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The 77th Session of the General Assembly

Resumed Session of the Sixth Committee

Agenda item Crimes against humanity
Cluster III - National measures (Articles 6, 7, 8, 9 and 10)

Statement delivered by Ms. Alis Lungu, Legal Adviser
Permanent Mission of Romania to the United Nations

New York, 11 April 2023

Madam Chair,

Romania fully aligns with the statement delivered on behalf of the European Union and its Member States and would like to add the following remarks in its national capacity.

As agreed for the purposes of our substantive discussions, we will tackle the questions falling under Cluster II, namely national measures (articles 6-10).

Draft article 6

Draft article 6 is of paramount significance as it imposes on States concrete obligations to enact the appropriate criminal legislation which allows for the establishment and exercise of jurisdiction over alleged offenders, as well as for the provision for appropriate penalties taking into consideration the grave nature of these crimes.

We would like to share some relevant information regarding our national legislation.

The Romanian Criminal Code regulates the crimes against humanity in Article 439, which follows closely the definition provided in Article 7 of the Rome Statute and Draft Article 2 on Prevention and Punishment of Crimes Against Humanity. These crimes are punished in the Romanian Criminal Code by appropriate penalties, taking into consideration their grave nature- life imprisonment or imprisonment for 15 to 25 years and a ban from exercising certain rights.

We are also very much in favour of the non-application of any statute of limitation for these offences as included in para. 5 of draft article 5. Romania has already taken a policy decision. According to Article 153 paragraph 2 letter a) of the Romanian Criminal Code, genocide, crimes against humanity and war crimes shall not be subject to any statute of limitation. Romania is a party to the 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and to the 1974 European Convention on the Non-Applicability of Statutory Limitation to Crimes against Humanity and War Crimes.

Draft article 7

The preliminary measures provided in draft article 9 are quite common in national proceedings with a view to avoiding the risk of flight by the alleged offender, as well as further criminal acts. In light of the seriousness of the crimes against humanity, the inclusion of such a provision seems fully justified.

At the same time, we consider that these preliminary measures must equally observe the standards related to fair treatment and full protection of the rights provided in draft article 11.

Draft article 10

Romania shares the view of the Commission that the Hague formula which has already been incorporated into many international treaties, seems to be the most appropriate approach in shaping the text of this draft article.

We also welcome the reference to competent international criminal court or tribunal significant parts such as ju