



PERMANENT MISSION OF HUNGARY
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**National Statement of Hungary
on
Agenda item 80: ‘Crimes against humanity’**

Check against delivery!

Thank you, Madam / Mr Chair.

Hungary aligns itself with the intervention of the European Union and wishes to add the following observations in its national capacity.

In this cluster, our focus is directed towards Article 2, which delineates the definition of crimes against humanity. We commend the alignment of this definition with Article 7 of the Rome Statute, a testament to coherence in legal frameworks—an imperative underscored in our previous intervention. Hungary underscores the importance of mitigating fragmentation and averting potential contradictions, thus views any measures facilitating coherence as favorable developments.

We also note that the definition largely reflects customary international law. In this regard, we highlight the part of the definition that speaks of a “widespread or systematic attack”.¹ Reflecting on discussions from the previous year, we acknowledge concerns advocating for cumulative criteria over a disjunctive test. We noted the underlying concern that a disjunctive set of criteria may not be sufficient to exclude unrelated crimes. In this regard, we wish to highlight that this test must be read in conjunction with the provision that defines the term ‘attack’.² The definition of ‘attack’ requires a certain policy element. Whether an attack is widespread or systematic, it must always adhere to a State or an organizational policy targeting civilians. This nuanced drafting effectively prevents that individual, isolated incidents may qualify as a crime against humanity.

¹ ILC Draft Articles, Art. 2. 1.

² ILC Draft Articles, Art. 2. 2. a): „For the purpose of paragraph 1: (a) “attack directed against any civilian population” means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;”

As to the list of crimes enumerated in Article 2, we were listening with interest to those who wish to include other crimes, notably forced marriage. Hungary is receptive to proposals for expansion, in a future negotiation setting.

Lastly, we address the question of gender. Notably, while Article 7 of the Rome Statute provides a specialized definition of gender, Article 2 of the present Draft Articles does not. As mentioned in our first intervention, Hungary remains cautious against mere replication of existing treaty language in the crafting of a new convention. While coherence is paramount, adjustments that do not result in contradictory obligations may be acceptable. Consequently, we are content with the current wording of Article 2. We also note that the implementation of any new instrument based on the draft articles falls within national jurisdictions. As a consequence, undefined terms, including gender, are subject to interpretation by competent national authorities or courts, in accordance with applicable national legislation.

I thank you.