



CHECK AGAINST DELIVERY!

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Report of the International Law Commission on the work of its 66th session

Intervention by
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Mr. Chairman,

First of all allow me to express the Hungarian delegation's appreciation of the significant achievements of the Commission in its 66th Session. I would like to underscore especially the outstanding work of Mr. Kirill Gevorgian, who served as the Chairperson of the International Law Commission during this session. I also wish to thank the work of the Special Rapporteurs and their guidance in these very important topics.

Before analyzing the respective Chapters, I wish to make some comments on the work of the Commission during this session. The Hungarian delegation has noted with satisfaction that the Commission has advanced in its work in the past year. On the other hand, we also wish to underline the importance of finalizing those issues which have been on the Commission's agenda for too long with moderate success. It would be advisable to suspend the work on the topics where substantial progress has not been reached in the last couple of years, enabling thereby the Commission to introduce new topics to its agenda where new rules are needed or the current rules need to be amended to adjust to changing realities.

Mr. Chairman,

My delegation wishes to align itself with the statement of the European Union on various chapters of the ILC report. Let me add some remarks in national capacity

Let me first touch upon **Chapter IV on the Expulsion of aliens**. Hungary takes note of the adoption, on second reading, of the 31 draft articles together with commentaries. The goal of the codification of this field of law is to find the delicate balance between the protection of human rights and state sovereignty. Therefore the Commission should have focused on codifying the minimum rules instead of further developing existing customary law.

Turning to the specific draft articles adopted at its 66th Session by the Commission, we would like to make the following brief comments:

Draft article 19 (Detention of an alien for the purpose of expulsion) reflects the relevant EU law and Hungarian legislation on this subject matter. However in point (b) of paragraph 3 we find the formulation "*cannot be carried out*" too general and instead the wording "*reasonable prospect of forcible implementation of the expulsion no longer exists*" would have made this point more unambiguous.

Paragraph (2) of draft article 21 (Departure to the State of destination) should have specifically reaffirmed the right of states to use coercive measures in case of forcible implementation of the expulsion as long as these are in line with international human rights obligations and respect human dignity.

The Hungarian delegation is delighted to see that draft article 29 (Readmission to the expelling state) has been modified in accordance with our previous comments. However, in our view the current formulation is still too broad. The draft article lacks clarity regarding the interpretation of the word "*unlawful*", since the right to readmission into the expelling state shall only apply to those cases in which the expulsion was unlawful solely on the basis of substantive law. Mere procedural errors do not make the expulsion unlawful.

My delegation is of the opinion that Part Five of the draft articles (Legal consequences of expulsion) should contain a separate provision regarding states' obligation to readmit their

own nationals. The inalienable right of a person to return to his/her own country is part of customary international law, and it is also clearly stipulated in paragraph (2) of Article 13 of the Universal Declaration of Human Rights and in paragraph (4) of Article 12 of the International Covenant on Civil and Political Rights. The obligation of States to readmit their own nationals is the flipside of this very principle of law. We regret to find this principle of customary law missing from the draft articles.

We also reiterate our position that draft article 31 on the highly debated issue of diplomatic protection is not closely related to the subject of the draft articles and therefore should have been omitted from the text.

Finally, in order to prevent conflicts of different international obligations and *lex specialis* regimes (e.g. European Union law), the draft articles should contain a provision stating that they are without prejudice to other international obligations of the states in so far as they contain more preferable treatment for the persons concerned.

Turning to **Chapter V on the Protection of persons in the event of disasters**, we believe that the Commission has made substantial progress in this topic by the adoption on first reading of a set of 21 draft articles together with commentaries. Hungary will submit its detailed comments and observations by the requested deadline, 1 January 2016. We also recognize the fundamental difficulty involved in this issue, namely finding the right balance between the need to safeguard the national sovereignty of the affected states and the need for international cooperation in the protection of persons in the event of disasters.

Mr. Chairman,

Turning to **Chapter XI on the Protection of the environment during armed conflicts** I would like to give an overview of the Hungarian legislation and practice in this field as requested by the Commission in Chapter III of its report.

Hungary – as a state committed to environmental protection – is a party to several international treaties, which directly or indirectly ensure the protection of the environment during armed conflicts. Just to name a few examples: the First Additional Protocol of 1977 to the Geneva Conventions, the 1972 Convention concerning the Protection of the World Cultural and Natural Heritage, the 1976 Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, as well as the Rome Statute of the International Criminal Court.

In the field of protection of environment during armed conflicts our primary applicable laws are the above-mentioned international treaties and the relevant NATO standards.

In order to comply with the principles and requirements laid down in these instruments in the execution of defense-related tasks, the Ministry of Defense of Hungary developed an Environmental Protection Doctrine. The Doctrine creates a comprehensive system of tasks related to environmental protection based on domestic and European Union laws, as well as NATO standards.

Thank you, Mr. Chairman.