two final judgments by Austrian criminal courts were rendered against non-Austrian nationals for terrorism-related acts committed abroad. The perpetrators were domiciled or habitually resided in Austria at the time of the institution of the criminal proceedings. The jurisdiction of the courts was based on section 64 (1)(9)(b) of the Penal Code.

32. In judgment AZ 50 Hv 15/21w, delivered by the Regional Court, Eisenstadt on 23 March 2022, the perpetrator was sentenced to two years of imprisonment. The perpetrator was a national of the Syrian Arab Republic who committed crimes in several locations in the Syrian Arab Republic punishable as terrorism-related acts under sections 278 a, 278 b(2) and 15, combined with sections 75 and 278 (c)(1)(1) of the Penal Code.

33. In judgment AZ 15 Hv 75/22f, delivered by the Regional Court, Wels on 19 December 2022, the perpetrators were acquitted owing to a lack of sufficient evidence to prove the case beyond reasonable doubt. They were Syrian nationals accused of having committed crimes in the Syrian Arab Republic and in Türkiye punishable as terrorism-related acts under sections 278 a and 278 (3) of the Penal Code.

#### Brazil<sup>11</sup>

34. Brazil reiterated comments regarding the findings of the Supreme Court of Justice in the judgment of *habeas corpus* 95.595/2018, as well as in various extradition cases. Its comments on the filing in the *Herzog* case before the Inter-American Court of Human Rights and the principle of “mitigated universal jurisdiction” were also reiterated.

#### Bulgaria

35. Bulgaria submitted that, according to the examination of data maintained in its official national records, no proceedings have been instituted against foreigners who have committed crimes against peace and humanity affecting the interests of another State or foreign citizens.

#### Hungary

36. In 2019, following the order from the Prosecutor General of Hungary, a criminal proceeding was launched against a national of the Syrian Arab Republic for crimes committed against Syrian civilians outside the territory of Hungary. The accused had joined Da’esh before 2015 and had committed several executions against the civilian population in the Syrian Arab Republic; he then registered as a refugee in the European Union in 2016 and decided to settle in Hungary. On 3 December 2020, the Budapest Metropolitan Court delivered judgment No. 31.B.1091/2019/184, in which it ruled that the accused had committed crimes against humanity against the civilian population in the Syrian Arab Republic, sentencing the perpetrator to life imprisonment. The Budapest Court of Appeal upheld the judgment on 11 October 2021 (judgment No. 1.Bf.53/2021/23).

37. Hungary noted that the criminal offence in the above case was a crime against humanity and punishable in its Criminal Code. Hungary stressed that the judges examined in detail the treaty law practice concerning crimes against humanity, concluding that crimes against humanity entail the application of universal jurisdiction.

<sup>11</sup> For previous comments submitted by Brazil, see [A/76/203](#) and [A/77/186](#).

**Ireland**

38. Ireland reported that Irish courts have construed that laws passed in Ireland do not have extraterritorial effect unless this is a necessary implication of the provision in question or expressly set out therein. Ireland also reported that there have been no prosecutions for piracy in Ireland since the foundation of the modern Irish State.

**Netherlands (Kingdom of the)<sup>12</sup>**

39. The Kingdom of the Netherlands reiterated comments submitted previously regarding special teams within its national police and prosecution services, which have undertaken highly complex investigations on core international crimes.

**B. Conditions, restrictions or limitations to the exercise of jurisdiction****Constitutional and national legal framework****Brazil<sup>13</sup>**

40. Brazil reiterated comments regarding the conditions that need to be met under article 7 of its Criminal Code and the conditions for Brazil to exercise jurisdiction in accordance with the passive personality principle.

41. Brazil further reiterated its previous comments regarding the exercise of jurisdiction *in absentia* and the exercise of universal jurisdiction over serious crimes objectively recognized in international treaties.

**Denmark**

42. Denmark submitted that, under its criminal law, universal jurisdiction is commonly understood as jurisdiction in situations where there is no or very little connection to Denmark, Danish nationals or persons having their domicile or permanent residence in Denmark. Accordingly, subject to the rules on universal jurisdiction contained in the Danish Criminal Code and in other statutes (see sect. II.A.1 above), Danish criminal law applies regardless of whether the perpetrator or the victim are Danish nationals or persons with domicile or residence in Denmark and regardless of whether the crime in question concerns any particular interest of the Danish State.

**Hungary**

43. In Hungary, criminal proceedings can be initiated only by the order of the Prosecutor General of Hungary for cases under article 3 (2) of the Criminal Code (i.e. in matters involving the double criminality principle, universal jurisdiction principle and passive personality principle). Failure to obtain the order of the Prosecutor General in cases of universal jurisdiction qualifies as a grave procedural error, resulting in dismissal of the part of the case that relies on no other jurisdictional basis but universal jurisdiction.

**Ireland**

44. Ireland reported that Irish national law does not allow for trials *in absentia* and, therefore, the exercise of any type of jurisdiction, including universal jurisdiction, is conditional upon the presence of the perpetrator within the territory of Ireland.

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<sup>12</sup> For previous comments submitted by the Kingdom of the Netherlands, see [A/65/181](#) and [A/76/203](#).

<sup>13</sup> For previous comments submitted by Brazil, see [A/76/203](#) and [A/77/186](#).



45. Ireland also reported that national prosecutions of serious offences are a matter for the Director of Public Prosecutions, which is a statutory office independent of the Government. Under section 3 of the Prosecution of Offences Act 1974, section 9 (2) of the International Criminal Court Act 2006 and section 5 (2) of the Criminal Justice (United Nations Convention against Torture) Act 2000, the consent of the Director of Public Prosecutions is required to institute proceedings against a person who has been charged in relation to International Criminal Court offences and/or torture. In cases relating to prosecutions under the Geneva Conventions Act 1962, as amended, the consent of the Attorney General may also be required to further proceedings after a person has been charged.

#### **Netherlands (Kingdom of the)<sup>14</sup>**

46. The Kingdom of the Netherlands reiterated previous comments regarding the conditions under which jurisdiction is exercised, highlighting in particular the need for the suspect to be present in the country. It was underlined that the International Crimes Act 2003 does not provide for full, unlimited jurisdiction for international crimes under article 2. The Kingdom of the Netherlands also reiterated that the decision to investigate and prosecute is based on a decision by the public prosecutor's office. Moreover, it was reiterated that, under Dutch law, double criminality is not a prerequisite for the investigation or prosecution of international crimes.

#### **Türkiye<sup>15</sup>**

47. Türkiye reiterated comments submitted previously that the prosecution of certain crimes is subject to a request by the Minister of Justice.

### **III. Scope and application of universal jurisdiction: comments by observers**

#### **Council of Europe<sup>16</sup>**

48. The Council of Europe referred to its recommendation No. 2201 (2021) on human rights violations in Belarus and on the relevant parts of the reply of the Committee of Legal Advisers on Public International Law. It was noted that no comments were made by the Committee of Ministers in its reply to this recommendation.

49. The Council of Europe reported that recommendation No. 2231 (2022) was adopted by its Parliamentary Assembly on 28 April 2022 and is entitled "The Russian Federation's aggression against Ukraine: ensuring accountability for serious violations of international humanitarian law and other international crimes". It was also reported that the Committee of Legal Advisers on Public International Law, in its opinion in response to the request by the Committee of Ministers, analysed several international legal avenues for ensuring accountability, including a hybrid tribunal, an ad hoc international tribunal established on the basis of a Security Council resolution and an international tribunal based on a multilateral international treaty concluded by States. The universal jurisdiction aspect was not commented on in the opinion of the Committee of Legal Advisers on Public International Law or in the reply of the Committee of Ministers to recommendation No. 2231 (2022).

<sup>14</sup> For previous comments submitted by the Kingdom of the Netherlands, see [A/65/181](#) and [A/76/203](#).

<sup>15</sup> For previous comments submitted by Türkiye, see [A/73/123](#), [A/74/144](#) and [A/75/151](#).

<sup>16</sup> For previous comments submitted by the Council of Europe, see [A/66/93](#), [A/68/113](#), [A/69/174](#), [A/72/112](#) and [A/76/203](#).

50. On the case law of the European Court of Human Rights, it was reported that some noteworthy pronouncements were made relating to the existence of a jurisdictional link in the case where the death of a national occurred outside the territory of the State.

51. The case *Toledo Polo v. Spain*<sup>17</sup> concerned a complaint regarding the investigation into the death of an individual who was a member of the military and had died during a United Nations deployment to Lebanon. In its decision, the Court:

(a) First recalled the principles concerning the existence of a jurisdictional link for the purposes of article 1 of the Convention for the Protection of Human Rights and Fundamental Freedoms in cases where a death has occurred outside the territory of the contracting State, as set out in the case *Güzelyurtlu and Others v. Cyprus and Turkey*.<sup>18</sup> The Council of Europe reiterated comments submitted previously regarding the Court's findings in *Güzelyurtlu and Others v. Cyprus and Turkey* and articles 1 and 2 of the Convention, in particular the "special features" aspect.

(b) Noted that, even though a preliminary criminal investigation was opened, under domestic law, jurisdiction could have been asserted only if the domestic courts were able to establish the existence of intent in the commission of the act which had caused the death of the individual in question. Regarding the existence of "special features", the Court found that the mere nationality of the deceased does not amount to a special feature triggering the existence of a jurisdictional link in relation to the procedural obligation to investigate under article 2 of the Convention, reiterating that article 2 did not require the criminal laws of the contracting States to provide for universal jurisdiction in cases involving the death of one of their nationals. The Court declared the application inadmissible on the grounds that it was incompatible *ratione personae* and *ratione loci* with the provisions of the Convention.

52. In the case *H.F. and Others v. France*,<sup>19</sup> the applicants complained of the refusal to grant their requests for the repatriation by the French authorities of their daughters and grandchildren. According to the applicants, their daughters and grandchildren were being held in camps in the north-eastern region of the Syrian Arab Republic, exposing them to inhuman and degrading treatment and amounting to a violation of their right to enter national territory. In its judgment, the Court:

(a) Reiterated the jurisdictional links threshold for the triggering of universal jurisdiction, as outlined above.

(b) Found that the criminal proceedings brought by the French authorities against two of the applicants for participating in a terrorist association did not relate to the violations alleged in the case at hand and had no bearing on whether the facts fell within the jurisdiction of France. It further noted that an interpretation to the contrary would dissuade States from opening investigations, on the basis of their domestic law or international obligations in respect of individuals involved in acts of terrorism, if they would then be required, on that basis alone, to secure the rights provided for in the Convention for the Protection of Human Rights and Fundamental Freedoms for those individuals, even though they were not under the effective "control" of said States.

(c) Found that the bringing of proceedings by the applicants in the domestic courts did not constitute a "special feature" sufficient to trigger a jurisdictional link

<sup>17</sup> European Court of Human Rights, *Toledo Polo v. Spain*, No. 39691/18, judgment of 22 March 2022.

<sup>18</sup> European Court of Human Rights, *Güzelyurtlu and Others v. Cyprus and Turkey*, No. 36925/07, judgment of 29 January 2019.

<sup>19</sup> European Court of Human Rights, *H.F. and Others v. France*, Nos. 24384/19 and 44234/20, judgment of 14 September 2022.

between France and the applicants' daughters and grandchildren. The Court then found no special procedural circumstances stemming from the proceedings at the domestic level that would trigger the jurisdiction of France and, consequently, the application of the Convention for the Protection of Human Rights and Fundamental Freedoms.

#### **International Maritime Organization<sup>20</sup>**

53. IMO reiterated comments made previously regarding the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 2005 Protocol thereto, and the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and the 2005 Protocol thereto.

54. IMO reiterated that the jurisdiction under article 6 (4) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 2005 Protocol thereto reflects the principle of universal jurisdiction since it can be exercised solely on the basis of the offender's presence in the territory of a State party regardless of the lack of any other connection to the offence.

55. IMO reported that, as at 25 April 2023, 166 States were parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and 53 States were parties to the 2005 Protocol thereto, and that 156 States were parties to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf and 46 States were parties to the 2005 Protocol thereto.

#### **Organisation for the Prohibition of Chemical Weapons<sup>21</sup>**

56. OPCW reiterated comments made previously regarding the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, while highlighting that, as at 6 April 2023, the number of States parties that had adopted implementing legislation to criminalize activities prohibited under the Convention was 148. OPCW also reported that, in response to the extraterritoriality requirement contained under subparagraph 1 (c) of article VII of the Convention, 128 States parties informed OPCW that they had extended their penal legislation to implement the prohibitions of the Convention to any activity undertaken anywhere by natural persons possessing their nationality.

57. OPCW also reiterated previous observations that the use of chemical weapons constitutes a war crime in both international and non-international armed conflict. It noted that a number of criminal complaints related to the use of chemical weapons had been filed in the national courts of countries exercising universal jurisdiction.

#### **International Committee of the Red Cross<sup>22</sup>**

58. ICRC reiterated previous comments on several aspects of universal jurisdiction related to international humanitarian law. It stated that universal jurisdiction enables States to fulfil their duty to prosecute and punish perpetrators of war crimes. To make the principle effective, States are required to establish universal jurisdiction in their national legislation for certain violations of treaties (mandatory universal jurisdiction)

<sup>20</sup> For previous comments submitted by IMO, see [A/66/93](#), [A/69/174](#), [A/70/125](#), [A/74/144](#) and [A/76/203](#).

<sup>21</sup> For previous comments submitted by OPCW, see [A/66/93](#), [A/67/116](#), [A/69/174](#), [A/76/203](#) and [A/77/186](#).

<sup>22</sup> For previous comments submitted by ICRC, see [A/66/93](#), [A/68/113](#), [A/69/174](#), [A/70/125](#), [A/71/111](#), [A/72/112](#), [A/73/123](#), [A/74/144](#), [A/75/151](#) and [A/77/186](#).

and have the right to establish universal jurisdiction for all other war crimes (permissive universal jurisdiction).

59. ICRC also reiterated the universal acceptance of the Geneva Conventions of 1949 (196 States parties), the continued ratification of or accession to Additional Protocol I (174 States parties) and the high rates of ratifications of and accessions to other relevant treaties. ICRC noted that Iraq acceded to the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict in April 2022 and that Cabo Verde (December 2022), Croatia (January 2022), Denmark (January 2022), Finland (March 2023) and Luxembourg (April 2022) acceded to or ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

60. ICRC further reiterated previous comments regarding the creation by States of specialized units to deal exclusively with the substantive and procedural specificities of international crimes. It noted that there have been a significant number of national prosecutions based on universal jurisdiction.

61. ICRC reiterated its support for States in their implementation of international humanitarian law, including the obligation to repress serious violations of international humanitarian law through the exercise of universal jurisdiction. It further reiterated that its Advisory Service on International Humanitarian Law offered legal advice and technical assistance to government experts on national implementation of international humanitarian law at the request of States. Its specialized tools designed to assist States in understanding and implementing their obligations under international humanitarian law include databases, reports and technical documents, as well as its Manual on International Humanitarian Law. ICRC also reported that, in August 2022, it published an explainer on universal jurisdiction for war crimes committed during non-international armed conflicts.

62. ICRC also reiterated its support for the efforts of States in establishing appropriate national legislation to respond to serious violations of international humanitarian law on the basis of all grounds of jurisdiction, including universal jurisdiction, while recognizing the judicial, procedural and practical challenges that States faced regarding the efficient exercise of the principle.

#### **IV. Nature of the issue for discussion: specific comments by States**

##### **Brazil<sup>23</sup>**

63. Brazil reiterated previous comments regarding the exercise of universal jurisdiction on the basis of clear and objective parameters, in order to prevent its abuse and misuse.

##### **Malaysia<sup>24</sup>**

64. Malaysia noted the diversity of views expressed by Member States in the Sixth Committee, while reiterating that there is a pressing need to achieve consensus and understanding by Member States on the foundation and scope of the principle of universal jurisdiction, as well as for an in-depth legal analysis thereof. Malaysia highlighted the gravity of the crimes under universal jurisdiction and the consequences they entailed.

<sup>23</sup> For previous comments submitted by Brazil, see [A/76/203](#) and [A/77/186](#).

<sup>24</sup> For previous comments submitted by Malaysia, see [A/65/181](#), [A/75/151](#) and [A/77/186](#).

65. According to Malaysia, there has been minimal response from Member States with respect to providing information on the scope and application of universal jurisdiction, in particular on the relevant applicable international treaties, national rules and judicial practice. Malaysia recommended that the Sixth Committee analyse the underlying cause of the reluctance of States to respond and consider the way forward for its work on the topic.

#### **Morocco<sup>25</sup>**

66. Morocco reiterated comments submitted previously regarding measures at the international level that should be taken to avoid the politicization of the principle of universal jurisdiction, highlighting the importance of State sovereignty.

Table 1

**List of crimes mentioned in the comments by Governments concerning which universal jurisdiction (including other bases of jurisdiction) is established by their codes**

<i>Category</i>	<i>Crime</i>	<i>State</i>
Genocide and related offences	Genocide	Austria, Brazil, Denmark, Hungary, Ireland, Morocco, Netherlands (Kingdom of the), Saudi Arabia
Crimes against humanity and related offences	Crimes against humanity	Austria, Denmark, Hungary, Ireland, Morocco, Netherlands (Kingdom of the)
War crimes and related offences	War crimes	Austria, Denmark, Hungary, Ireland, Morocco, Netherlands (Kingdom of the)
	Grave breaches of the Geneva Conventions	Ireland, Saudi Arabia
	Breaches of the Convention for the Protection of Cultural Property in the Event of Armed Conflict and protocols thereto	Saudi Arabia
Crime of aggression		Austria, Netherlands (Kingdom of the)
Crimes against peace and humanity		Bulgaria
Torture		Austria, Brazil, Ireland, Netherlands (Kingdom of the), Saudi Arabia, Türkiye
Piracy and related offences	Piracy	Ireland
	Piracy on the high seas	Netherlands (Kingdom of the)
	Air piracy	Austria

<sup>25</sup> For previous comments submitted by Morocco, see [A/77/186](#).

<i>Category</i>	<i>Crime</i>	<i>State</i>
Terrorism and related offences	Terrorism	Morocco, Saudi Arabia
	Terrorism-related acts	Austria
	Terrorism: offence of unlawful acts against aircraft	Ireland
	Terrorism: offence of hostage-taking	Ireland
	Terrorism: offence against internationally protected persons	Ireland
	Offence of terrorist bombing	Ireland, Saudi Arabia
	Financing of terrorism	Ireland, Saudi Arabia
	Terrorism: seizing or exercising control over a ship, performing violence against persons on board a ship, destroying a ship, causing damage to a ship	Ireland
	Nuclear terrorism	Saudi Arabia
Enforced disappearances		Netherlands (Kingdom of the)
Slave trade		Austria
Offences related to transportation and communication	Unlawful seizure of an aircraft, ship or other vessel for collective transportation of goods	Denmark
	Road transport-related offences	Denmark
	Acts committed on board aircraft	Saudi Arabia
	Unlawful seizure of aircraft	Saudi Arabia
	Unlawful acts against the safety of civil aviation	Saudi Arabia
	Unlawful acts against the safety of maritime navigation	Saudi Arabia
	Confiscating or hijacking of maritime, air or railway vehicles, or offences committed with the intention to damage such vehicles	Türkiye
Trafficking in persons and related offences	Trafficking in human beings	Austria, Saudi Arabia

<i>Category</i>	<i>Crime</i>	<i>State</i>
Drug-related offences	Drug trafficking	Austria, Ireland
	Illicit traffic in narcotic drugs and psychotropic substances	Saudi Arabia
	Production and trading of narcotic drugs or psychotropic substances, encouragement of use of narcotic drugs or psychotropic substances	Türkiye
Nuclear material-related offences	Offences related to nuclear material	Ireland, Saudi Arabia
Fiscal offences	Counterfeiting of a State seal, counterfeiting or forging of national cash or banknotes	Morocco
	Money-laundering	Saudi Arabia
	Counterfeiting money, manufacturing and trading of instruments used in production of money and valuable seals/stamps	Türkiye
Offences related to diplomatic personnel or protected persons or organizations	Major offences against staff of diplomatic or consular missions or public offices	Morocco
	Crimes against internationally protected persons, including diplomatic agents	Saudi Arabia
	Acts related to the safety of United Nations and associated personnel	Saudi Arabia
Offences related to the deprivation of liberty	Extortive abduction	Austria
	Hostage-taking	Saudi Arabia
Sexual violence offences	Rape	Austria
	Sexual coercion	Austria
Organized crime		Austria, Saudi Arabia
Intentional environmental pollution		Türkiye
Corruption		Ireland, Saudi Arabia
Crimes against the life or freedom of the President of Brazil and against the public administration		Brazil
Acts against State security		Morocco
Prostitution		Türkiye

<i>Category</i>	<i>Crime</i>	<i>State</i>
Sale of children, child prostitution and child pornography		Saudi Arabia
Acts related to jurisdictional immunities of States and their property		Saudi Arabia

Table 2  
**Specific legislation relevant to the subject, based on information submitted by Governments**

<i>Category</i>	<i>Legislation</i>	<i>State</i>
Genocide and related offences	Penal Code, sect. 64 (1)(4c)	Austria
	Criminal Code, sect. 8	Denmark
	Criminal Code, art. 3 and chap. XIII	Hungary
	International Criminal Court Act 2006	Ireland
	International Crimes Act 2003	Netherlands (Kingdom of the)
	High Decree No. 5130/5/2/33 of 19 Jumada II A.H. 1369 (7 April A.D. 1950)	Saudi Arabia
Crimes against humanity and related offences	Penal Code, sect. 64 (1)(4c)	Austria
	Criminal Code, sect. 8	Denmark
	Criminal Code, art. 3 and chap. XIII	Hungary
	International Criminal Court Act 2006	Ireland
	International Crimes Act 2003	Netherlands (Kingdom of the)
War crimes and related offences	Penal Code, sect. 64 (1)(4c)	Austria
	Criminal Code, sect. 8 (5)	Denmark
	Criminal Code, art.3 and chap. XIV	Hungary
	Geneva Conventions Act 1962, as amended in 1998 by the Geneva Conventions (Amendment) Act, sect. 3; International Criminal Court Act 2006, sect. 12 (2)	Ireland
	International Crimes Act 2003	Netherlands (Kingdom of the)



<i>Category</i>	<i>Legislation</i>	<i>State</i>
	Cabinet Decision No. 564 of 5 Dhu al-Qa'dah A.H. 1382 (30 March A.D. 1963) and as stipulated in para. 2 of Cabinet Decision No. 95 of 26 Jumada I A.H. 1407 (27 January A.D. 1987); Royal Decree No. M/25 of 14 Ramadan A.H. 1390 (13 November A.D. 1970); Royal Decree No. M/26 of 15 Rabi' I A.H. 1428 (3 April A.D. 2007)	Saudi Arabia
Crime of aggression	Penal Code, sect. 64 (1)(4c)	Austria
	International Crimes Act 2003	Netherlands (Kingdom of the)
Crimes against peace and humanity	Criminal Code, arts. 407–419 A, chap. XIV	Bulgaria
Torture	Penal Code, sect. 64	Austria
	Criminal Code, art. 7 (II) (b); Law 9455/1997	Brazil
	Criminal Justice (United Nations Convention against Torture) Act 2000, sects. 2–3	Ireland
	International Crimes Act 2003, art. 8	Netherlands (Kingdom of the)
	Royal Decree No. M/11 of 15 Rabi' II A.H. 1418 (20 August A.D. 1997)	Saudi Arabia
	Penal Code No. 5237, arts. 13 and 94–95	Türkiye
Piracy and related offences	Penal Code, sect. 64	Austria
	Criminal Code, art. 381	Netherlands (Kingdom of the)
Terrorism and related offences	Penal Code, sect. 64	Austria
	Air Navigation and Transport Act 1973, sects. 2 and 12; Air Navigation Act 1975, sects. 2–3 and 5; Extradition (European Convention on the Suppression of Terrorism) Act 1987, sects. 3 and 5–6; Maritime Security Act 2004, sects. 3 and 7; Criminal Justice (Terrorist Offences) Act 2005, sects. 6, 9–11, 13 and 43	Ireland
	Code of Criminal Procedure, art. 711 (1); Criminal Code, chap. 218 (1)(1)	Morocco

<i>Category</i>	<i>Legislation</i>	<i>State</i>
	Royal Decree No. M/16 of 10 Jumada II A.H. 1419 (2 October A.D. 1998); Royal Decree No. M/62 of 18 Rajab A.H. 1428 (2 August A.D. 2007); Royal Decree No. M/52 of 2 Ramadan A.H. 1426 (5 October A.D. 2005); Royal Decree No. M/76 of 14 Ramadan A.H. 1428 (26 September A.D. 2007); Royal Decree No. M/89 of 3 Dhu al-Qa'dah A.H. 1428 (13 November A.D. 2007); Royal Decree No. M/37 of 10 Jumada II A.H. 1433 (2 May A.D. 2012); Royal Decree No. M/36 of 3 Jumada II A.H. 1433 (25 April A.D. 2012); Royal Decree No. M/21 of 12 Safar A.H. 1439 (2 November A.D. 2017)	Saudi Arabia
Enforced disappearances	International Crimes Act 2003, art. 8a	Netherlands (Kingdom of the)
Slave trade	Penal Code, sect. 64	Austria
Offences related to transportation and communication	Criminal Code, sect. 8 (b) and Danish Road Traffic Act, sect. 134 (5)	Denmark
	Royal Decree No. M/37 of 22 Sha'ban A.H. 1386 (6 December A.D. 1966); Royal Decree No. M/9 of 22 Rabi' I A.H. 1394 (15 April A.D. 1974); Royal Decree No. M/61 of 5 Sha'ban I A.H. 1442 (19 March A.D. 2021); Royal Decree No. M/9 of 22 Rabi' I A.H. 1394 (15 April A.D. 1974); Royal Decree No. M/21 of 8 Rajab A.H. 1426 (17 May A.D. 2005)	Saudi Arabia
	Penal Code No. 5237, arts. 13, 152 and 223	Türkiye
Trafficking in persons and related offences	Penal Code, sect. 64	Austria
	Royal Decree No. M/56 dated 11 Jumada II A.H. 1428 (27 June A.D. 2007)	Saudi Arabia
Drug-related offences	Penal Code, sect. 64	Austria
	Criminal Justice Act 1994, sects. 31 and 36	Ireland

<i>Category</i>	<i>Legislation</i>	<i>State</i>
	Royal Decree No. M/19 of 15 Rajab A.H. 1410 (11 February A.D. 1990); Royal Decree No. M/14 of 18 Sha‘ban A.H. 1416 (10 January A.D. 1996)	Saudi Arabia
	Penal Code No. 5237, arts. 13, 188 and 190	Türkiye
Nuclear material-related offences	Radiological Protection Act 1991, sects. 38–39	Ireland
	Royal Decree No. M/40 dated 12 Rajab A.H. 1429 (16 July A.D. 2008)	Saudi Arabia
Fiscal offences	Code of Criminal Procedure, art. 710	Morocco
	Royal Decree No. M/37 of 10 Jumada II A.H. 1433 (2 May A.D. 2012)	Saudi Arabia
	Penal Code No. 5237, arts. 13, 197, 200 and 202	Türkiye
Offences related to diplomatic personnel or protected persons or organizations	Code of Criminal Procedure, art. 710	Morocco
	Royal Decree No. M/74 dated 21 Shawwal A.H. 1424 (16 December A.D. 2003); Royal Decree No. M/59 of 2 Dhu al-Qa‘dah A.H. 1430 (21 October A.D. 2009)	Saudi Arabia
Offences related to the deprivation of liberty	Penal Code, sect. 64	Austria
	Royal Decree No. M/21 of 15 Rajab A.H. 1410 (11 February A.D. 1990)	Saudi Arabia
Sexual violence offences	Penal Code, sect. 64	Austria
Organized crime	Penal Code, sect. 64	Austria
	Royal Decree No. M/20 of 15 Rabi‘ I A.H. 1425 (5 May A.D. 2004); Royal Decree No. M/34 dated 10 Jumada II A.H. 1433 (2 May A.D. 2012)	Saudi Arabia
Intentional environmental pollution	Penal Code No. 5237, arts. 13 and 181	Türkiye

Category	Legislation	State
Corruption	Prevention of Corruption (Amendment) Act 2001, sect. 7	Ireland
	Royal Decree No. M/5 of 11 Rabi' I A.H. 1434 (23 January A.D. 2013)	Saudi Arabia
Crimes against the life or freedom of the President of Brazil and against the public administration	Criminal Code, art. 7 (I)	Brazil
Acts against State security	Code of Criminal Procedure, art. 710	Morocco
Prostitution	Penal Code No. 5237, arts. 13 and 227	Türkiye
Sale of children, child prostitution and child pornography	Royal Decree No. M/38 dated 18 Rajab A.H. 1431 (30 June A.D. 2010)	Saudi Arabia
Acts related to jurisdictional immunities of States and their property	Royal Decree No. M/34 dated 26 Jumada II A.H. 1431 (9 June A.D. 2010)	Saudi Arabia

Table 3

**Relevant treaties referred to by Governments, including treaties containing *aut dedere aut judicare* provisions**

#### A. Universal instruments

Category	Instrument	State
Human rights	Convention on the Prevention and Punishment of the Crime of Genocide, 1948	Saudi Arabia
	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	Ireland, Netherlands (Kingdom of the), Saudi Arabia
	Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000	Saudi Arabia
	International Convention for the Protection of All Persons from Enforced Disappearance, 2006	Netherlands (Kingdom of the)
Law of armed conflict	Geneva Conventions, 1949	Denmark, Ireland, Saudi Arabia
	Additional Protocol I to the Geneva Conventions, 1977	Ireland

<i>Category</i>	<i>Instrument</i>	<i>State</i>
	Additional Protocol II to the Geneva Conventions, 1977	Ireland
	Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954	Saudi Arabia
	First Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954	Saudi Arabia
	Second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1999	Saudi Arabia
Maritime safety	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988	Ireland, Saudi Arabia
	Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, 1988	Ireland
Aircraft or civil aviation safety	Convention on Offences and Certain Other Acts Committed on Board Aircraft, 1963	Saudi Arabia
	Convention for the Suppression of Unlawful Seizure of Aircraft, 1970	Denmark, Ireland, Saudi Arabia
	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft, 1970	Saudi Arabia
	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971	Ireland, Oman, Saudi Arabia
	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, 1988	Ireland
Penal matters	Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, 1973	Ireland, Saudi Arabia
	International Convention against the Taking of Hostages, 1979	Ireland, Saudi Arabia

<i>Category</i>	<i>Instrument</i>	<i>State</i>
Counter-terrorism	United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988	Ireland, Saudi Arabia
	Convention on the Safety of United Nations and Associated Personnel, 1994	Saudi Arabia
	Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997	Ireland
	Rome Statute of the International Criminal Court, 1998	Austria, Denmark, Netherlands (Kingdom of the), Morocco
	United Nations Convention against Transnational Organized Crime, 2000	Morocco, Saudi Arabia
	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000	Saudi Arabia
	United Nations Convention against Corruption, 2003	Morocco, Saudi Arabia
	International Convention for the Suppression of Terrorist Bombings, 1997	Ireland, Saudi Arabia
	International Convention for the Suppression of the Financing of Terrorism, 1999	Ireland, Saudi Arabia
	International Convention for the Suppression of Acts of Nuclear Terrorism, 2005	Oman, Saudi Arabia
	Convention on the Physical Protection of Nuclear Material, 1979	Ireland, Saudi Arabia
	Amendment to the Convention on the Physical Protection of Nuclear Material, 2005	Oman

**B. Regional instruments**

<i>Category</i>	<i>Instrument</i>	<i>State</i>
Counter-terrorism	European Convention on the Suppression of Terrorism, 1977	Ireland
	Arab Convention on the Suppression of Terrorism, 1998	Saudi Arabia
	Convention of the Cooperation Council for the Arab States of the Gulf on Combating Terrorism, 2004	Saudi Arabia
	Arab Convention on Combating Money-Laundering and the Financing of Terrorism, 2010	Saudi Arabia
Penal matters	Council of Europe Criminal Law Convention on Corruption, 1999	Ireland
	Arab Convention against Transnational Organized Crime, 2010	Saudi Arabia
	Arab Convention against Illicit Use of and Traffic in Narcotic Drugs and Psychotropic Substances, 1994	Saudi Arabia