



**Statement on behalf of the European Union and its Member States
by Ms. Simona Popan, Counsellor, Delegation of the European Union to the United
Nations**

at the Resumed Sixth Committee Session

"Crimes against humanity"

Agenda Item 80

Cluster I

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– CHECK AGAINST DELIVERY –

Thank you, Madam Chair,

I have the honour to speak on behalf of the European Union and its Member States.

The Candidate Countries North Macedonia*, Montenegro*, Serbia*, Albania*, Ukraine, the Republic of Moldova, Bosnia and Herzegovina* and Georgia, and the EFTA country Liechtenstein, member of the European Economic Area, as well as San Marino align themselves with this statement.

Madam Chair,

The European Union and its Member States are very pleased to ‘exchange substantive views’ on the Draft articles on Prevention and Punishment of Crimes Against Humanity in the second resumed session of the Sixth Committee.

We were delighted to see the Sixth Committee interacting richly on such an important matter in April last year. We thank everyone for doing so.

Our legal exchanges were intellectually motivating to all of us. But above all, they are part of something bigger: defending humanity from crimes so horrendous that they threaten the peace, security and well-being of the world. With that in mind, we encourage everyone to engage again fruitfully in this debate. We are convinced that together we can make a difference.

Turning now to the draft articles, we remain of the opinion that there is a gap in the international treaty framework that needs to be filled. While both war crimes and the crime of genocide have been enshrined in universally accepted conventions, crimes against humanity still remain the only core international crimes that do not have their own treaty. The ILC clearly agrees, as it has recommended elaborating a convention on the basis of the draft articles. We pay tribute to the important work of the Commission, as the primary international body entrusted with the codification and progressive development of international law.

Regarding the **Preamble**, allow us to emphasize a couple of issues.

* *North Macedonia, Montenegro, Serbia, Albania and Bosnia and Herzegovina continue to be part of the Stabilisation and Association Process.*

The preamble in a treaty serves multiple functions. It provides context, background and the overall purpose or objectives of the agreement. In the *North Sea Continental Shelf Case (1969)*, the International Court of Justice considered the preamble as a significant element for understanding the context and the purpose of the relevant treaties. The value of the preamble cannot be underestimated, as it reflects the common understanding and aspirations of the parties, fostering a sense of unity and shared purpose. Furthermore, the parties to a treaty cannot make declarations or reservations to a preamble.

The European Union and its Member States take note of preambular paragraph 4, which recalls that the prohibition of crimes against humanity is a peremptory norm of international law (*jus cogens*), from which no derogation is permitted, and which is applicable to all States. *Jus cogens* norms give rise to obligations owed to the international community as a whole.

The preambular paragraph 7 refers to the definition of the crimes against humanity set forth in the Rome Statute. During the April 2023 session, some delegations did not support the reference to the Rome Statute on the ground that it does not enjoy universal adherence and that it could impair universal acceptance of a future convention.

We believe that the focus should not be on the source, but rather on the reasons why the definition was inspired by the Rome Statute. The Rome Statute provides the most recent, widely shared codification of most serious crimes. It is a major step in the codification of most serious crimes. Its definition of crimes against humanity is widely accepted, beyond the 124 States Parties to the Rome Statute. The reference to the Rome Statute rightfully reflects this fact.

A number of delegations expressed preference that the preamble refers to the principles of sovereign equality, territorial integrity and non-intervention in the internal affairs of other States. The need to integrate a contemporary gender perspective in the draft Convention was also raised.

For the European Union and its Member States these are important issues that could usefully be discussed in a negotiation setting. They should not, however, in any way reduce the cardinal value of our objective: that is preventing and punishing crimes against humanity.

Article 1 Scope

The European Union and its Member States believe that Article 1 brings legal clarity and certainty on the dual scope of the Draft articles to address both the prevention *and* the punishment of crimes against humanity. Similar provisions are included in other instruments, such as for instance the Convention against Corruption or the Convention against Transnational Organized Crime. We therefore plead for including a provision on the scope in the future convention.

To conclude, Madam Chair, we consider that the Preamble and draft article 1 are a good basis for the negotiation of a future Convention on crimes against humanity.

We stand ready to engage further.

I thank you.