



PERMANENT MISSION OF ROMANIA  
TO THE UNITED NATIONS

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**The 78<sup>th</sup> Session of the General Assembly**

**Resumed Session of the Sixth Committee**

**Agenda item 80 “Crimes against humanity”**

**Cluster III - National measures (Articles 6, 7, 8, 9 and 10)**

**Statement delivered by Ms. Alis Lungu, Legal Adviser**

**Permanent Mission of Romania to the United Nations**

**New York, 2 April 2024**

Madam Chair,

*Romania fully aligns with the statement delivered on behalf of the European Union and its Member States and would like to add the following remarks in its national capacity.*

As agreed for the purposes of our substantive discussions, we will tackle the questions falling under Cluster III, namely national measures (articles 6-10).

### **Draft article 6**

Draft article 6 is at the core of a future crimes against humanity convention, as it imposes on States concrete obligations to enact the appropriate criminal legislation which allows for the establishment and exercise of jurisdiction over the alleged offenders, as well as for the provision for appropriate penalties.

This provision is key to holding perpetrators accountable. It also reinforces national legal frameworks as well as their harmonization.

Romania's has already enacted national legislation criminalising this type of offences, following closely the definition provided in Article 7 of the Rome Statute. Crimes against humanity are punishable in the Romanian Criminal Code by appropriate penalties, taking into consideration their grave nature.

We are also very much in favour of the non-application of any statute of limitation for these offences as included in para. 5 of draft article 5. We have already enacted such a policy decision.

### **Draft article 7**

The establishment of a broad jurisdictional base is a key element in the effectiveness of a future instrument. This will help close the impunity gap by ensuring States do not become safe havens for the perpetrators of crimes against humanity.

The first paragraph establishes three forms of national jurisdiction, based on the principles of territoriality, active personality and passive personality. The third one is, in our view, optional, considering the wording used. Our national legislation provides for all three jurisdictional forms.

In view of the gravity of these offences and the importance of using all tools to tackle them efficiently, Romania supports paragraph 3 of this draft Article, which leaves open the possibility for a State to establish other jurisdictional grounds upon which to hold an alleged offender accountable, in accordance with national law.

### **Draft article 8**

We welcome the inclusion of a provision related to a “prompt, thorough and impartial investigation” whenever there are “reasonable grounds” to believe that crimes against humanity are being committed (or have been committed) in any territory under a State’s jurisdiction. Such an investigation would prevent the continuance of ongoing crimes and their recurrence.

### **Draft article 9**

The preliminary measures provided in draft article 9 are quite common in national proceedings with a view to avoiding the risk of flight by the alleged offender, as well as further criminal acts. In light of the seriousness of the crimes against humanity, the inclusion of such a provision seems fully justified.

At the same time, we consider that these preliminary measures must equally observe the standards related to fair treatment and full protection of the rights, provided in draft article 11.

### **Draft article 10**

Romania shares the view of the Commission that the Hague formula, which has already been incorporated into many international treaties, seems to be the most appropriate approach in shaping the text of this draft article.

We also welcome the reference to the “competent international criminal court or tribunal”, in view of the significant part such judicial institutions play today in the fight against impunity.