



S L O V A K I A

STATEMENT

by

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Cluster III**

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(check against delivery)

Mr. Chairman,

In my today's intervention, I will address Chapters VII and IX of the ILC Report, i.e. the topics of "**Succession of States in respect of State responsibility**" and "**General principles of law**". I thank the Chairman of the ILC for presenting the respective parts of the ILC Report to us last week.

Mr. Chairman,

Addressing first the topic of **Succession of States in respect of State responsibility**, I would like to thank the Special Rapporteur Professor Pavel Šturma for his third report and the Secretariat for preparing a memorandum on Information on treaties which may be of relevance to the future work of the Commission on the topic. We commend the Commission for the provisional adoption of draft articles 1, 2 and 5 together with commentaries thereto.

We note many concerns with regard to this particular topic on the programme of work of the ILC. However, we are convinced that its consideration can contribute to clarifying rules that govern the sort of legal consequences of internationally wrongful acts pre-dating State succession, namely the rights and obligations relating to reparation, which have not been fully implemented before the date of state succession. Although existing cases of succession of States are diverse, we are convinced that there is existing practice of States that can help the Special Rapporteur and the Commission to identify rules governing situations where after the succession of States the legal consequences of internationally wrongful acts remain unresolved or unimplemented.

We underline our suggestion made last year that the work of the Commission shall maintain consistency with the Vienna Conventions of 1978 and 1983, as well as the Draft Articles on Nationality of Natural Persons in relation to the Succession of States of 1999.

We think that draft article 1, paragraph 1 correctly reflects the scope of the future draft articles. As we stated last year, paragraph 2 is in our view redundant. We agree

with the proposed organization of future draft articles into three parts, as well as with the proposed titles of Part II (Reparation for injury resulting from internationally wrongful acts committed by the predecessor State) and Part III (Reparation for injury resulting from internationally wrongful acts committed against the predecessor State). This division of future draft articles reflects in our view two different groups of situations that are relevant with respect of the scope of the draft articles. With this in mind, we agree also with the proposed insertion of draft articles X and Y specifying the scope of the two respective parts.

With regard to draft article 5, we are content that draft articles shall apply only to the effects of a succession of States occurring in conformity with international law and, in particular, the principles of international law embodied in the Charter of the United Nations. This is in our view an important element that reflects also the previous work of the Commission on other topics on succession of States.

We note with interest that the Special Rapporteur proposed draft article 15 on diplomatic protection. We can agree that an exception to the principle of continuous nationality in cases of succession of States, to avoid situations in which an individual lacked protection, shall be considered. However, it will be of utmost importance to maintain the consistency with the articles on diplomatic protection. It should be analysed further, how the proposed draft article will interact with the articles on diplomatic protection and whether we need to address the issue in the present draft articles at all.

We are of the view that the final outcome of the work of the ILC on the topic shall have a clear normative content. Therefore, we are convinced that producing a set of draft articles, as it is also the current form chosen by the Special Rapporteur, is the most appropriate form of the future outcome. Of course, this is without prejudice to the question of future convention that shall be decided only after finalizing the work on the topic. The final form of draft articles does not necessarily mean that the States shall proceed with the preparation of a convention, which is demonstrated also by the recent practice of the Commission.

With regard to the future programme of work, we note the ambitious plan of the Special Rapporteur to finalize the draft articles on first reading by 2020 or 2021. However, we agree with the views presented during the session of the ILC that the Commission should not be hasty in its consideration of the topic.

Mr. Chairman,

Turning to the topic of **General principles of law**, Slovakia wishes to thank and congratulate the Special Rapporteur Mr. Marcelo Vázquez-Bermúdez for his first report. As we stated last year, we entirely support the inclusion of this topic into the Commission's agenda with the satisfaction that traditional topics continue to be of the Commission's interest. In our view, the work of the Special Rapporteur and the Commission on this topic may significantly elucidate the meaning and the interpretation of general principles of law in the sense of Article 38 (1) (c) of the Statute of the International Court of Justice. We also appreciate that the Commission has requested the Secretariat to prepare a memorandum surveying the States' practice and relevant case law concerning the general principles.

Mr. Chairman,

My delegation will make two particular points related to the general principles of law. First, we wish to point out that Article 38 (1) (c) of the Statute of the International Court of Justice should draw the trajectory in approaching the general principles. Accordingly, we understand the general principles of law recognized and applied generally *in foro domestico*, meaning principles originating from the national legal systems, and which could be used by the International Court of Justice in cases where traditional sources of international law are insufficient. Although we share the view of the Special Rapporteur on the essential role of the general principles of *international* law, we have expected them not to be considered within the scope of this topic. Those principles have already been codified within the Declaration of Principles concerning the Friendly Relations between States and they form either customary law or are embodied in treaties. Broadening the scope of the topic also to such principles of international law may, therefore, in our view, be redundant, divert the attention and, overall, may risk overburdening the final outcome.

The second comment relates specifically to the idea of having an illustrative list or examples of concrete principles. Slovakia would welcome the naming of the principles recognized generally *in foro domestico*, preferably in a form of an illustrative list rather than a mere inclusion of their examples in the commentaries. Providing a set of particular instances of the well-established general principles of law would definitely complement the relevance and utility of the draft conclusions and their value for practice.

Mr. Chairman,

I conclude my statement by expressing again the gratitude to the Special Rapporteur and wishing him a successful continuation in this important topic.

I thank you.