



**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 80

Cluster IV

United Nations, New York

3 April 2024

– 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*, Montenegro*, Serbia*, Albania*, the Republic of Moldova, Bosnia and Herzegovina* and Georgia, and the EFTA country Liechtenstein, member of the European Economic Area, as well as Monaco and San Marino align themselves with this statement.

Mr./Madam Chair,

Article 13 Extradition

Draft article 13 on extradition generated useful exchanges in the last session, as a number of delegations pointed out to some difficulties. The European Union and its Member States would like to stress a number of issues, which are key in their view.

First, extradition is an important tool of cooperation among States in their global fight against the most serious crimes. It prevents safe havens for perpetrators and enhances the effective law enforcement cooperation.

Second, all offences under the draft articles are extraditable. There is no – and there should be no - exception for political offenses.

Third, we agree with the ILC that no one should be prosecuted or punished on the basis of their race, religion, nationality, ethnic origin, culture, membership of a particular social group or political opinion. The ILC draft articles cannot be interpreted as imposing an obligation to extradite if the requested State has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of impermissible grounds.

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

Fourth, draft article 13 should be read in conjunction with draft article 10. Therefore, the grounds for refusing extradition do not dispense States with the obligation to submit the case to their own competent authorities for prosecution.

Article 14 Mutual legal assistance

The European Union and its Member States believe that draft article 14 leaves the necessary flexibility for States to conduct their mutual legal assistance. It essentially says that if States are not bound by other MLA treaty, the draft articles apply. If States are bound by an MLA treaty, the MLA treaty applies unless States opt for the draft articles.

We note that the signing Conference of the Ljubljana-The Hague Convention was held in The Hague, from February 14 to 15. The Ljubljana – The Hague Convention pursues a similar objective of fighting impunity for the most serious crimes. It intends to facilitate international cooperation in the investigation and prosecution of international crimes through mutual legal assistance and extradition. The Convention has a broader scope as it also encompasses other international crimes. The two initiatives are not antithetical.

Article 15 Settlement of disputes

The European Union and its Member States consider draft article 15 particularly important, 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.

In the last session, some delegations expressed the view that a monitoring mechanism of a future convention would be desirable. A monitoring body could also assist States in building capacity for the implementation of a future convention. This is indeed an important issue to be discussed in a formal negotiating setting.

With regard to the opt-out clause in paragraph 3, we see both its advantages and the disadvantages. On the one hand, the opt-out clause could incentivize the ratification of the future convention by more

States in line with our objective of having a universal convention. On the other hand, given the gravity of crimes against humanity, obliging States to submit the dispute to the jurisdiction of the ICJ or to arbitration could also be another viable option. Therefore, the opt-out clause requires further consideration. For now, we would note that, absent an opt-out clause, States are nevertheless free to formulate reservations to a dispute settlement clause. Article IX of the Genocide Convention is a case in point.

I thank you.