

Statement on behalf of the European Union and its Member States

Thank you, Mr./Madam Chair,

I have the honou

responsibility, is fundamental in order to achieve the objectives of the draft articles. This draft article seems uncontroversial to most delegations.

Article 9 Preliminary measures when an alleged offender is present

During the April 2023 session, some delegations pointed out to the need to include safeguards in this draft article in order to prevent it from being abused for political purposes. As we said on previous occasions, the preliminary measures taken under this draft article must respect international human rights law and fair trial standards. These safeguards should address concerns of abuses for political purposes. We are convinced that, if preliminary measures are taken in conformity with human rights law and fair trial, the risk of politicization is inexistent.

in the last session, we would like to point out to the fact that the ICJ has already looked at the scope of this obligation. In the case *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* related to the Anti-Torture Convention, the ICJ held that it was not sufficient for a State Party to the Convention to have adopted all the legislative measures required for its implementation, but that a State must also exercise its jurisdiction starting by establishing the facts.¹

Article 10 *Aut dedere aut judicare*

The provision in draft article 10 is a must-have in any convention combating international crimes, as it obliges States, if they do not extradite the offender, to submit the case to competent authorities to examine whether prosecution would be appropriate. This is key to eliminating any risk of impunity. However, this does not imply an obligation to prosecute, which remains a prosecutorial discretion.

Although this draft article is silent on the issue of amnesties, we believe that consideration should be given to the possibility of codifying that blanket amnesties are incompatible with the prevention, punishment and prohibition of crimes against humanity.

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I thank you.