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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Report of the 7th EU day against impunity for the crime of genocide, crimes against humanity and war crimes (23 May 2022)

Delegations will find attached the above-mentioned report.

**7th EU DAY AGAINST IMPUNITY FOR THE CRIME OF GENOCIDE, CRIMES
AGAINST HUMANITY AND WAR CRIMES**

23 May 2022

Webinar Report

*On the frontline of justice: preparedness of the EU and Member States in fighting impunity for
core international crimes*

I. Background

The 7th EU Day Against Impunity for the crime of genocide, crimes against humanity and war crimes ('EU DAI') took place on 23 May 2022. The event was co-organised by the French Presidency of the Council of the EU, the European Commission, Eurojust and the Genocide Network.

The EU DAI raises awareness of core international crimes and promotes national investigations and prosecutions to highlight the common efforts of the EU and Member States in enforcing international criminal law. The event also pays homage to the victims and addresses their position and participation in national criminal proceedings.

The 7th EU Day Against Impunity was devoted to a practical assessment of the 2014 'Strategy of the Genocide Network to combat impunity for the crime of genocide, crimes against humanity and war crimes' formally endorsed by Council Conclusions in 2015.¹ At this occasion, the Genocide Network Secretariat and Eurojust published two documents:

- **Expert Report '[20 Years On: Main Developments in the Fight Against Impunity for Core International Crimes in the EU](#)'**: based on observations collected from Genocide Network Member and Observer States, the report engages in a stocktaking exercise, highlighting both achievements and shortcomings of the EU judicial response to core international crimes.

¹ The Strategy is accessible [here](#).

- **Factsheet ‘[Key factors for successful investigations and prosecutions of core international crimes](#)’**: the factsheet briefly outlines key factors for successful investigations and prosecutions of core international crimes within the EU, and provides a series of successful case examples.

In addition, the **webinar ‘On the frontline of justice: preparedness of the EU and Member States in fighting impunity for core international crimes’**, moderated by Matevz Pezdir, Head of the Genocide Network Secretariat, and facilitated by Eurojust, took place on 23 May 2022.

The webinar aimed to share perspectives from high-level speakers and practitioners on developments and remaining shortcomings observed in the last few years in the EU. Looking at the state of play of the fight against impunity, the webinar reflected on the preparedness of the EU and Member States to tackle an ever-increasing and complex caseload, linked to atrocities perpetrated in Syria, Ukraine and other situations.

II. Webinar overview

a. Format and outreach

The 2-hour long webinar was opened by **Mr Ladislav Hamran, President of Eurojust**. Mr Hamran highlighted the role of the Genocide Network Secretariat, hosted by Eurojust, in facilitating the EU DAI. He further emphasised that the recent events in Ukraine, and the judicial response of the EU in the face of this armed conflict, offer a tremendous opportunity for the global fight against impunity. Mr Hamran acknowledged encouraging developments observed across the board, in the last few years, in achieving justice for core international crimes wherever they are committed. He stressed the critical role of counterparts and partners for national authorities, such as the International Criminal Court (ICC) and civil society.

The webinar was accessible upon invitation and prior registration. The recording of the webinar was edited and **published on Eurojust’s YouTube’s channel** on 25 May.

After keynote remarks delivered by **Mr Didier Reynders, EU Commissioner for Justice**, and **H.E. Luis Vassy, French Ambassador to the Netherlands**, Mr Pezdirc moderated a panel discussion between three national practitioners and a civil society representative, followed by a Q&A session with the participants.

b. Keynote Remarks

Mr Didier Reynders, EU Commissioner for Justice, recalled that atrocities observed in the course of the armed conflict in Ukraine bring echoes from Europe's history. Recognising the progress made in the last decade to prosecute core international crimes, he shared his belief that national systems in the EU are ready to tackle this new challenge and prevent impunity.

Noting the incredible volume and complexity of this task, which requires increased human and technical resources, as well as specialised expertise, he also highlighted the role played by EU Member States' national investigations, the joint investigation team (JIT) set up between Lithuania, Poland, Ukraine and the Office of the Prosecutor of the ICC, the Genocide Network and civil society.

Finally, The Commissioner presented the recent legislative proposal of the Commission to amend the Eurojust Regulation in order to allow Eurojust to receive, assess and store evidence (including video, audio recordings and satellite imagery) of core international crimes.

H.E. Luis Vassy, French Ambassador to the Netherlands, reflected on three fundamental requirements for the international criminal justice system: to be innovative, clear and focused.

Being innovative means finding new ways to cooperate and act within existing legal frameworks, such as the ICC joining the Ukraine JIT as a participant, or the development of new evidence-gathering databases, notably at Eurojust. The Ambassador also highlighted the use of new technologies and artificial intelligence in order to manage evidence efficiently. Speed and flexibility are often of the essence, as demonstrated by the French authorities' recent decision to send a forensic team to cooperate with Ukrainian authorities, or by the Dutch authorities to second expert investigators to the ICC.

Being clear means offering guarantees of full independence to the judiciary. In that regard, the Ambassador stated that both state and non-state actors should refrain from pressuring or advising investigators and prosecutors on how to conduct investigations, while recognising the important role of non-state actors, in particular, in setting investigations into motion. For justice to be delivered, a clear set of competences between national and international courts must be drawn, in line with the principle of complementarity. Furthermore, the Ambassador acknowledged the massive successes registered by national jurisdictions in the last decade, but also the role of non-judicial organs in fighting against impunity. He referred, for instance, to civil society advocacy, and cited the work of the OPCW's Investigation and Identification Team and other initiatives such as the partnership against the impunity for the use of chemical weapons.

Finally, the Ambassador cautioned against the risk of manipulation of information when grave crimes are being committed, and called on all stakeholders to rigorously check the quality of sources and evidence.

c. Panel discussion

The ensuing panel discussion took place between several practitioners representing prosecution services, law enforcement, mutual legal assistance and civil society: **Ms Reena Devgun, Senior Public Prosecutor** (Sweden), **Mr Gérard Dive, President of Belgian Task Force for International Criminal Justice** (Belgium), **Mr Vincent Cillessen, Team leader, International Crimes Unit, National Police** (The Netherlands), and **Mr Rupert Skilbeck, Director, Redress**.

Each panellists engaged with the main findings of the Expert Report, with particular emphasis on the establishment of specialised units and adequate legal framework, the need for resources and political will, the role of mutual legal assistance in the core international crimes area, cooperation at national and international levels, and the role of civil society.

The speakers stressed that the staff of specialised units of a few Member States (Belgium, France, Germany, Sweden, The Netherlands) have increased, and sometimes doubled, between 2014 and 2022. To have a structure in place, and adequate staffing and training, is critical for the durability of such units, but also to ensure that institutional memory is retained through the years. For this purpose, the structure must benefit from institutional guarantees with a strong legal basis: only in that way will it outlast the individuals that compose it. Member States without specialised units yet should use the collective experience gathered within the Genocide Network to innovate and set up such units in accordance with their own national legal framework – even if that means starting off with a few pioneer staff (one prosecutor, and 3-4 investigators), and expanding later on. Furthermore, while such units have developed at prosecution and investigating level, progress remains more modest at the mutual legal assistance level. Belgium, where interstate judicial cooperation and cooperation with international tribunals and mechanisms are concentrated in a single unit, offers a model for the expeditious handling of request for assistance. In addition, the set-up of a national network of authorities (justice, foreign affairs, defence, home affairs, diplomatic authorities, intelligence services, migration/asylum authorities, specialised prosecution and police) can tremendously boost action at national level, similar to the endeavour of the Genocide Network at European level.

The speakers also acknowledged that political will has driven some of the major improvements observed in the last years, specifically since the beginning of the Syrian conflict and resulting increase in caseload and accountability initiatives. This renewed support has led to investigations taking place while armed conflicts are still ongoing. However, the panel stressed the importance of finding balance between recent and less recent crimes: core international crimes are not statute-barred, and victims expect justice, as delayed as it might be. In that regard, the conflict in Ukraine is a test for EU and national authorities, and an occasion to strengthen existing mechanisms.

These mechanisms, as it stands, depend in a large part on an effective system of cooperation. In this regard, the panel discussed the so called ‘MLA Initiative’: the project of a new international treaty on mutual legal assistance for core international crimes and currently supported by 70 States. This project was inspired by the experience and challenges faced within the Genocide Network, and was also pushed forward by civil society actors. The signature of such a treaty would address many challenges in cooperation and truly realise a global framework of cooperation between States. Moreover, in this global ecosystem of international criminal justice, the ICC has its own role to play. The panellists stressed that, in line with the complementarity principle, there is no competition between the ICC and national jurisdictions. It is only a matter of sharing the load in accordance with their respective competence and capacity.

In relation to the role of civil society, the panel recognised the concrete impact civil society organisation (CSOs) had in supporting the development of the Genocide Network as Associates. Speakers also agreed on the need for a structured coordination between civil society organisations in support of universal jurisdiction cases. In addition to the documentation of crimes, three main areas where civil society could do more were discussed. First, NGOs working on universal jurisdiction have a critical role to play in developing individual cases, by supporting or representing victims, and establishing connections with the national specialised units. Second, they are well placed to identify remaining legal gaps and advocate for legal policy changes. Third, the outreach to affected communities is still a crucial area where civil society can have great impact. Panellists emphasised that CSOs are often the gateway to police and prosecution services for victims and witnesses, and play a key part in bringing different situations and crimes to the attention of national authorities.