

 Permanent Mission
of Austria to the
United Nations in New York

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Sixth Committee**

Agenda item 80: Crimes against humanity

**Statement by Mr. Maximilian Gorke
Legal Adviser
Permanent Mission of Austria to the United Nations**

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[Cluster 4]

Thank you, Mr./Madam Chair

My delegation fully aligns itself with the statement made by the European Union and would like to the following additional remarks in our national capacity:

Overall, we consider the articles on international measures well drafted with sufficiently outlined procedures. We believe it is appropriate that **Article 13** is largely based on the corresponding provision from the UN Convention against Corruption, while the crime of corruption is different in its nature. Read in conjunction with Article 10 it is clear that there exists no obligation of extradition if prosecution is exercised through competent national authorities. We particularly welcome the exceptional right of the requested state not to extradite when there is substantial ground for believing that the accused may be prosecuted on account of that person's gender, race, religion, nationality, ethnic origin, culture, membership of a particular social group or political opinions.

Given the fact that mutual legal assistance in the context of crimes against humanity currently mostly happens through voluntary cooperation by States it is imperative that **Article 14** provides the legal framework in this regard. In this regard, we would like to note that the Ljubljana-The Hague Convention on Mutual Legal Assistance is an important instrument in order to fill gaps in the realms of mutual legal assistance. Austria has signed the Ljubljana-The Hague Convention on 14 February this year. We concur with the ILC's assessment that being rather more than less detailed on this rather crucial procedure is beneficial. In our view draft article 14 (9) on cooperation between states and UN or other international mechanisms does not create any legal obligation to do so but simply acknowledges the important role such mechanisms can play with regard to gathering of evidence.

We welcome the compromissory clause in **Article 15, paragraph 2**, which refers disputes, after a genuine attempt of negotiations failed, to the International Court of Justice.

Thank you.