



Statement by the Republic of Cyprus

By Mr Theodoulos Pittakis, First Secretary,
Permanent Mission of the Republic of Cyprus to the UN

at the Resumed Sixth Committee Session

"Crimes against humanity"

Agenda Item 80

Cluster 2

United Nations, New York

1 April 2024

– CHECK AGAINST DELIVERY –

Thank you, Madame Chair.

Cyprus aligns itself with the statement delivered on behalf of the EU and its member states and wishes to make some additional remarks in its national capacity concerning provisions of Cluster 2.

Article 2: Definition of crimes against humanity

Cyprus considers Article 7 of the Rome Statute as an appropriate basis for the elaboration of a future international Convention on the Prevention and Punishment of Crimes against Humanity. This definition enjoys broad support going beyond the 123 States Parties to the Rome Statute and reflects a practice of almost eight decades. Thus, it offers the much-needed legal stability and certainty and contributes to the harmonization of national laws globally.

We believe that this definition reflects customary international law. We do take note of the different position expressed by several delegations regarding definition of crimes against humanity. Our task is to agree on a definition that is effective, widely accepted, reflects legal practice, and avoids fragmentation of law. We consider that the definition provided in Art. 7 of the Rome Statute is a good starting point. As already mentioned, being a State Party to the Rome Statute would not be a pre-condition for adhering to a Convention on crimes against humanity.

My delegation welcomes the three overall requirements contained in this definition.¹ With reference to the requirement of “widespread” or “systematic” attack, jurisprudence of the international criminal tribunals for the Former Yugoslavia and Rwanda maintained that these two conditions are disjunctive rather than conjunctive. With respect to the “*civilian population*”, my delegation shares the view of the ILC that this term should be interpreted broadly, in accordance with Article 50, para. 3 of the Additional Protocol I to the 1949 Geneva Conventions.

¹ As provided in the definition contained in article 7, para. 2 of the Rome Statute i) “widespread” or “systematic” attack, ii) “directed against any civilian population”, iii) “with knowledge of attack.”

Regarding gender, Cyprus welcomes the decision of the ILC not include the definition of “gender” found in Article 7, paragraph 3, of the 1998 Rome Statute. Nonetheless, my delegation takes note of the concerns expressed by other delegations. We do recognize that this is a sensitive subject, and we remain open to discuss this.

Cyprus, also, supports the inclusion of the “*without prejudice*” clause in paragraph 3. This clause does not preclude any broader definitions provided for in international instruments, customary international law, or national legislations.² A similar provision is included in the 1984 Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 3: it sets forth the General Obligations which are further elaborated in Article 4

Cyprus welcomes the inclusion of an explicit reference to the obligation of States “*not to engage in acts*” in paragraph 1. This provision includes the obligation of both state organs and individuals acting under the instructions or control of a state to refrain from acts that constitute crimes against humanity.

We, also, welcome the inclusion in paragraph 2 of an explicit reference to the obligation of states to prevent and punish crimes against humanity. This formulation is based on the ICJ’s case-law according to which, “*in the context of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the duty to prevent genocide and the duty to punish its perpetrators are two distinct yet connected obligations*”.

Furthermore, during the previous resumed session, some delegations maintained that crimes against humanity must be linked to an armed conflict. Nonetheless, under customary international law and unlike war crimes, crimes against humanity can, also, occur during peacetime.

² See no.44, page 47 of 2019 ILC Draft Articles on Prevention and punishment of Crimes Against Humanity.

Finally, Article 4: Obligation of prevention

It is a fact that one of the main objectives of a future Convention on Crimes against Humanity is to prevent the commission of such crimes and thus, an explicit reference to this obligation is welcomed in the text.

Further, we agree with the view of the ILC regarding the territorial scope, provided in draft Article 4.³ This provision is also found in other international conventions, including the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (article 2, para.1), which provides: “*Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction*”.⁴

Thank you.

³ See commentary no. 12, page 60 of the 2019 ILC Draft Articles on Prevention and punishment of Crimes Against Humanity.

⁴ see General comment 2, para.16, Committee against Torture, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, CAT/C/GC/2, of 28 January 2008.