



Permanent Mission
of the Federal Republic of Germany
to the United Nations
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Statement by

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on the occasion of

**the 73rd Session of the
United Nations General Assembly**

6th Committee

Statement 70th ILC Report (2018)

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Immunity of State officials from foreign criminal jurisdiction
Special Rapporteur: Concepción Escobar Hernández (ESP)

Madam Chairwoman/Mr Chairman,

I would like to thank Special Rapporteur Concepción Escobar Hernández for her sixth report on “Immunity of State officials from foreign criminal jurisdiction”. As her report did not contain any new draft articles and hence no draft articles could be discussed by the Commission, we decided to keep this year’s statement in the 6th committee rather concise.

However, this should not be seen as a decline in interest in this regard. On the contrary, we continue to believe that this topic is among the most controversial subjects the Commission has ever dealt with. The issue remains of utmost importance to us.

Therefore, please allow for some brief general comments regarding the sixth report and resulting debate in the Commission:

- Given the intensity of the debate on limitations and exceptions to immunity and the related draft article 7, we welcome the detailed **summary of the debate** that took place during the Sixth Committee in 2017 at the outset of the report.
- However, as the ILC’s report rightly states, the debate in 2017 had shown the importance of considering **procedural aspects together** with the discussion of draft article 7. Procedural safeguards against the misuse of exceptions to immunity are a vital matter in themselves, but have become even more important with a view to draft article 7 as it has been formulated by the Commission at the 69th session. It is therefore regrettable that this year’s report only initiated the debate on this issue, while referring several important issues to the next report of the Special Rapporteur to be issued in 2019. Accordingly, we look forward to the draft articles being presented with the Special Rapporteur’s next report.
- On a more general note, we understand that – again – only **limited time was available** for the consideration of this report at the present session and thus the debate on the

sixth report will have to be continued at the seventy-first session. The ILC's members who spoke stressed the preliminary character of their interventions. We believe that a thorough consideration of all aspects of this topic by all members of the Commission is of crucial importance and would thus hope for the seventh report to be submitted in a timely manner next year.

Germany continues to believe that the consideration of this topic requires deliberation as well as careful treatment of and attention to State practice. With regard to the **final outcome** of the Commission's work, we would therefore like to reiterate a point we continuously made in our statements in the 6th committee thus far: That is, that any substantial change of international law in this area proposed by the Commission would have to be agreed upon by States by treaty.

The Commission has time and again rightfully stated the paramount goal of the ILC's project: to strike an equitable balance between much needed stability in international relations and the interest of the international community in preventing and punishing the most serious crimes under international law. We encourage the Commission to be guided by this goal when it proceeds with the next stage of deliberation on this project in the coming year. Germany continues to observe this project closely and strongly encourages others to do so as well.

Thank you!