



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

**Crimes against Humanity
Cluster 2: Definition and general obligations (Articles 2, 3 and 4)**

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

Germany fully aligns itself with the statement delivered by the European Union on Cluster 2, which covers the core of the new Convention.

The definition of crimes against humanity contained in Article 2 of the draft articles is based verbatim on Article 7 of the Rome Statute, with technical adjustments only. This text appears to be a solid contemporary proposal, which gained widest support. Furthermore, the definition appears to be balanced insofar as it refrains from going into too much detail. It leaves space for more prescriptive national legislation that might exist already or would be considered appropriate in the future. The ‘without prejudice’ clause in its paragraph 3 clarifies that States may go beyond the definition contained in the draft articles.

Article 3 represents the most important provision of the Convention. It sets out the obligation of States not to engage in, to prevent and punish crimes against humanity. This obligation covers acts through States’ own organs or by persons within their control. It importantly prohibits crimes against humanity as crimes under international law whether or not committed in time of armed conflict.

Finally, Article 4 clarifies the obligation of State to exhaust their legal means to prevent crimes against humanity. The provision promotes a web of prevention and multilateral cooperation in response to mass crimes, thus adding real value to the existing framework of international criminal law.

Thank you.