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## “UNIVERSAL JURISDICTION”

OVER WAR CRIMES AS A NEW NOTION IN NATIONAL LEGISLATIONS:  
EFFORTS FOR BETTER FRAMEWORK IN AZERBAIJAN

### “JURISDICCIÓN UNIVERSAL” SOBRE LOS CRÍMENES DE GUERRA COMO UNA NUEVA NOCIÓN EN LAS LEGISLACIONES NACIONALES: ESFUERZOS POR MEJORAR EL MARCO EN AZERBAIYÁN

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#### ABSTRACT

The article highlights the implementation of universal jurisdiction over war crimes in national legislation, with special emphasis on the case of the Republic of Azerbaijan. The issue of “war crimes” has always been relevant as a matter of concern for States because it goes against the interests of the international community as a whole. Therefore, each state must apply the principle of universal jurisdiction in its national legislation and prosecute war crimes. It is an indisputable fact that despite the establishment of ad hoc international criminal tribunals and the International Criminal Court for the Special Tribunal for Yugoslavia, Rwanda and Sierra Leone, there are major gaps and challenges in the prosecution of those accused of war crimes. Therefore, the main objective of this research is to analyze the directions related to those gaps, to investigate the application of universal jurisdiction over war crimes in national legislation at the level of highest importance.

**Keywords:** war crimes, international crimes, International Criminal Court, universal jurisdiction, Geneva Conventions.

#### RESUMEN

En el artículo se destaca la implementación de la jurisdicción universal sobre crímenes de guerra en las legislaciones nacionales, haciendo especial énfasis en el caso de la República de Azerbaiyán. El tema de los “crímenes de guerra” siempre ha sido relevante como motivo de preocupación para los Estados porque va en contra de los intereses de la comunidad internacional en su conjunto. Por eso, cada estado debe aplicar el principio de jurisdicción universal en su legislación nacional y perseguir los crímenes de guerra. Es un hecho indiscutible que a pesar del establecimiento de tribunales penales internacionales ad hoc y la Corte Penal Internacional para el Tribunal Especial para Yugoslavia, Ruanda y Sierra Leona, existen grandes lagunas y desafíos en el enjuiciamiento de los acusados de crímenes de guerra. Por ello, el objetivo principal de esta investigación es analizar las direcciones relacionadas con esos vacíos, para investigar la aplicación de la jurisdicción universal sobre crímenes de guerra en la legislación nacional al nivel de mayor importancia.

**Palabras clave:** crímenes de guerra, crímenes internacionales, Corte Penal Internacional, jurisdicción universal, Convenios de Ginebra.

## INTRODUCTION

Universal jurisdiction is a legal concept that allows a state to exercise jurisdiction over certain crimes, regardless of where the crime was committed or the nationality of the perpetrator or victim. This means that a state can prosecute an individual for crimes such as genocide, war crimes, and crimes against humanity even if they were committed outside of the state's territory and by individuals who are not citizens of that state (O'Keefe, 2004). Universal jurisdiction can be applied to a range of international crimes, including genocide, war crimes, crimes against humanity, torture, terrorism, and piracy. However, the specific crimes that can be prosecuted under universal jurisdiction may vary depending on the laws of each individual state (Hesenov, 2013).

It is known that the prosecution of persons who have committed a crime due to territorial jurisdiction, which is considered an element of state sovereignty, is carried out by the states in whose territory the crime was committed. In contrast to territorial jurisdiction, territorial limitation is not applied in punishing acts that violate the legal interests and interests of the international community. Regardless of where these acts are committed, regardless of the nationality and country of residence of the accused, every state prosecutes and convicts the perpetrators on the basis of the principle of universal jurisdiction. The main purpose of this principle is to prevent persons who have committed serious crimes from obtaining safe haven in third countries and to end impunity (Müller, 2019). The focus of the research is the implementation of universal jurisdiction in national legislation, the elimination of impunity by states and the determination of the level of fulfillment of obligations in this area.

The application to laws and treaties relating to international crimes and the application of universal jurisdiction was analyzed by Krebs et al. (2018). Although the provisions of the relevant treaties are limited to serious violations, universal jurisdiction in customary international law extends to serious violations of the laws and customs of war that constitute war crimes. The beginnings of this concept can be traced to Geneva Conventions of 1949 "On the Protection of War Victims" and Grave breaches of the Protocol. Crimes for which universal jurisdiction was applied in customary international law included piracy, the slave trade, and the trafficking in children and women. However, the recognition of universal jurisdiction over these crimes only applied to crimes committed in "terra nullius", where no state could exercise territorial jurisdiction.

It has become a norm of customary law that states have the right to apply universal jurisdiction to their national war crimes courts (Bouchet-Saulnier, 2013). Current international law approached the issue from a completely different perspective. Thus, modern international law has given the states wide authority to punish those who have committed serious international crimes (Randall, 1987). It envisages the application of universal jurisdiction by states over the hijacking of aircraft and other crimes against air transport, piracy, attacks on diplomats, nuclear security, terrorism, apartheid, and torture.

Principle 1 of the Princeton Principles on Universal Jurisdiction states that, for the purposes of these principles, universal jurisdiction is criminal jurisdiction based solely on the nature of the crime, without regard to where the crime was committed, the nationality of the person accused or convicted, the nationality of the victim, or other connections. Principle 2 lists the international crimes for which universal jurisdiction applies (University of Minnesota Human Rights Center, 2018). This list includes piracy, enslavement, war crimes, crimes against peace, crimes against humanity, genocide, the torture. It appears from the Princeton Principles that universal jurisdiction is criminal jurisdiction based on the nature of the crime and exercisable only in relation to serious crimes, applying to acts considered to be a direct threat to international peace and security (Einarsen, 2012, p. 19).

Apparently, the adoption of universal jurisdiction over war crimes by states as a customary law norm and later developed in the Princeton Principles encouraged subjects to take more effective measures. The Princeton Principles specifically state the application of universal jurisdiction over crimes against humanity, the crime of genocide, and war crimes.

At the 76<sup>th</sup> session of the UN General Assembly, it was noted that in accordance with the basic principles of international law, impunity should be ended and fair trial protection should be ensured (United Nations, 2021b). It explained the provision of necessary remedies for fair trials and the appropriateness of states in which cases to apply universal jurisdiction. It was noted that, on the basis of the principle of universal jurisdiction, it is the direct international legal responsibility of the states to prosecute the criminal or provide assistance to the victim, and evaluate the evidence.

Taking this into account the application of universal jurisdiction over war crimes in national legislation is very relevant (McCrudden, 2008). In general, because the application of universal jurisdiction over international crimes in national legislation is seen as a problem, it can maintain

its relevance. The purpose of the research is to reveal the essence of this problem and contribute to its solution. We believe that the large-scale occurrence of war crimes in different regions and the impunity of the perpetrators increases the importance of the study. Unfortunately, individuals found guilty of war crimes sometimes are not held accountable by states, and even refuse to cooperate with international criminal justice authorities. As a result, the perpetrators go unpunished for a certain period of time. At various times, states and officials do not draw conclusions from the sad fate of officials tried by tribunals on the basis of the principle of universal jurisdiction. We believe that the mentioned things have been sufficiently studied at different times and the problems have been pointed out. But what do we gain in addressing this issue? Since we do not want to iterate, we have focused on drawing attention to the fact that the previously mentioned problems have not been eliminated, on a comparative analysis of the experiences of national courts, and also on explaining the current gap in the legislation of the Republic of Azerbaijan.

## MATERIALS AND METHODS

To accomplish the objective of this research several documents related to the topic were analyzed which included: «Geneva Conventions for the Protection of War Victims (1949), «Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment» (1984), Statute of the Tribunal of Yugoslavia, Statute of the Rwandan Tribunal, The Rome Statute of the International Criminal Court (1998), Sixth Committee Debate of the 76th Session of the UN General Assembly: Scope and Application of the Principle of Universal Jurisdiction New York (2021), Sixth Committee Debate of the 65th Session of the UN General Assembly, The scope and application of the principle of universal jurisdiction (Agenda item 86) (2010), among others.

The degree of development of the study is based on the application of the principle of universal jurisdiction. The general methodological basis of the research is the comparative legal method. The national legislation of the states applying universal jurisdiction over war crimes and the fulfillment of the functions arising from the requirements of the national legislation, including the provisions reflected in the criminal code of the Republic of Azerbaijan (Milli Majlis of the Republic of Azerbaijan, 1999) regarding the application of universal jurisdiction, were compared and analyzed. It is important to notice that the nature of the crimes in the national legislation must comply with the requirements of universal jurisdiction. In the absence of this compliance, the statute of limitations will be applied to

those crimes and it will be considered an act punishable by national criminal legislation.

In addition, despite the fact that the concept of “universal jurisdiction” was formed after the Second World War, before that, states fought against serious international crimes. After the Second World War, the concept of universal jurisdiction was brought directly into the national legislation of the states. In the national legislation of many countries, the concept of “universal jurisdiction” is stated under the name “principle of universality”, “principle of global justice”, “universal jurisdiction”. In scientific discussions, the expressions “universal jurisdiction” and «principle of universality» (principle of universality in Germany, Hungary, Japan, Finland, Croatia, Turkiye) are mostly used. In Germany, the Federal Constitutional Court explicitly uses the terms “principle of universality” or “principle of global justice”. The Spanish Constitutional Court uses the terms “principle of universal jurisdiction”. Despite the fact that the concept of “universal jurisdiction” is expressed in different forms, the essence and purpose are the same, the criminal cannot go unpunished. This direction, which includes the application of universal jurisdiction, forms the scientific methodology of the research. The issues of obtaining scientific knowledge in this field and applying this knowledge, revealing complex situations during application are studied on the basis of scientific methodology.

The importance of the empirical method in investigating the application of universal jurisdiction over war crimes is enormous. In this area, it is very important to study the experience of international criminal tribunals (special ad hoc tribunals for Yugoslavia, Rwanda or Sierra Leone) along with the experience of national courts. According to Articles 9 and 8 of the Statutes of the Tribunals of Yugoslavia and Rwanda, the international tribunals’ criminal jurisdiction takes precedence over national courts. Based on this absolute supremacy over national courts, the tribunal may stay domestic criminal proceedings within its jurisdiction and transfer them to its own proceedings. According to the Rome Statute of the International Criminal Court, the Court can only prosecute crimes committed after July 1<sup>st</sup>, 2002. It must be noted that the International Criminal Court and other tribunals do not have sufficient resources to investigate or prosecute the perpetrators. For this reason, the preamble of the Rome Statute emphasizes that to exercise its criminal jurisdiction over those responsible for international crimes is the obligation of each state. The International Criminal Court acts as a complement to national criminal jurisdictions.

Experience shows that national courts are not very interested in prosecuting state officials who have committed war crimes on the territory of their country or citizens who

have committed the same crimes on the territory of other countries. Therefore, it is of particular importance that persons suspected of committing an international crime be brought to justice by the courts of countries unrelated to the crime committed. The principle of universal jurisdiction here creates a legal possibility for such persons to be held responsible by another state. It can be said that universality is the only possibility for the punishment of many crimes. In order to expand this possibility that Section IV Resolution adopted by the XIII International Congress of Criminal Law (Cairo, October 1-7, 1984) invites states to adopt the principle of universal jurisdiction in their national legislation regarding serious international crimes. It also aims to eradicate impunity. It can be said that the process of the influence of national jurisdiction on extraterritorial cases is gradually accelerating and the adoption of the principle of universal jurisdiction for the prosecution of such crimes is achieved.

## RESULTS AND DISCUSION

### **Application of universal jurisdiction: legal regulations in foreign countries and in Azerbaijan**

Universal jurisdiction is considered an important mechanism in preventing impunity and serious violations of human rights. There are two main reasons for its necessity:

#### **Universal jurisdiction provides access to justice for victims of crime.**

Universal jurisdiction is a very good practice in preventing the impunity of a criminal from evading responsibility by taking advantage of immunity, as well as preventing such cases. It can be said that in certain states, officials who evaded responsibility were brought to responsibility as a result of the application of universal jurisdiction. For example, in Chile, former dictator Pinochet and other government officials in Chile were prosecuted by a Spanish court based on the principle of universal jurisdiction, despite the fact that national legislation allowed them to avoid liability. It is obvious that, as the guilty party is held liable on the basis of the principle of universal jurisdiction, victims of crime also have access to justice.

#### **Universal jurisdiction eliminates the impunity gap.**

Although in some cases victims can seek justice through international tribunals, these courts are limited to specific territories, conflicts or time periods. We can point to this as an example of the activity of international criminal tribunals established in ad hoc manner.

Prosecution by any state of persons who have committed serious international crimes affecting the interests of the international community constitutes the main content of

the principle of universal jurisdiction. Thus universal jurisdiction is a legal doctrine that allows domestic courts to try and punish those who commit crimes that are serious enough to harm international peace and security, regardless of where they are committed and the nationality of the perpetrator and the victim.

War crimes are one of the international crimes against international peace and security for which universal jurisdiction is applied. It is known that war crimes include serious violations of international humanitarian law during international and non-international armed conflicts. Since these serious violations constitute war crimes, they are considered acts directly applicable to universal jurisdiction. When war crimes give rise to international individual criminal responsibility, the principle of universal jurisdiction underlies the regime of individual international criminal responsibility. The principle of universal jurisdiction in punishing war crimes also makes it possible to prevent loopholes in the absence of competent and effective international judicial bodies.

After getting acquainted with the theoretical aspect of the application of universal jurisdiction over war crimes in national legislation, it is necessary to analyze the legislation, a framework for the application of universal jurisdiction. However, before starting the study of national legislation, it would be interesting to review the legislation of the advanced countries that are part of the European Union.

Many member states of the European Union ensure the exercise of universal jurisdiction in criminal cases only in cases where it is stipulated or considered mandatory in international treaties to which the relevant state is a party (Council of the European Union, 2009). In particular, it should be noted that the practice of fighting international crimes and bringing criminals to justice based on the principle of universal jurisdiction is more widespread in the European Union member states. Since 2016, investigations of genocide, crimes against humanity and war crimes have been steadily increasing within the European Union (European Union Agency for Criminal Justice Cooperation, 2022). In 2021, 1073 new criminal cases were initiated in this regard. This means a 44% increase for 2016. In 2021, 3171 criminal cases were pending in all member states. This trend is partly due to the escalation of conflicts and serious violations of human rights near the borders of the European Union, in Ukraine, Belarus, and Syria, which leads to an influx of refugees into the member states. As a result, those accused of war crimes manage to hide among the refugees and are subsequently discovered by the law enforcement agencies of the host state and prosecuted under the principle of universal jurisdiction. An example is the arrest of Tadic in Munich on

February 13<sup>th</sup>, 1994 for extermination of Bosnian Muslims due to the events of the former Yugoslavia and surrendering him to the Tribunal on February 13<sup>th</sup>, 1995 for trial on April 24<sup>th</sup>, 1995 at the request of the Yugoslav Tribunal under the principle of universal jurisdiction.

National legislation of the EU was designed in the direction of ensuring universal jurisdiction against torture and other cruel, inhuman or degrading treatment or punishment enshrined in the Geneva Conventions dated 1949 "On Protection of Victims of War" and grave breaches of Additional Protocol of 1977, and over torture and other serious international crimes described as crimes in the Convention of 1984. Specifically, national legislation allows for direct application of universal jurisdiction. We believe that the application of universal jurisdiction over war crimes in national legislation is always relevant and has become a recognized principle.

Since the prevention of impunity for war crimes is a priority for states, there is no limit to the application of universal jurisdiction in this area. The presence of the accused in the territory of any state is not a condition for the existence and exercise of domestic jurisdiction. The main goal of applying the principle of universal jurisdiction is to ensure full and effective prosecution of the most serious crimes of concern to the international community. However, in some countries the law (expressly or implicitly) requires the accused to be in the state's own territory. For example, according to the legislation of Finland, a person who has committed a war crime must be prosecuted in Finland. For this reason, according to the experience of Finland, the principle of universality has not been applied to persons who are not in the country. In the Japanese experience, the presence of the suspect in the national territory on the one hand, and the absence of a more appropriate state for criminal prosecution on the other hand, allows the use of universal jurisdiction. In Turkish legislation, even if the law does not stipulate that the accused person must be in the territory of Turkey, it is a general accepted rule that the person must be present in court to be tried, and for this reason, it is important that the accused to be in the territory of Turkey. German law treats war crimes investigations and main proceedings differently. Although the accused is outside the territory of the state, the investigation is allowed to be held on the basis of the principle of universal jurisdiction, but the presence of the accused is required for the main proceedings. German law does not allow a trial in absentia. In Germany, local authorities dealing with international crimes (genocide, crimes against humanity and war crimes) have the right to prosecute international crimes committed abroad even if they have no connection to Germany (unconditional universal jurisdiction).

### **Obligations of states in the field of application of universal jurisdiction**

It is interesting that the definition of universal jurisdiction has not yet been reflected in the national legislation of many states. Even if the laws of such states contain any provisions on universal jurisdiction, they are declarative in nature and inconsistent with practice. In a certain sense, they enable the prosecution of crimes, only on paper (Amnesty International, 2011, p. 5).

An example of this is the legislation of Denmark. Denmark has taken the necessary steps to establish specialized departments to investigate universal jurisdiction, but has not adopted laws to ensure that international crimes are brought into national law. However, Denmark has ratified four Geneva Conventions, the Genocide Convention, the Convention against Torture and the Rome Statute of the International Criminal Court. The trial of a Ugandan national in Denmark for robbery and kidnapping was considered a success (considered a success of universal jurisdiction). We believe that, in fact, from the point of view of universal jurisdiction, this judgment can be successful, but the committed act is assessed as national criminal law violations. In such a case, according to the national legislation, the statute of limitations will be applied to that crime, and the statute of limitations cannot be set for international crimes subject to universal jurisdiction. Therefore, states should approach the application of universal jurisdiction over war crimes in their criminal law more seriously and fulfill their obligations. Those obligations are as follows (ICRC, 2021, p. 4):

- states should ensure that the norms related to war crimes reflected in international agreements are brought into national legislation and that the statute of limitations is not applied to these crimes.
- creation of resources for investigating and prosecuting cases related to universal jurisdiction over war crimes in law enforcement agencies of the state.
- establishing cooperation with migration authorities to ensure that visa or asylum applications of persons suspected of committing war crimes are forwarded to law enforcement agencies.
- cooperation with Interpol in creating a database of past and current investigations of war crimes.
- failure to protect officials suspected of committing war crimes.
- ensuring transparency in war crimes investigations and accountability issues.

- searching for persons suspected of committing or ordering a serious violation of the
- law that could constitute war crimes.
- prosecution of defendants regardless of their citizenship and the failure to implement amnesty for war crimes.

Regardless of the method adopted by states to fulfill these obligations, national legislation should address a number of issues in ensuring universal jurisdiction, and the conditions for initiating or refusing criminal proceedings should be clearly and precisely indicated. However, such conditioning factors should aim to increase the effectiveness and predictability of universal jurisdiction and should not unnecessarily limit the ability to bring criminals to justice. To prevent impunity, all acts constituting war crimes committed in connection with an international or non-international armed conflict should be subject to universal jurisdiction.

The Republic of Azerbaijan has approached the issue of universal jurisdiction in national legislation in a unique way in its national legislation. Although the legislation envisages the application of universal jurisdiction over war crimes, no criminal proceedings have been initiated in the Republic of Azerbaijan for war crimes, crimes against humanity and genocide committed by foreign citizens or stateless persons on the territory of a foreign state. The attitude of the Republic of Azerbaijan to the principle of universal jurisdiction stems from the international legal obligations undertaken by the country in the field of combating serious international crimes.

In accordance with UN General Assembly Resolution No. 64/117, the Republic of Azerbaijan presented information on the scope of the principle of universal jurisdiction, and in this information, it was stated that universal jurisdiction is protected in the national legislation of the Republic of Azerbaijan (United Nations, 2010). Of course, we can see this in the relevant provisions of the criminal legislation of our country, but we cannot say that it is fully consistent with the nature of universal jurisdiction. Article 12.3 of the Criminal Code states that Citizens of the Azerbaijan Republic, foreigners and persons without citizenship, who have committed crimes against peace and mankind, war crimes, human trafficking, terrorism, financing of terrorism, hijacking an airplane, the capture of hostages, torture, a sea piracy, illegal circulation of narcotics and psychotropic substances, making counterfeit money or securities, attack on persons or the organizations using the international protection, the crimes connected to radioactive materials, and also other crimes, punishment of which stipulated in international agreements to which the Azerbaijan Republic is a party, shall be instituted to

criminal liability and punishment under the Present Code, irrespective of a place of committing a crime.

As universal jurisdiction takes into account the nature of international crime and its serious danger to the international community, location or nationality are of no importance. At the same time, according to the sources that reflect universal jurisdiction, it is noted that it is applied to crimes against humanity, war crimes and the crime of genocide, in the criminal code, it is intended to be applied to more crimes like human trafficking, terrorism, financing of terrorism, hijacking of an aircraft, hostage taking, torture, piracy, illegal trafficking of drugs and psychotropic substances, making or selling counterfeit money or securities, attacks on persons or organizations using international protection, crimes related to radioactive materials, etc. Such type of issue is moving away from the level of international dangerousness of the crime and approaching the scope of acts punishable by national criminal law.

As it can be seen, the range of crimes for which universal jurisdiction is intended to be applied in the Criminal Code of the Republic of Azerbaijan is wide. The Republic of Azerbaijan joined the 4 Geneva Conventions and the Hague Convention "On the Protection of Cultural Property in the Time of Armed Conflicts" dated May 14<sup>th</sup>, 1954. At the same time, Azerbaijan joined the Convention "On Legal Assistance and Legal Relations in Civil, Family and Criminal Matters" adopted in 2004 within the framework of the CIS, the European Convention "On Mutual Assistance in Criminal Matters" dated 1957 and "On Extradition" and to Protocol II, adopted as an addendum thereto. In this case, we believe that the Code should be in full compliance with those international documents.

### **Rights granted to national courts in relation to the application of universal jurisdiction**

States' inability to agree on the scope and application of the principle of universal jurisdiction is often due to their fear of its abuse (United Nations, 2021a). In fact, each state has enacted legislation allowing national courts to exercise universal jurisdiction over acts constituting war crimes. These legislative acts empowers national courts to exercise universal jurisdiction over war crimes in several forms:

- Authorizing the exercise of universal jurisdiction over war crimes. Permitting itself is considered a serious obligation for states. After the Second World War, the right to exercise universal jurisdiction over serious violations of international humanitarian law was expressly granted by many states and the prosecution of war criminals became a reality.

- Allowing the application of universal jurisdiction in relation to ordinary crimes, which are equivalent to war crimes because they are committed in armed conflict. For its implementation, it is necessary to adopt relevant legislative acts by the states. This, in turn, implies the application of universal jurisdiction in relation to acts considered criminal under national law. Such legislation allows the prosecution of war crimes in a limited scope.

- Permitting the application of universal jurisdiction over crimes defined or enumerated in treaties. According to this, courts are empowered to enforce contractual obligations against persons who have committed crimes specified or enumerated in treaties.

- Permitting the application of universal jurisdiction over acts considered criminal under customary international law or general principles of law. Here, legislative acts are adopted mainly in two forms:

- First, some legislative acts provide for the exercise of universal jurisdiction over acts considered criminal under international legal custom.

- The second is that certain states provide for the application of universal jurisdiction by courts in relation to persons who have committed acts considered criminal under the general principles of law.

- Constitutions or legislative acts that directly incorporate international legal norms. Certain problems arise in connection with the application of universal jurisdiction in states that have preferred this form. So, even if direct incorporation is provided in certain countries, the application of universal jurisdiction is provided directly in legislative acts is not charged, and it can be determined only from the interpretation of the decisions made by the courts.

Finally, international law generally recognizes general jurisdiction where the offender does not have “*ratione personae*” immunity (Cour Internationale de Justice, 2002, p. 59). The principle of general jurisdiction over certain international crimes conflicts with immunity *ratione materiae*, which appears to be irrelevant to these crimes. For this reason, civil servants who are not entitled to immunity *ratione personae* can be arrested and prosecuted for such crimes (Abi-Saab, 2003, p. 596).

## CONCLUSIONS

Prosecution of acts constituting war crimes should be unquestionable in all cases and the attitude towards it should be unambiguous. War criminals should not be able to enjoy any privilege, and the perpetrators should be brought to justice. In this regard, the application of the principle of universal jurisdiction over war crimes should

be in accordance with the principles of international law as one of the main obligations of states. Thus, the possibilities of bringing criminals to justice should not be unnecessarily restricted, and criminals should not be pardoned under any circumstances. For this purpose, states must clearly and specifically define in their national legislation the scope of international crimes over which universal jurisdiction applies. Nevertheless, it is true that the application of the principle of universal jurisdiction does not mean the complete prevention of war crimes but the role of states in prosecuting and punishing war crimes is greater and more effective than that of international criminal tribunals. Because of that, minimum standards for national courts and bodies exercising universal jurisdiction should be specified. As regards procedural issues, national criminal trials based on universal jurisdiction must ensure fair, impartial and independent trials.

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