



**PERMANENT MISSION OF ROMANIA
TO THE UNITED NATIONS**

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Resumed Session of the Sixth Committee

Agenda item 78 “Crimes against humanity”

Cluster I - Introductory provisions (preamble and Article 1)

Statement delivered by Ms. Alis Lungu, Legal Adviser

Permanent Mission of Romania to the United Nations

New York, 10 April 2023

Madam Chair,

Romania fully aligns with the statement delivered on behalf of the European Union and its Member States and would like to add the following remarks in its national capacity.

We welcome the opportunity to have an exchange of substantive views in the Sixth Committee on all aspects of the Draft Articles on Prevention and Punishment of Crimes Against Humanity and on the recommendation of the International Law Commission (ILC).

This is a timely process given that the ILC has completed its work in 2019 and has provided us with a clear recommendation. Romania has been committed to advance work on this topic from various roles in the Sixth Committee.

We view the current process as a constructive path to identify areas of convergence of views on the draft articles and the ILC recommendation in respect to them. It can also be a way to better understand substantive concerns or areas of divergence and to work towards ironing out the differences. We stand ready to contribute to a meaningful discussion.

Romania strongly supports the development of the Draft Articles on Prevention and Punishment of Crimes Against Humanity into an international treaty with universal vocation. We believe that these draft articles provide an excellent starting point for negotiating an international legal instrument, which would consolidate the existing international law framework.

While other core international crimes are regulated by widely-ratified multilateral treaties such as the 1949 Geneva Conventions and the Convention on the Prevention and Punishment of the Crime of Genocide, crimes against humanity are not covered by a dedicated international treaty. There is a need to correct this gap and adopt a coherent approach in relation to all crimes of grave concern to the international community to ensure that no fragmentation occurs.

Moreover, the adoption of such an international legal instrument would provide a legal framework to encourage national-level prosecutions of alleged perpetrators and would also constitute a strong basis for inter-state cooperation on the prevention, investigation and prosecution of such crimes. Only in this manner can the overall objective of prevention and punishment of these crimes be effectively attained.

We start our substantive reflections on the text by mentioning that the International Law Commission, under the guidance of the Special Rapporteur Mr. Sean D. Murphy, undertook an impressive work on this topic and provided us with a balanced and well-drafted text, inspired in great measure by existing international treaty provisions that States should be familiar with.

Preamble

The preamble sets the basis and the conceptual framework for the provisions that follow. It is drafted as a progression and it foreshadows the object and principles of the draft articles.

We support the retention of the draft text of the preamble in the current form.

In our view, it is important to recall the peremptory character of the prohibition of crimes against humanity, as well as the duty of every State to exercise its domestic criminal jurisdiction with respect to crimes against humanity.

We equally welcome the reference to the relevant article of the Rome Statute of the International Criminal Court, as we have consistently supported a coherent approach with regards to the definition of these crimes.

Draft Article 1

The first draft article is straightforward. It outlines the scope of the draft articles by clarifying that they cover both the prevention and the punishment of crimes against humanity.

The formulation of this draft article, as well as the ILC commentaries further indicate the limited material scope of the draft articles, in the sense that they do not address other serious international crimes, such as genocide, war crimes or the crime of aggression.

Although the scope of the draft articles can be deduced both from the title and the draft preamble, we do not see this provision as superfluous. To the contrary, its clarity and brevity could potentially add to the overall acceptability of a future agreement.

We have already heard interesting reflections on the introductory provisions and we look forward to the informal discussions that will follow.

I thank you!