



PERMANENT MISSION OF ROMANIA
TO THE UNITED NATIONS

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The 78th Session of the General Assembly

Resumed Session of the Sixth Committee

Agenda item 80 “Crimes against humanity”

Cluster IV - International measures (Articles 13, 14 and 15 (and annex))

Statement delivered by Ms. Alis Lungu, Legal Adviser

Permanent Mission of Romania to the United Nations

New York, 3 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 IV, namely international measures (Articles 13, 14 and 15 (and annex)).

Draft article 13 and draft article 14

We consider that the draft Articles on extradition and mutual legal assistance set a comprehensive normative framework to ensure the implementation of the *aut dedere aut judicare* principle, using the model of other UN Conventions – the 2000 United Nations Convention against Transnational Organized Crime and the 2003 United Nations Convention against Corruption. Drawing inspiration from these two international legal instruments, which enjoy wide ratification, presents the advantage that a significant number of States are already familiar with these detailed and technical procedures.

Barring the “political offense” exception to extradition concurs with the overall approach on such heinous crimes that harm the entire international community.

Draft article 15

The dispute settlement provision is of high importance to us. We note that the language used by the Commission is standard and draws from other international treaties.

According to article 15, states must engage in negotiations with a view to settling potential disputes concerning the interpretation or application of the provisions. If done in good faith, this form of peaceful settlement of disputes would offer the parties flexibility, less formality, and the ability to control the process.

We welcome the Commission approach to provide for immediate resort to the International Court of Justice, unless the two States agree to submit the matter to arbitration, in the scenarios where negotiations were exhausted.

Romania supports and encourages the inclusion of compromissory clauses in new treaties conferring jurisdiction on the Court to deal with disputes between States Parties. We are leading an initiative

dedicated to the very goal of promoting the jurisdiction of the International Court of Justice, in its broad sense, and strengthening the role of the Court in the international judicial landscape.

With regards to the opt out clause, we acknowledge that such a provision might have a positive influence on the overall number of ratifications and that the Commission's drafting is inspired by existing instruments.

However, we see many compelling reasons for accepting the Court's jurisdiction as a mechanism for dispute settlement: from its vast expertise in dispute settlements and its comprehensive jurisprudence on various areas of international law, to its affordability and the universal respect and consideration it enjoys.

The ICJ has proved time and again, including very recently, its ability to tackle complex legal issues in highly charged political circumstances.

For all these reasons, we should be very cautious in our analysis of the opt out clause. Given what a future instrument would try to achieve, which is to deter and end impunity for crimes against humanity, we are concerned about the possibility of undermining a crucial tool for its effective implementation. We note that the Genocide Convention does not contain an opt out clause and our preference is to follow that model.

Thank you!