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Subject: Judicial responses and the fight against impunity regarding crimes committed in connection with Russia's war of aggression against Ukraine  
– State of play

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Delegations will find attached a note by the Presidency on the above-mentioned subject.

**Judicial responses and the fight against impunity regarding crimes committed in connection with Russia's war of aggression against Ukraine – State of play**

The Spanish Presidency is deeply concerned by the profound impact of Russia's war of aggression against Ukraine. In line with the path set by previous presidencies, the Spanish Presidency would like to provide information on the latest initiatives undertaken at European level on the fight against impunity, focusing on the activities that have taken place since the Justice and Home Affairs Council held on 8 and 9 June 2023.

At its meeting of 29 and 30 June 2023, the European Council stated that the EU remains firmly committed to ensuring that Russia is held fully accountable for its war of aggression against Ukraine. The European Council welcomed the progress in setting up the International Centre for the Prosecution of the Crime of Aggression against Ukraine (ICPA). The European Council took stock of efforts to establish a tribunal for the prosecution of the crime of aggression against Ukraine, including work done in the Core Group, and called for that work to continue. The European Council also welcomed the establishment of the Council of Europe's Register of Damage Caused by the Aggression of the Russian Federation against Ukraine and called for work to continue.

The ICPA, hosted by Eurojust, officially commenced its operations in The Hague on 3 July 2023. It was inaugurated by the President of Eurojust, the European Commissioner for Justice, the Prosecutor General of Ukraine, the Prosecutor of the International Criminal Court (ICC), the U.S. Assistant Attorney General and the Justice Minister of the Netherlands. The actual launch of the ICPA took place in September.

Through the ICPA, Eurojust supports ongoing investigations of the crime of aggression. Several full-time Ukrainian prosecutors and part-time prosecutors from the Member States that are involved in the Joint Investigation Team into alleged core international crimes committed in Ukraine (JIT) will participate in the ICPA. The Office of the Prosecutor of the ICC, which is a participant in the JIT,<sup>1</sup> will also be closely involved in the ICPA, in order to ensure that the investigations are closely aligned. The U.S. authorities collaborate with members of the JIT on the basis of a Memorandum of Understanding, providing information and evidence through a Special Prosecutor for the Crime of Aggression who is temporarily posted to Eurojust. Some countries, both non-JIT Member States and third countries, have offered to provide technical expertise (e.g. military analysis) or funding. Eurojust and the members of the JIT are currently defining the precise needs and analysing the framework for such support.

On 11 September 2023, at the conference ‘On the Path to Justice for Ukraine: Advancing Accountability, Reuniting Children with their Families, and Supporting the Resilience of its Justice System’, the Justice Ministers of Member and Observer States of the Council of Europe gathered in Riga (Latvia) to address the consequences of the war of aggression of Russia against Ukraine. They reaffirmed their strong commitment to advancing justice and respect for international law, and welcomed the establishment of the Register of Damage Caused by the Aggression of the Russian Federation against Ukraine established under an Enlarged Partial Agreement of the Council of Europe. The European Commissioner for Justice, the President of Eurojust and the Director of the EU Fundamental Rights Agency also attended the conference.

On 12 September 2023 the Conference of Participants of the Register of Damage held its second meeting in Riga, which was dedicated to financial issues and the procedure for the appointment of the Board. The European Union has made a substantial voluntary contribution to the costs involved with launching the Register, the budget for which is funded by annual contributions from participant states and voluntary contributions.

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<sup>1</sup> On 5 October 2023, Europol became also a participant in the JIT.

The Presidency wishes to underline Eurojust's work in relation to the Core International Crimes Evidence Database (CICED) at Eurojust.

On 23 February 2023 Eurojust began operating the newly established CICED. This tailor-made judicial database has been set up to preserve, analyse and store evidence of core international crimes (genocide, crimes against humanity and war crimes and related offences). It enables Eurojust to support national judicial authorities in identifying evidence located in another country that may be relevant to their own investigation.

CICED is at a crucial moment, with the third phase of its development underway. Since the functionalities for the secure storage and transmission of information have already been finalised, Eurojust is working on the implementation of the analytical functionality that was approved by the European Data Protection Supervisor in summer 2023. This analytical functionality will enable Eurojust to further analyse the information received, to establish links between them and to provide feedback to Member States. Eurojust expects to finalise the technical implementation of the analytical component by November 2023. It is of utmost importance that all Member States, whether or not they are members of the JIT, contribute evidence to the database.

Progress was also made with regard to the EU legislation on violations of EU restrictive measures and on confiscation.

The first and second trilogues on the proposal for a directive on confiscation and asset recovery took place on 13 June and 3 October 2023.

As regards the proposal for a directive on the definition of criminal offences and penalties for the violation of Union restrictive measures, the first trilogues took place on 12 July and 26 September 2023.