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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Conclusions of the 20th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (24 and 25 May 2016, The Hague)

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On 24 and 25 May 2016, the 20th meeting of the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes ("Genocide Network"), convened and organised by the Netherlands Presidency with the support of the Network's Secretariat and Eurojust, took place in The Hague.

The above meeting focused inter alia on the establishment of the new Kosovo Tribunal, on the outcome of the evaluation of specialized Units for the investigation and prosecution of core international crimes in domestic proceedings, on the further opportunities offered by the extension of Europol and Eurojust mandates as regards these crimes, and on an update on the Initiative for a new Treaty on international cooperation for domestic prosecution of the most serious international crimes.

The report and the conclusions of the above meeting, prepared by the Genocide network, are set out respectively in the Annex to doc. 10169/16 and in the Annex to this document.

**Conclusions of the 20th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes**

24 and 25 May 2016, The Hague

1. The Netherlands EU Presidency and the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (the 'Network') stressed the importance of the Network's activities in promoting national investigations and prosecutions to bring perpetrators to justice and close the impunity gap for the crime of genocide, crimes against humanity and war crimes (core international crimes).
2. The Members of the Network saluted the launch of the first annual EU Day Against Impunity for genocide, crimes against humanity and war crimes on 23 May 2016, jointly organised by the Netherlands EU Presidency, the European Commission, the Network and Eurojust. Acknowledging this step as a further implementation of the measures recommended in the *Strategy* of the Network and a renewed commitment of EU Member States and the European Commission to the continuing and effective fight against impunity, the Members of the Network emphasized the importance of raising awareness of core international crimes, and recognised the common efforts of the EU Member States and the European Union in enforcing international criminal law and reiterated that promoting national investigations and prosecutions and simultaneously addressing the position and participation of victims in criminal proceedings for these crimes are essential. The Network welcomes the intention of Malta to organise the 2<sup>nd</sup> EU Day Against Impunity during their EU Presidency in 2017.
3. Taking into account the UK's commitment to fighting impunity for core international crimes, the Network welcomed the presence of the UK contact points in the Network as an observer country, enabling the Members of the Network to share experience and UK's practitioners to benefit from the Network meetings.

4. The Members of the Network appreciate the information on the EULEX Kosovo Special Investigation Task Force to combat impunity for atrocities crimes committed in Kosovo. The Network took note of the establishment of the new Kosovo Tribunal, including the Office of the Prosecutor, and of the efforts made in bringing perpetrators to justice.
5. The Network acknowledged the initiative for a survey on specialised units for investigating, prosecuting and trying core international crimes in the EU Network Member and Observer States and implementation of rights of victims in such proceedings. The Members of the Network took note of the tentative results and welcomed the establishment of specialised international crime units or the designation of specialised staff in 15 Member States and the success of their completed prosecutions and investigations. The Network stressed the importance of increased cooperation and information-sharing at national and European levels and the establishment of increased specialised units in more Member States, along with increased capacity-building and resources. The Members of the Network also emphasized the importance of safeguarding victims' participation in criminal and connected civil proceedings regarding core international crimes. The Members of the Network expressed their consent to disseminate the replies to all questions among the Network, including representatives of the NGO of the Network, without anonymising the country of origin. In addition, the Secretariat was mandated to present the findings and challenges resulting from the questionnaire to the relevant working groups of the Council of the EU. Further, to seek discussion and emphasize the importance of specialised units for investigating, prosecuting and trying core international crimes, as well as of appropriate rights of victims in such proceedings at the political/ministerial level with the incoming EU Presidency.
6. The Members of the Network welcomed the report of Europol on the inclusion of the crime of genocide, crimes against humanity and war crimes in their future scope of competence. With Europol's extended mandate, entering into force in May 2017, practitioners will greatly benefit from further tools and assistance available at Europol.
7. The Network also appreciated information on the future competencies of Eurojust, with an explicit reference to the crime of genocide, crimes against humanity and war crimes.

8. In light of the extended mandate of Europol and the specific reference of Eurojust to the crime of genocide, crimes against humanity and war crimes in the new Regulations, the Members of the Network appreciated possibilities for increased support for practitioners in investigating and prosecuting core international crimes, and as such to best advance the position of the European Union in the fight against impunity for those crimes. For this purpose, the Network will set up a Working Group, including members of Eurojust and Europol, to explore and propose a line of action taking into account the new context and the new possibilities offered by Europol and Eurojust. The Members of the Network mandated the Secretariat to support the activities of the Working Group and liaise with the Members of the Network.
9. In view of the future extended mandate of Europol for the crime of genocide, crimes against humanity and war crimes, the Members of the Network invite Europol to officially designate an institutional contact point to the Network.
10. The Members of the Network took note of the presentation of the criminal proceedings against leaders of the FDLR in Germany. The Network recognised the specifics connected with criminal proceedings regarding core international crimes on domestic level and expressed appreciation for having successfully addressed the legal and factual challenges. The Members of the Network emphasized the primary obligation of States to investigate and prosecute core international crimes to fight impunity for these crimes effectively.
11. The Members of the Network noted the many difficulties encountered by the legal representation of victims in core international crimes cases and acknowledged the importance of ensuring appropriate rights for victims in such proceedings.
12. The Members of the Network noted positively the potential of civil society in addressing specific challenges related to investigations and prosecutions of core international crimes. The Network acknowledged the capacity of civil society for transnational outreach to the involved general public, including dissemination of judicial decisions at the end of criminal proceedings.

13. The Members of the Network appreciated the update on the Initiative for a new Treaty on Mutual Legal Assistance and Extradition for domestic prosecution of the most serious international crimes, and reiterated their support. The Network welcomed the initiative of the Netherlands EU Presidency to address those EU Member States that have not yet joined the initiative. In view of the initiation and the spirit of the first EU Day Against Impunity for the crime of genocide, crimes against humanity and war crimes, EU Member States that have not yet made a political commitment to the initiative have been encouraged to submit their support.
14. The Members of the Network welcomed the joint efforts of the Secretariat and the European Judicial Training Network (EJTN) in implementing the first training programme on core international crimes for judges and prosecutors at EU level on 30 November, 1 and 2 December 2015 in The Hague. The Members of the Network reiterated the importance of training programmes with a view to building capabilities in this crime area. The Members of the Network encouraged the Secretariat of the Network to further pursue the efforts to establish, in close cooperation with the EJTN, a permanent training programme and to promote its continuing development with more advanced curricula as well as to develop an additional common training programme, together with CEPOL, focusing on investigative aspects.
15. The number of cases in the investigative or prosecutorial phase has significantly increased in the majority of jurisdictions present in the Network, requiring additional resources. In particular, the increase of asylum seekers in EU Member States obliges immigration authorities and law enforcement/prosecution services to cooperate more closely to identify perpetrators, victims and witnesses.
16. During the closed session of the Network meeting, the Members discussed measures to share information more efficiently regarding potential cases relating to the armed conflict in Syria. For this purpose, the common format is highly appreciated.
17. During the closed session of the meeting, the Members of the Network, the Observer States and representatives of the ICC Office of the Prosecutor emphasized the value of discussing ongoing investigations and shared experience. They will continue to devote time to this point in the closed session, establishing a confidential environment for the exchange of information on current investigations and, where appropriate, requests for mutual legal assistance and extradition pertinent to the work of the Network. The Network Members appreciated the recent initiatives for *ad hoc* meetings on specific situations and invited Network Members to further build on this practical approach for efficient cooperation.

18. The Network showed its appreciation for the new edition of the commentary of the first Geneva Convention (1949) by ICRC, freely accessible on the ICRC website.

19. While assembling a pool of agenda items for future meetings, Members of the Network expressed an interest in discussing topics related to:

- methods of sharing information and cooperation with NGOs,
- exploring possibilities for continued sharing of information on specific conflict situations,
- effect of post-traumatic stress on the reliability of witness memory,
- methods of introducing and presenting well-known facts in the evidentiary documents of a case,
- attribution of criminal responsibility for committing serious international crimes,
- model MLA requests for the purposes of investigation and prosecution of international crimes to find best practice for the Members of the Network, including a template for requests to UN fact-finding bodies,
- destruction of cultural property,
- new investigative approaches relating to links between core international crimes and transnational organised crime.

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