

## **71<sup>th</sup> Session**

Mr. Chairman,

The Hungarian Delegation would like to contribute to two Chapters, namely Chapter VII – Crimes Against Humanity and Chapter XI – Immunity of State Officials from Foreign Criminal Jurisdiction.

Regarding **Chapter VII (Crimes against humanity)**, the Hungarian delegation wishes to congratulate Special Rapporteur Sean D. Murphy for his detailed and comprehensive Second Report, and thank the Secretariat for providing information on existing treaty-based monitoring mechanisms which may be of relevance to the future work of the International Law Commission. By the provisional adoption of six additional draft articles (from 5 to 10, including paragraph 7 of Article 5 on the question of the liability of legal persons) together with commentaries thereto, the Commission has made enormous progress in the elaboration of a new convention in this field.

Hungary agrees with the Chairman of the Commission that since crimes against humanity still occur in today's world, strong legal measures are needed to prevent such crimes and punish the perpetrators. Therefore Hungary supports the Commission's notion to formulate draft articles with the intention that it might ultimately form the basis of a convention. Such a convention, solely by its existence, would help fight impunity and would also reflect the strong determination of the international community in this regard.

Mr. Chairman,

Turning to the specific draft articles, Hungary shares the opinion of the Commission that draft article 5, which deals with criminalization under national law, is the crucial part of the future convention for the very reason that the prosecution and punishment of perpetrators of crimes against humanity must be effective at the national level in order for the accountability mechanism to work at all. Moreover, the criminalization and punishment of crimes against humanity in national law are also necessary for effective national procedures.

I would also like to point out that it could be examined whether punishment at national level is possible based solely and directly on international law – international customary law in this case. As the Nuremberg Principles state, “[t]he fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law”. Even though the Nuremberg Principles



Mr. Chairman,

Regarding the probably most thoroughly discussed part of the draft articles, namely paragraph 7 of article 5 on the responsibility of legal persons, my delegation fully accepts the fact that in order to achieve the object and purpose of the future convention, it is important to deal with the question of responsibility of legal persons. However, I have to highlight that

Mr. Chairman,

Regarding **Chapter XI Immunity of State Officials from Foreign Criminal Jurisdiction**, initially let me express Hungary's appreciation for the achievements of the Commission in its current session on this very topic. The Hungarian delegation has noted with

Mr. Chairman,

Turning to another major issue, as it is well known, a very topical and controversial problem of contemporary international law is that of the relationship between the international norms on immunity (including those on the functional immunity of foreign officials) and international norms on obligation to prosecute gross violations of human rights, grave breaches of international humanitarian law and other major international crimes.

In our point of view, the international legal obligation to punish persons committing gross violations of human rights, grave breaches of international humanitarian law and other major international crimes should be regarded as a limit to immunity. This obligation is included in several international agreements. Hungary believes that international crimes should be considered, *prima facie*, as exceptions to immunity.

We believe that the Commission needs to take into account the developments that have occurred in international criminal law in recent decades, especially the exceptions to immunity, in a manner consistent with the rest of the norms and principles of contemporary international law, namely the fact that the way exceptions are regarded should not undermine the progress achieved in international criminal law.

I can assure you, Mr. Chairman, that Hungary will continue to follow the work of the Commission on these and other topics with great interest and will assist the work of the Commission by submitting answers on national law and practice on the given topics.

Thank you, Mr. Chairman.