

## Written Comments and Observations of Ireland on the

### Draft Articles on Prevention and Punishment of Crimes Against Humanity

1. Ireland welcomes the Draft Articles on the Prevention and Punishment of Crimes Against Humanity ('Draft Articles') and the commentaries thereto, adopted by the International Law Commission (ILC) at its 71<sup>st</sup> Session in 2019. Ireland continues to support the recommendation of the ILC on the elaboration of a convention by the General Assembly or by an international conference of plenipotentiaries on the basis of the Draft Articles and believes that the Draft Articles provide a solid, comprehensive basis for a future convention on crimes against humanity. Such a convention will close a significant impunity gap in the international treaty law framework.
2. Ireland welcomed the adoption of General Assembly resolution 77/249 of 30 December 2022, which decided that the Sixth Committee would resume its session in April 2023 and April 2024 to exchange substantive views on the Draft Articles and to consider further the ILC's recommendation. Ireland was encouraged by discussions at the April 2023 resumed session, where the majority of states was in favour of the elaboration of a convention on crimes against humanity. Ireland looks forward to the April 2024 resumed session. It is hoped that the remaining issues on which there was divergence can be narrowed at this session. Ireland is confident, however, that such divergences as continue thereafter will be resolved in the negotiations on the elaboration of a new convention.

3.

Comments made by the European Union submitted to the  
Nations on 30 November 2023.

(Prevention)

be elaborated, and may be necessary to ensure that this provision is retained in any convention drafting process.

#### **Draft Article 7 (Establishment of National Jurisdiction)**

5. Ireland considers that this Draft Article provides for the exercise of 'treaty-based quasi-universal jurisdiction',<sup>1</sup> or of territorial jurisdiction over persons present in the forum state, albeit in respect of acts committed outside that state.<sup>2</sup> Ireland notes, however, the flexibility in the last paragraph to exercise other forms of criminal jurisdiction established by a state in accordance with its national law, which may include universal jurisdiction.
6. The establishment of the International Criminal Court has reduced the need for states to assert universal jurisdiction over the most serious crimes of international concern, as that Court may assume jurisdiction where the territorial state is unable or unwilling to do so.
7. Ireland concurs with the comments made by certain states that submitted information for the 71<sup>st</sup> session of the ILC in 2019, that there is insufficient clarity on concurrent jurisdiction in this Draft Article, and so would welcome further discussion on the prioritisation of jurisdictions here

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