

Translated from French

Seventyeighth session of the United Nations General Assembly

Sixth Committee

Comments of the Kingdom of Belgium on the draft articles
on prevention and punishment of crimes against humanity

1. Introduction

Belgium welcomes the work carried out by the International Law Commission and the adoption, at the end of its seventy-first session, of the draft articles on prevention and punishment of crimes against humanity (hereinafter "draft articles").

Belgium is of the view that the draft articles constitute a very good basis for a discussion aimed at elaborating an international convention on the prevention and punishment of crimes against humanity. Such a convention would close a significant gap in international treaty law.

It is particularly important to ensure that the draft articles are consistent with other international instruments, notably the Ljubljana Convention on International Cooperation in the Investigation and Prosecution of Crimes Against Humanity. The Hague Convention on International Cooperation in the Investigation and Prosecution of Crimes Against Humanity, the Convention establishes a modern and comprehensive framework for mutual legal assistance and extradition in respect of the crime of genocide, crimes against humanity, war crimes and other international crimes.

The Commission's draft articles and the Convention are therefore complementary and thus may coexist.

2.

Belgium shares the Commission's view that crimes against humanity can be committed not only in times of armed conflict but also in times of peace, and supports the clarification provided by the phrase "whether or not committed in time of armed conflict" at the end of paragraph 2.

Furthermore, it is particularly useful that paragraph 3 states that no exceptional circumstances whatsoever, such as armed conflict, internal political instability or other public emergency, may be invoked as a justification of crimes against humanity.

c. Draft article 4: Obligation of prevention

Draft article 4 (b) is particularly important, as it emphasizes the need for States to cooperate with other States as well as with relevant intergovernmental organizations. Such organizations not only have a role to play in terms of prevention but also significant responsibilities in terms of punishing crimes against humanity.

4. National measures (articles 6, 7, 8, 9 and 10)

Together with

a. Draft article 13: Extradition

Draft article 13 offers a solid foundation for the execution of requests related to extradition. It is particularly useful for States, like Belgium, that make extradition conditional on the existence

In keeping with recent conventions related to international criminal law, paragraphs 2 and 3 of the draft article offer a useful reminder of the rights of detained persons to communicate with their State of nationality or a State otherwise entitled to protect their rights. These rights reflect those provided in article 36 of the 1963 Vienna Convention on Consular Relations.

c. Draft article 12: Victims, witnesses and others

As already mentioned, accountability for the most serious crimes is essential to restoring public trust in inclusive institutions and thereby bringing about lasting peace. It is therefore particularly important to adopt a victim-centred approach.

Not only must victims have the right to submit a complaint, they must also have their views and concerns considered at all appropriate stages of the proceedings and be guaranteed protective measures where appropriate.

Lastly, it is essential that States take the necessary measures to give effect to the right of victims to seek full reparation for the material and moral damages suffered. This means setting up efficient independent judicial bodies that are competent to rule on the right to compensation and are accessible to all victims.
