

**Sixth Committee (Legal) — 77th session**

**Crimes Against Humanity**

**Portugal**

**Cluster 4: International measures (Articles 13, 14 and 15 (and annex))**

Mr. Chair,

Portugal aligns itself with the statement delivered by the European Union and would like to offer the following comments in its national capacity.

Mr. Chair,

Draft Article 13 is a logic consequence of the *aut dedere aut judicare* principle enshrined in draft Article 10. While there is no obligation to extradite, there is however an obligation for each State to ensure that it takes the necessary measures to avoid impunity for crimes against humanity.

Extradition is thus an important tool to ensure accountability when a State does not prosecute the alleged offender of crimes against humanity found in its territory.

We thus welcome paragraph 4 of draft Article 13 whereby the draft articles may be considered as legal basis for extradition in respect of crimes against humanity, which is particularly important for those States requiring an extradition treaty to be able to carry out the extradition.

Extraditions should, nevertheless, always be in line with human rights law requirements.

Mr. Chairman,

Draft Article 14 providing the legal basis for mutual legal assistance between States, including the annex provided for in paragraph 8, is of great practical importance. We welcome the option to include detailed provisions on cooperation between States in gathering information and evidence to assist investigations or prosecutions being carried out in another State.

Mr. Chairman,

In what concerns draft Article 15 on the settlement of disputes on the interpretation or application of the draft articles, we are satisfied with the two-step approach proposed by the ILC to foresee the recourse to the ICJ or arbitration only if the dispute could not be settled through negotiations.

Nevertheless, we do not support paragraph 3 which allows States to opt-out from the jurisdiction of the ICJ or arbitration as means to settle disputes. We understand that the ILC chose to follow the example of the UN Convention against Corruption. However, in our view, given the particular nature of crimes against humanity, the example to be followed should be the Convention on the Prevention and Punishment of the Crime of Genocide which does not provide any such opt-out clause and the recourse to the ICJ suffers no limit.

Thank you.