

 Permanent Mission
of Austria to the
United Nations in New York

**78th Session of the General Assembly
Sixth Committee**

Agenda item 80: Crimes against humanity

**Statement by Mr. Maximilian Gorke
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New York, 1 April 2024

[Cluster 1]

Thank you, Mr. Chair,

My delegation fully aligns itself with the statement made by the European Union and would like to reiterate the following points in our national capacity.

First of all, my delegation would like to express its gratitude to the Secretariat of the Sixth Committee and the Bureau for their tireless efforts in preparing for this resumed session. We are confident that this session – similar to last year – will offer a platform for in-depth exchange of views on the draft articles on prevention and punishment of crimes against humanity as adopted by the International Law Commission in 2019. The consideration and appropriate follow-up of the ILC's work is one of the key tasks of the Sixth Committee.

Turning now to the **preambular paragraphs**: in line with Art. 53 of the Vienna Convention on the Law of the Treaties “a peremptory norm of general international law (jus cogens) is a norm accepted and recognized by the international community of states as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character”. Not only the ILC but also the International Criminal Tribunal for the Former Yugoslavia and several regional human rights courts have stated that the prohibition of crimes against humanity constitutes jus cogens.

We concur with the ILC that the definition of crimes against humanity as set forth in Art. 7 of the Rome Statute serves as useful model even though the Rome Statute does not yet enjoy universal membership. The definition of crimes against humanity is drawn from customary international law and largely corresponds to Art. 6 of the Nuremberg Charter.

With regard to the preambular paragraph on the duty of a state to exercise its criminal jurisdiction with respect to crimes against humanity, we would like to reiterate our view that the convention does not require States to exercise universal jurisdiction.

With regard to the scope of a future convention as stated in **Article 1** we would like to repeat our position that matters that may not be covered by the convention would still – by a large extent – be regulated by customary international law.

Thank you.