



## **Sixth Committee Crimes against Humanity**

### **Comments and observations by the Federal Republic of Germany on the draft articles on Prevention and Punishment of Crimes against Humanity**

**December 2023**

1. The Permanent Mission of Germany to the United Nations presents its compliments to the Secretary-General of the United Nations. With reference to the decision by the International Law Commission (hereinafter referred to as “ILC” or “the Commission”), taken at its 71<sup>st</sup> session, to recommend the elaboration of a convention by the Assembly or by an international conference of plenipotentiaries on the basis of the draft articles, Germany avails itself of the opportunity to submit the following comments and observations on the draft articles on Prevention and Punishment of Crimes against Humanity.

#### **Introductory observations**

2. Seventy-six years after the Nuremberg trials, and over a century since the adoption of the Hague Conventions, the international community faces a pivotal moment with the opportunity to reach a new milestone in the common fight against impunity: a convention governing the prevention and punishment of crimes against humanity. No such global convention currently exists – unlike with respect to genocide and war crimes. Not only would the envisioned convention harness the national legal systems’ capacities to investigate, prosecute and punish, but it would also constitute a new cornerstone of robust inter-state cooperation. Such a convention could facilitate the harmonisation of national laws and thus strengthen the complementary nature of global efforts to fight impunity.
3. Germany would like to take this opportunity to thank the ILC once again for the draft articles. They stand as a solid foundation for the elaboration of a suitable convention, either by the Assembly or by an international conference of

plenipotentiaries. They provide an excellent starting point for negotiations in this endeavour.

### **Observations concerning the process**

4. After the initiative garnered significant support from many delegations in the summer of 2019 when the ILC published the draft articles, work to expand on the draft articles themselves as well as discussions on the further procedural steps continued constructively during the resumed session in April 2023. Germany contributed by organising a workshop on the topic of the convention in March 2023, offering an opportunity for government representatives and civil society to engage in fruitful discussion. Germany plans to continue with this format in February 2024 before the upcoming session.
5. Germany believes it is crucial to facilitate a substantive and meaningful discussion in order to move forward towards a convention on crimes against humanity. Germany is convinced that the draft articles provide a solid basis for successful negotiations on this matter within suitable frameworks to address remaining concerns in an effective and inclusive manner.

### **Observations regarding the draft articles**

6. Germany recognises that there were still differing opinions on certain details of various draft articles in the previous discussions during the resumed session in April 2023. Germany, however, believes that a consensus on the core elements of the convention – i.e. on the criminalisation of crimes against humanity at the national level – has already been reached. Germany thus reiterates its strong support for the elaboration of a Convention on the basis of the ILC draft articles: This imminent milestone is about accountability. It is about making all core crimes punishable under national jurisdiction, thus closing a gap in the legal framework, while at the same time guaranteeing consistency with existing conventions such as the Ljubljana–The Hague Convention on Mutual Legal Assistance.
7. Germany hopes that progress on this important endeavour will not be delayed by attempts to achieve even more detailed provisions or introduce new legal terminology at this stage. Rather, in light of the convention's significance, Germany supports a pragmatic approach to advance the process based on the ILC draft articles.