



**REPUBLIC OF POLAND**  
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This solution can be qualified rather as an example of the so called protective jurisdiction than universal jurisdiction. The same qualification can be extended to Article 110 para. 1 of the Polish Criminal Code. According to it: *penal law shall apply to the foreigner who committed abroad an offence against the interests of the Republic of Poland, the Polish national, Polish legal person or Polish organizational unit that is not a legal person*

This responsibility is however limited to acts which are crimes in the place of their commitment.

Last but not least to mention is paragraph 2 of Article 110. According to it: *of an offence other than set forth in paragraph 1, if the offence is penalized by Polish criminal law with a penalty exceeding 2 years of imprisonment, and the perpetrator is staying*

The precondition of the criminal accountability is that the act in question is also penalized in the place of its commitment. This provision could be qualified as an example of universal jurisdiction.

The ongoing debates of the Legal Committee reveal the concern of many delegations towards such provisions. Nevertheless, we should bear in mind that they are present in the regulations of many states.

Mr Chairman,

It can be stressed that the provisions on universal jurisdiction can be discussed on three levels. The first one is the legal foundation of jurisdictional rules or even the underlying legal philosophy of jurisdiction. The second one is the scope of the provisions of law of a given state. The third element has to do with practical enforcement of such provisions. The second element was already referred to. What must be discussed are the remaining two.

As to the first element, it must be stressed that the rules of international law are different with respect to different kinds of jurisdiction. They are very precise and strict as regards the executive jurisdiction. As was pronounced in the famous Lotus judgment of Permanent Court of International Justice, every state can exercise its executive power only within its own territory. On the other hand states have quite a wide margin of discretion with regard to passing law related to jurisdiction. This discretion entails enacting regulations, which attach legal consequences to acts committed by foreigners abroad.

As to the question of practical application, it must be said that Article 110 para. 2 of the Polish Criminal Code is applied very rarely. It forms rather a safety valve than the part of everyday work of the Polish judges or prosecutors. Nevertheless, Poland is of the opinion that such provisions have their positive role to play if applied in a balanced way, taking into account the interests of other states.

We highly appreciate the influence of international law on domestic criminal law. It should be stressed that the reverse process is also possible. All persons committing serious crimes should not escape from justice. This is often ensured due to the strict application of territorial and personal jurisdiction only.

Furthermore, it must be added that domestic provisions of universal jurisdiction are of great value as they allow states to respect international instruments referring to *aut dedere aut judicare* obligations.

Mr Chairman,

Universal jurisdiction holds out the promise of greater justice. Simultaneously, this process has to be in line with international law as applying crossing jurisdictional provisions can create tensions among states. Therefore, we find this discussion as very much needed and supportive for upholding international relations on the basis of