

THE REPUBLIC OF SERBIA

SEVENTY-FIRST SESSION

SIXTH COMMITTEE

AGENDA ITEM 85: The scope and application of the Principle of Universal Jurisdiction

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other State, in particular. After all, only one, out of 170 persons tried under this Law is the citizen of Croatia. The Law was given a positive opinion by the Venice Commission and has been in force since 2003.

This Law is not in contravention with the bilateral agreement on cooperation in this matter that Serbia concluded with Croatia in 2006 and with the Memorandum of

Understanding on prosecutorial cooperation of 2005 between the two countries. The cooperation under these documents had proceeded unimpeded until the Law Declaring Null and Void Certain Legal Documents of the Judicial Bodies of the former JNA, the former SFRY and the Republic of Serbia was adopted by the Republic of Croatia in 2011. The Law declared null and void all legal acts by which Croatian nationals were suspected, indicted or sentenced for criminal offences during the war in Croatia. Article 3 of the Law provides for the refusal by the Croatian judiciary to act in matters that are contrary to the legal order of the Republic of Croatia and are detrimental to its sovereignty and security. As a consequence, all cooperation ceased and 75 cases involving persons suspected of the commission of war crimes remain pending.

Prior to January 2015, Croatia did not request that Serbia amend its Law on war crimes which leads us to believe that it is being done now for political reasons. It is evident, ~~WKUHIRUHWKWERDWDLYDHWLHQQD~~ on legal grounds, but rather on political motives, as well as an intention to ensure impunity of its nationals for the commission of the gravest crimes.

Serbia will neither amend nor repeal this Law because it is its international obligation, just as it is the obligation of the Republic of Croatia, to prosecute the persons suspected of committing war crimes regardless of their nationality. We consider that all those who committed war crimes should be prosecuted and that, if not prosecuted in their own States, they should be prosecuted and tried in other countries ready to do so in accordance with the principles of international law. After all, the question of the punishment of war crimes has long exceeded the scope of competence of national jurisdictions and become a rule of customary international law, contained in many international legal documents ratified both by Serbia and Croatia.

With regard to the claims made by the representative of the Republic of al document Af342 TJETodl