



# CZECH REPUBLIC

Permanent Mission of the Czech Republic to the United Nations

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76<sup>th</sup> Session of the General Assembly

Report of the International Law Commission on the work of its 72<sup>nd</sup> session:  
Succession of States in respect of State responsibility  
General principles of law

Madam / Mr. Chair,

The Czech delegation welcomes the progress the Commission made on the topic 'Succession of States in respect of State responsibility' DQG DSSUHFLDWHY FRQWULEXWLRQ RI WKH 6SHFLDO 5 DQG 6SHFLDO 5. Today we will focus on three articles with commentaries adopted by the Commission at its recent session.

Draft article 7 deals with acts having a continuing character. It is intended to apply generally to all categories of State succession. It addresses two issues, namely that of conduct prior to the date of succession. VXFFHVVRU¶V UHVSQRVLELOLW\ IRU LWV RZQ ZURQJIXO FR DQG WKDW RI VXFFHVVRU¶V HYHQWXDO UHVSQRVLELOLW\

\$Q LQWHUQDWLRQDOO\ ZURQJIXO DFW RI WKH SUHG FKDUDFWHU. DQG DQ LQWHUQDWLRQDOO\ ZURQJIXO D FKDUDFWHU. HYHQ LI WKH\ DUH RI WKH VD (Back-to-back) are two different acts, each of them engaging independently international responsibility of its author.

Indisputably, the successor State is responsible for any wrongdoing of its own, in which it engaged after the date of State succession. This applies irrespective whether such wrongful act is of continuing character or consists of a single act.

We support the main gist of the second sentence of article 7, namely that, in certain circumstances, the successor States shall assume secondary obligations resulting from its whether such rule could rely on the Responsibility of States for Internationally Wrongful Acts and significantly altered. SUHGHHVVRU¶V ZURQJIXO FRQGXFW EHIRUH WKH GDWH R H FRQFHSW RI WKH 3DFNQRZOHGJHPHQV SUHGHHVVRU¶V FRQGXFW E\ WKH VXFFHVVRU 6WDWH ERU

Article 11 of the articles on State responsibility deals solely with the conduct of private actors (subjects), which otherwise would not be attributable to the State under whose of their conduct the State grants an official status to otherwise private conduct and therefore assumes also the consequences of such actions as if they were executed on its MXULVGLFWLRQ WKHVH SULYDWH VXEMHFWV DFWHG 7



Finally, draft article 9 deals with cases of succession of States when the predecessor State continues to exist. The Czech delegation commented extensively on this draft article in 2019 when it was provisionally adopted by the Drafting Committee. We note with satisfaction that some of our concerns have been addressed in the commentary to this article.

Madam / Mr. Chair,

Let me now turn to the work of the International Law Commission on the topic of 'General principles of law': H ZHOFRPH WKH 6HFRQG 5HSRUW Rapporteur, covering the methodology for their identification. Draft conclusions presented by the Special Rapporteur provide a convenient basis for further discussions and we look forward to their consideration and development by the Commission.

1HYHUKH OHVV WKH &JHFK 5HSXEOLF ZRXOG OLNH WR UH understands general principles of law as those originating in and derived from the national legal systems, and not as those formed primarily within international legal system. We share the concerns of some members of the Commission and Member States that recognition of the latter category could be problematic for several reasons. Firstly, there is insufficient State practice to identify them. Secondly, it would be hard or impossible to distinguish them from customary international law. And thirdly, it could lead to the FLUXPYHQWLRQ RI WKH 6WDWHV FRQVHQW 7KLV LV DS according to which the existence of the general principle of law formed within the LQWHUQDWLRQDO OHJDO V\VWHU FRXOG EH GHWHUPLQHG WUHDWLHV DQG RWKHU LQWHUQDWLRQDO LQVWUXPHQWV emerged principle could bind the States that did not accept the relevant rule from which WKH SULQFLSOH LV GHULYHG LQ WKH ILUVW SODFH OHDGL as the principal foundation of international law.