



**Statement on behalf of the European Union and its Member States
by Ms. Simona Popan, Counsellor, Delegation of the European Union to the United
Nations**

at the Resumed Sixth Committee Session

"Crimes against humanity"

Agenda Item 78

Cluster IV

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– CHECK AGAINST DELIVERY –

Thank you, Mr./Madam Chair,

I have the honour to speak on behalf of the European Union and its Member States.

The Candidate Countries North Macedonia*, Albania*, Ukraine, the Republic of Moldova and Bosnia and Herzegovina*, the potential candidate country Georgia, and the EFTA country Liechtenstein, member of the European Economic Area, align themselves with this statement.

Mr./Madam Chair,

[Article 13 Extradition]

Extradition is a useful legal tool in the fight against impunity. Draft Article 13 concerns the rights, obligations and procedures applicable to the extradition of an alleged offender of crimes against humanity. It is thus an important element of inter-state cooperation in the punishment of crimes against humanity.

We note that the draft articles contain no obligation to extradite the alleged offender. Rather, the obligation is to submit the case to prosecution, unless the offender is extradited or surrendered to another State.

While there is no obligation to extradite, the requested State shall give *due consideration* to a request. Additionally, before refusing extradition, the requested State must, where appropriate, consult with the requesting State to

* North Macedonia, Albania and Bosnia and Herzegovina continue to be part of the Stabilisation and Association Process.

provide it with ample opportunity to present its opinions and to provide information relevant to its allegation. Such consultations are useful in that they allow the requesting States to clarify their request and, if necessary, to modify it in order to address the concerns of the requested State.

All offences listed by the draft Articles are extraditable and there is no exception for 'political offences'. We welcome this clarification in the draft Article.

We firmly believe that no one should be prosecuted or punished on account of gender, race, religion, nationality, ethnic origin, culture, or membership of a particular social group or political opinion. Requests for extradition should not be used as tools for such purposes.

[Article 14 Mutual legal assistance]

As inter-State cooperation is key for the investigation and prosecution of crimes against humanity, we support this draft Article.

Draft Article 14 and the draft annex apply only in situations where there is no mutual legal assistance treaty in place. According to the ILC commentaries, where there is an existing mutual legal assistance treaty that treaty applies except if particular paragraphs of draft Article 14 require the provision of a higher level of assistance.

We welcome the fact that the transmission of information is 'without prejudice to national law'.

We would also like to recall the MLA initiative supported by 77 States from all over the world, including all EU Member States. It aims at enhancing inter-state cooperation to facilitate the prosecutions before national courts of international crimes. The Diplomatic Conference to conduct formal negotiations for a Convention will take place in Ljubljana, from 15 to 26 May. We see the two initiatives as not being antithetical.

[Article 15 Settlement of disputes]

Settlement of disputes provisions are key in any treaty. A dispute settlement provision is particularly important in this case as States are currently under no specific obligation to resolve disputes arising between them in relation to the prevention and punishment of crimes against humanity.

Draft Article 15 requires parties to endeavor to settle their disputes through negotiations. Only should negotiations fail, must the Parties submit the dispute to compulsory dispute settlement. However, the Parties have a choice to submit the dispute to litigation before the International Court of Justice or arbitration.

We note that the draft Article does not provide for a time limit for concluding negotiations. Equally, there is no monitoring or enforcement mechanism. Draft Article 15 thus has an in-built flexibility that allows States to build on it or develop it further, should they wish to do so, which we support.

I thank you.