



S L O V A K I A

STATEMENT

by

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on the work of its seventy-second session (item 82)
Cluster II**

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(check against delivery)

Madam Chair,

In my today's intervention, I will address Chapter VI and Chapter IX of the ILC Report and will share the views of our delegation on two respective topics: '**Immunities of State officials from foreign criminal jurisdiction**' and '**Sea-level rise in relation to international law**'.

Madam Chair,

With regard to '**Immunities of State officials from foreign criminal jurisdiction,**' allow me to start with thanking the Special Rapporteur Madam Concepción Escobar Hernández for the elaboration of her 8th report. Our delegation welcomes the provisional adoption by the Commission of seven draft articles with commentaries thereto at its seventy-second session.

I will now move to substantial aspects with regard to draft articles provisionally adopted by the Commission, i.e. from draft article 8 *ante* to draft article 12. We welcome the logic flow of draft provisions addressing procedural aspects of immunities, namely, the examination of immunity, the notification of the State of the official, the invocation of immunity, the waiver and request for information. We share the view that the forum State has to assess the issue of immunity in each individual case without delay. In this vein, State authorities should proceed with the examination *proprio motu*, particularly, when it comes to immunity *ratione personae* and the invocation by the State of which the official is a representative is not itself a necessary prerequisite for the immunity to be applied. With respect to draft article 8, we welcome the elaboration on the notion of '*coercive measures that may affect an official*' further in commentary thereto, including with respect to inviolability an official may have under international law. Further, we also note with appreciation that the irrevocability of waiver was included into draft article 11.

Turning to the 8th report of the Special Rapporteur, we observe that the report focuses on three specific issues, namely, a dispute settlement clause, the relationship between the topic and international criminal jurisdiction, and recommended good practices. We also note that the latter two have also been incorporated in new draft articles 17 and 18. In general, the existence of international criminal courts' jurisdiction should not be

overlooked when addressing immunities in the general context of fight against impunity. However, we reiterate that international criminal jurisdiction is, in our view, clearly outside the scope of the present topic since it always stems from a specific treaty rather than from general international law. The '*without prejudice*' clause is, therefore, an appropriate language to be used in this regard. Moreover, we would prefer not having it as a stand-alone article but address this issue in draft article 1 on the scope. With regard to draft article 17, we have certain difficulties to see its added value if such a provision would not set a jurisdictional clause in case if articles were form a treaty. More precisely, we find draft Article 17 redundant vis-à-vis general obligation of States to settle their dispute by peaceful means, and, at the same time, also restrictive as it enumerates only some peaceful means.

With regard to remaining draft articles, we continue being cautious concerning draft Article 7 and the list of crimes included herein as well as the annexed list of international treaties which paragraph 2 refers to as the guide for the purpose of definition of such crimes.

Madam Chair,

Turning to the topic of '**Sea-level rise in relation to international law,**' my delegation awaited with great curiosity the first outcomes of the Study Group established for this topic. In this regard, I would like to thank the Study Group co-chaired by Madam Nilüfer Oral and Mr. Bogdan Aurescu for the work done. While we understand that the topic is of great importance to many States, we note that this fact may lead to the preference of certain progressive development elements. We suggest that the Study Group grounds its work in relevant practice of States and relevant international and regional organizations.

We also wish to reiterate the view, already presented previously, that any outcome on this topic has to reaffirm the universal nature of the United Nations Convention on the Law of the Sea (UNCLOS) and the vital need of preserving its integrity, as well as the importance of principles incorporated in this Convention, including but not limited to the balance of rights and obligations between coastal States and other States.

I thank you.