



Agenda Item 81

Report of the International Law Commission

on the Work of its 69th Session

Cluster 1: Chapters I -V & XI (Crimes against humanity; Provisional application of treaties ; Other decisions and conclusions of the Commission)

Statement by

Ambassador Helmut Tichy

Crimes against humanity μ

Tunkin belonged to those who deduced from the introductory sentence of Article 38 of the ICJ Statute a meaning of principles of law that corresponds to principles of international law. One has to point out, however, that the insertion of the particular reference that ICJ decisions were to be taken into account in Article 38 of the ICJ Statute was only designed to explain that the sources of law to be applied by the Court are sources of international law.

The uncertainties inherent in the notion of general principles of law have impeded the ICJ to resort to these principles explicitly, which makes a clarification by the Commission most welcome. In this respect, it would first be necessary to define general principles of law, including the notion of principles as such, and to distinguish them from other concepts, such as rules or norms. Moreover, the Commission would have to address the origin of general principles of law, the method of their identification, their nature, their functions and their limits.

In sum, my delegation is convinced that the work of the Commission on general principles of law will substantially contribute to the clarification of a vague, but important source of international law.

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