



78th Session of the General Assembly
Sixth Committee

Agenda item 80: Crimes against humanity

Statement by Mr. Maximilian Gorke
Legal Adviser
Permanent Mission of Austria to the United Nations

New York, 2 April 2024

[Cluster 2]

Thank you, Mr. Chair,

My delegation fully aligns itself with the statement made by the European Union.

As mentioned earlier, Austria is convinced that the definition of crimes against humanity in **Article 2** of the proposed convention codifies customary international law. While Article 2 is based on the wording of Article 7 of the Rome Statute, the source of this definition remains customary international law. We deem it important to be consistent with regard to the definition of crimes against humanity. Being a State party to the Rome Statute is neither a precondition nor a consequence for the application of the definition. But the definition represents a reasonable starting point of future negotiations. We do not exclude the possibility of further additions to this list, such as, for instance, gender-based apartheid. Furthermore, paragraph 3 of **Article 2** safeguards that broader definitions of crimes against humanity are not precluded from arising. Reacting

We also welcome the addition of the explicit obligation to prevent crimes against humanity in **Article 3 (2)** as it is also stipulated in the Genocide Convention. Additionally, we welcome the explicit clarification in **Article 3 (3)** that no exceptional circumstances may be invoked as a justification for the commission of crimes against humanity.

The obligation of prevention in **Article 4** includes "effective legislative, administrative, judicial or other appropriate preventive measures", which was inspired by the wording of the Convention against Torture. Since torture is one