



# SLOVAKIA

## STATEMENT

by

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Cluster II*

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*(check against delivery)*

Mr. / Madam Chair,

In my today's intervention, I will address Chapters V and VI of the ILC Report, namely the topics of **“Settlement of disputes to which international organizations are parties”** and **“Prevention and repression of piracy and armed robbery at sea”**.

I would like to begin with expressing the gratitude to the Special Rapporteur Mr. August Reinisch for his first report on the **“Settlement of disputes to which international organizations are parties”**.

We have read with great interest the Special Rapporteur's report which is based both on extensive research and on the replies of States and organizations to the well-prepared questionnaire. In particular, we wish to point to and appreciate his efficient and rigorous approach. At the same time, we note with satisfaction that two draft guidelines with commentaries, addressing the scope and the definitional aspects, were submitted to and, subsequently, provisionally adopted by the Commission.

In general, we see a great potential in elaborating this topic, which reflects a long-term worldwide trend of the increasing activities and the role of international organizations. We welcome the broadening of the scope and the change of the title, which would allow to encompass also disputes of non-international nature. Our own experience shows that quite frequently they touch upon the international law aspects such as the interpretation and application of international immunities, the waiver thereof, access to justice etc. In this vein, we share the view of the Special Rapporteur that the exclusion of national disputes and such aspects related to the international law would undesirably limit the comprehensive nature of the outcome which is intended to guide States, international organizations and other entities. However, we expect that the draft guidelines will clearly specify, if and to what extent they relate to one or both types of disputes.

Let me now address specifically the guideline 2. We appreciate the effort of the Special Rapporteur to develop further the definition of an international organization having been used in the previous works of the Commission. We note that the definition provisionally adopted by the Commission draws from the one in the 2011 Draft Articles on the Responsibility of International Organizations while adding an extra element, i.e., an ability of an organization to express a will that is distinct from that of its members. Although we follow the logic of the Special Rapporteur that such a feature may be a distinctive element of an international legal

personality of an organization, we do not see a pressing need to alter the well-established definition used in DARIO.

Turning now to the definition of a “dispute”, we observe that the Special Rapporteur aimed to submit the text with certain level of precision suggesting that a claim or assertion in question are to be met with refusal or denial. We try to understand whether the refusal of a claim or the denial of an assertion as constitutive element of a dispute is fully in line with the established jurisprudence of the International Court of Justice and its predecessor. We revert to this at the later stages of the work of the Commission. In addition, we invite the Commission to clarify, if the refusal and denial must be explicit or can also be implicit.

My delegation supports the idea of elaborating model clauses, a very practical outcome of the Commission’s work, and encourages the Special Rapporteur to follow the two-track approach. We believe that model clauses could benefit both States and international organizations. Along with the guidelines, they could provide States with a useful guidance in their relations with international organizations.

Mr. / Madam Chair,

Let me express my sincere hope that the final product of the Commission would in the most useful manner complement the already finished work of the Commission on the topics concerning international organizations.

Turning to the **“Prevention and repression of piracy and armed robbery at sea”** I would like to thank the Special Rapporteur Mr. Yacouba Cissé for his dedication in pursuing the work and for the preparation of his first report.

My delegation recognizes the relevance and importance of this topic as it aims to contribute to the maritime safety and security. We note that the work on the present topic is not to duplicate existing frameworks and academic studies but to clarify and build upon them, as well as to identify new issues of common concern. In this sense, we await more information on the direction and focus of future works on this topic.

In relation to the first report of the Special Rapporteur, we appreciate his efforts to capture comprehensively the existing State practice. We see positively that draft articles reflect the existing international legal frameworks, especially the United Nations Convention on the Law

of the Sea (UNCLOS). We would like to emphasize, that the customary nature of the UNCLOS definition of the piracy is widely accepted. Further, we concur with the distinction between the crime of piracy on one side and that of armed robbery at sea at the other side, linking the latter with the areas other than high seas or areas outside the jurisdiction of any State.

My delegation is pleased that the Special Rapporteur and the Commission decided not to depart from the customary definition of the piracy as provided for in Article 101 of UNCLOS. We appreciate the commentaries aimed to further clarify the elements of the definition. The proposed draft article 2 enumerates, exhaustively, the acts constituting the piracy. We share the view of the Special Rapporteur that only a maritime violence that lacks the public authority could be qualified as violence for private ends. Nevertheless, we acknowledge that a private gain or profit may be and, in practice, frequently is attached to an ideological or political motivation.

In relation to the draft article 3, we invite the Commission to consider one more element of the *actus reus* of armed robbery at sea as contained in Article 8 paragraph b) of the resolution of the Institute of International Law on piracy of 30 August 2023. While taking note of the chosen form of the draft articles, we invite the Commission and the Special Rapporteur to elaborate more on their intention regarding this topic.

Mr. / Madam Chair,

Let me conclude my today's intervention by encouraging the Special Rapporteurs and the Commission to continue working with the same level of dedication on both important topics.

I thank you.