

DRAFT ARTICLES ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST HUMANITY

BACKGROUND AND RELEVANT DOCUMENTS

The Sixth Committee will resume on 10-14 April 2023 to exchange substantive views on the International Law Commission's (ILC) draft Articles on the prevention and punishment of crimes against humanity and to consider further the recommendation of the Commission to elaborate a convention on the basis of them.

In advance of the resumed session, we share the following background and resources to assist in preparations for engaging in the process.

What are the draft Articles on the prevention and punishment of crimes against humanity?

In 2013, the ILC added the topic of crimes against humanity to its long-term program of work, and selected Professor Sean D. Murphy as Special Rapporteur in 2014. Beginning in 2015, he produced three reports accompanied by Draft Articles and a Commentary (available [here](#)). On 5 August 2019, **the ILC recommended the elaboration of a convention** by the General Assembly or an international conference of plenipotentiaries on the basis of the draft articles (see [here](#), paragraph 42).

A short summary of the draft Articles can be found [here](#).

What is happening with these draft Articles?

On 30 December 2022, the General Assembly adopted resolution [77/249](#), which:

- **Decided that the Sixth Committee would resume its session for five days, from 10 to 14 April 2023, and for six days, from 1 to 5 April and 11 April 2024, in order to exchange substantive views**, including in an interactive format, on all aspects of the draft articles, and to consider further the recommendation of the Commission.
- Also decided that **a written summary** of the deliberations during the two resumed sessions would be prepared by the Sixth Committee at the end of the second resumed session.
- Invited States **to submit by the end of 2023 written comments and observations** on the draft articles and on the recommendation of the Commission, and requested the Secretary-General to prepare and circulate a compilation of those comments and observations well in advance of the session of the Sixth Committee to be held in 2024.
- Decided that the Sixth Committee, at the seventy-ninth session of the General Assembly [in Fall 2024], in the light of the written comments and observations

of Governments, as well as the views expressed in discussions at the seventy-seventh and seventy-eighth sessions of the General Assembly and the written summary, **will further examine the draft articles and the recommendation of the Commission and take a decision on this matter**, without prejudice to the question of their future adoption or other appropriate action.

- **Encouraged all Member States to continue the substantive dialogue** on an informal basis during the period prior to the seventy-eighth session of the General Assembly.

See also **Timeline** in Annex.

How will the resumed session of the Sixth Committee work?

The Provisional Programme of Work and Working Methods for the two resumed sessions can be found [here](#). They will comprise ‘mini-debates’ in formal and informal settings, broken into five thematic clusters:

1. **Introductory provisions** (Preamble; Article 1 Scope)
2. **Definition and general obligations** (Article 2 Definition of crimes against humanity; Article 3 General obligations; Article 4 Obligation of prevention)
3. **National measures** (Article 6 Criminalization under national law; Article 7 Establishment of national jurisdiction; Article 8 Investigation; Article 9 Preliminary measures when an alleged offender is present; Article 10 Aut dedere aut judicare)
4. **International measures** (Article 13 Extradition; Article 14 (and annex) Mutual legal assistance; Article 15 Settlement of disputes)
5. **Safeguards** (Article 5 Non-refoulement; Article 11 Fair treatment of the alleged offender; Article 12 Victims, witnesses and others)

Relevant Documents

- ILC’s Draft Articles on Crimes against Humanity and commentaries – see [here](#).
- Written comments by Governments and others on the ILC’s Reports – see [here](#).
- Resolution 77/249 on Crimes Against Humanity Adopted 30 December 2022 – see [here](#).
- Provisional Programme of Work for Resumed Sessions – see [here](#).
- Statements made in the Sixth Committee during UNGA77 – see [here](#).
- Statements made in the Sixth Committee during UNGA76 – see [here](#).
- Statements made in the Sixth Committee during UNGA75 – see [here](#).
- Statements made in the Sixth Committee during UNGA74 – see [here](#) (see Cluster 1 statements made during ILC Report consideration).

Civil Society Comments (to date)

- Global Justice Center submission on integrating a gender lens – see [here](#).
- Amnesty International recommendations for the upcoming session – see [here](#).

ANNEX

TIMELINE

30 December 2022	Resolution 77/249 setting out the process on crimes against humanity until October 2024 adopted
10-14 April 2023	First resumed session of the Sixth Committee to exchange substantive views on the ILC's draft Articles and recommendation
4 October to 17 November 2023	Sixth Committee Debate on Crimes Against Humanity during usual session (no resolution)
1 December 2023	States invited to submit written comments and observations on the ILC's draft Articles and recommendation
Well in advance of 1 April 2024	Secretary-General to prepare and circulate a compilation of those comments and observations
1-5 and 11 April 2024	Second resumed session of the Sixth Committee to exchange substantive views on the ILC's draft Articles and recommendation, and written summary to be produced
October/November 2024	Sixth Committee debate on Crimes Against Humanity, further examination of the draft articles and the recommendation of the Commission and negotiation of a resolution to take decision on this matter, without prejudice to the question of the draft Articles' future adoption or other appropriate action