



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

Check against delivery

The 77th Session of the General Assembly

Resumed Session of the Sixth Committee

**Agenda item 78 “Crimes against humanity”
Cluster V - Safeguards (Articles 5, 11 and 12)**

**Statement delivered by Ms. Alis Lungu, Legal Adviser
Permanent Mission of Romania to the United Nations**

New York, 13 April 2023

Mister 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 brief remarks in its national capacity.

As agreed for the purposes of our substantive discussions, we will tackle the questions falling under Cluster IV, namely safeguards (Articles 5, 11 and 12).

Draft article 5

Romania supports the inclusion of a *non-refoulement* provision, as it is important to establish a general prohibition of returning, surrendering or extraditing a person to a State where it might be at risk of being subjected to a crime against humanity.

We note that, as mentioned in the commentaries, the principle of non-refoulement is incorporated in a number of human rights and humanitarian treaties.

Draft article 11

We would also like to express our support for draft article 11, one of equal importance, as it underlines the necessity of providing the alleged offender with the necessary protection during the proceedings: fair treatment (including a fair trial), full protection of the rights (including human rights law) and, if such person is a foreign citizen or a stateless person, the right to communicate with the State of nationality or other relevant State.

Ensuring a fair trial, fair treatment and due process rights is essential for establishing the legitimacy of efforts taken in national courts to end impunity.

The fairness of criminal proceedings is a principle expressly included in Article 8 of the Romanian Code of Criminal Procedure.

Draft article 12

Romania strongly supports an extensive provision which addresses the rights of victims, witnesses or other persons affected by the commission of a crime against humanity, covering a multitude of issues ranging from the right to complain to the competent authorities to the protection granted against ill-treatment and intimidation as a consequence of any complaint, information, testimony or other evidence given.

The rights to be heard during the criminal proceedings, as well as the right to obtain reparation, for material and moral damages, in the forms indicated in paragraph 3, are crucial in our view.

We are open to potential additional suggestions that would strengthen this provision. Thank you!