



**Sixth Committee – Agenda item 78  
Resumption of the seventy-seventh session**

**Crimes against Humanity  
Cluster 3: Criminalization, Jurisdiction, Investigation, *aut dedere, aut judicare*  
(Articles 6, 7, 8, 9 and 10)**

**Statement by the Federal Republic of Germany  
10 April 2023**

Germany fully aligns itself with the statement delivered by the European Union on Cluster 3 under the Programme of Work.

Article 6 of the Draft Articles is of critical importance as it imposes a legal obligation to enact criminal legislation on crimes against humanity. The provision is key to holding perpetrators accountable, thus reinforces the principle of complementarity. It sets out a number of elements to make sure that crimes against humanity can be successfully prosecuted, including modes of liability and command responsibility, appropriate penalties and liability of legal persons.

Article 7 establishes the jurisdictional basis for domestic investigations and prosecutions. It further reduces the impunity gap by ensuring that States do not become safe havens for perpetrators of crimes against humanity, while providing flexibility for establishing jurisdiction with a wider scope in its paragraph 3.

Furthermore, Article 8 obliges States to ensure that their competent authorities proceed to a “prompt, thorough and impartial investigation whenever there is reasonable ground” for crimes against humanity being committed. Article 9 adds an additional set of preliminary measures to be taken when an alleged offender is present on States’ territory. Finally, Article 10 formulates the principle to either prosecute or extradite.

The provisions under Cluster 3 are key to effective prevention and deterrence. They provide a set of provisions for further negotiations, also with regard to their appropriate regulatory depth.

Thank you.