



by

Mr. Chair,

Slovakia fully aligns itself with the statement made on behalf of the European Union and its Member States. I will proceed by sharing further comments in national capacity on draft articles 6 through 10 addressing the obligation of criminalization under national law, the establishment of national jurisdiction, investigation, the preliminary measures when an alleged offender is present and the principle *aut dedere aut judicare*.

The obligation of States to criminalize crimes against humanity under their national laws is one of the key provisions of the draft articles and the point of reference for subsequent draft articles, including on effective inter-State cooperation. Even though draft article 6, paragraph 1

State official may enjoy before a national criminal jurisdiction, which continues to be governed by conventional and customary international law. With regard to paragraphs 6 Slovakia is a State Party to the 1968 Convention on the Non-

prompt, thorough and impartial investigation. In comparison, draft article 9 is applicable to the State, where the alleged offender is present, and which has jurisdictional basis in line with draft article 7, paragraph 2. We note that the language provides various safeguards for the State concerned to make assessment and, if the circumstances so warrant, to take the alleged offender into custody or take other legal measures and immediately make a preliminary inquiry into the facts. The ultimate purpose and added value of this draft article is to enable prosecution, extradition or surrender of the alleged offender, and close the impunity gap.

In concluding, I will provide a few remarks with regard to draft article 10 capturing the *aut dedere aut judicare* principle contained in numerous widely ratified multilateral treaties. The principle encapsulates an obligation of the State under whose jurisdiction the alleged offender is present to prosecute unless it extradites or surrenders this individual. The consequence of non-extradition or non-surrender is the obligation of a State in question to bring the case to the competent authorities for prosecution. Obligation to prosecute should be interpreted in a way fully respecting the prosecutorial discretion. It only requires the State concerned to submit the case to the competent authority and not to refrain from pursuing prosecution and to conduct sham proceedings solely to shield the alleged offender.

Thank you.