

 Permanent Mission
of Austria to the
United Nations in New York

**78th Session of the General Assembly
Sixth Committee**

Agenda item 80: Crimes against humanity

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

New York, 4 April 2024

[Cluster 5]

Thank you, Mr./Madam Chair

My delegation fully aligns itself with the statement made by the European Union and would like to the following brief remark regarding **Article 5** in our national capacity:

The principle of non-refoulement is well established in customary international law and international treaty law. While originating in international refugee law and elaborated in the 1951 Convention Relating to the Status of Refugees, the current Article 5 is largely inspired by the wording in the 1984 Convention Against Torture which enjoys nearly universal ratification. As we concur with the ILC's assessment that the obligation of non-refoulement is absolute in nature, it is coherent not to include any exceptions from the application of this principle. The investigation and prosecution of crimes against humanity should not lead to or be associated with the commission of new crimes against humanity. National courts are in a competent position to determine whether such substantial grounds exist, as they have been doing with regard to the principle of non-refoulement in relation to refugees.

Thank you.