



Council of the
European Union

143376/EU XXV. GP
Eingelangt am 16/05/17

Brussels, 16 May 2017
(OR. en)

9038/17

GENVAL 52
COPEN 137
EUROJUST 66
ENFOPOL 221
COHOM 59

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	9037/17
Subject:	Conclusions of the 22nd meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (29 and 30 March 2017)

On 29 and 30 March 2017, the 22nd 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 Maltese Presidency with the support of the Network's Secretariat and Eurojust, took place in The Hague.

The above meeting focused mainly on the role of the EU Agencies in the fight against impunity for genocide, war crimes and crimes against humanity and on recent developments in the international context in relation to these crimes.

The report and the conclusions of the above meeting, prepared by the Genocide network, are set out respectively in the Annex to doc. 9037/17 and in the Annex to this document.

Conclusions of the 22nd meeting of the Network for investigation and prosecution of genocide, crimes against humanity and war crimes

The Hague, 29-30 March 2017

1. The Maltese EU Presidency and the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes (hereinafter referred as the ‘Network’) stressed the importance of the Network as a forum for practitioners to exchange information, facilitate cooperation and enhance 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 (hereinafter referred as ‘core international crimes’).
2. The Network members welcomed as timely the topic of the developments of the EU agencies in supporting national investigations and prosecutions of core international crimes in light of the recent immigration influx.
3. The Network took note of the presentation by the European Border and Coast Guard Agency (Frontex) on current trends in immigration flow and the support provided to national authorities investigating and prosecuting core international crimes through the operational project PeDRA, which allows for the collection and subsequent analysis of personal data of suspected criminals at EU level.
4. The Network members followed with great interest the update on the setting up of the ‘Exclusion Network’ by the European Asylum Support Office (EASO) and its future capability to support national asylum authorities in fighting impunity of perpetrators of core international crimes. The Network agreed on the importance of cooperation in cases in which the refugee status of an individual is denied because of commission of a core international crime.

5. The Network members expressed their appreciation for the presentation made by Europol on the implementation of its new competencies when dealing with core international crimes, entering into effect on 01 May 2017. The Network members acknowledged Europol's efforts in opening a new analysis project when dealing with core international crimes within Europol's European Counter Terrorism Centre and applicable tools, products and deliverables.
6. The Network took note of the presentation by Eurojust on the link between illegal immigrant smuggling and the fight against impunity. The Network members emphasized the important role of Eurojust in facilitating international judicial cooperation.
7. The Network members expressed their appreciation for the presentation of recent cases and developments from Sweden and Germany regarding the situation in Syria and Northern Iraq and the explanation of specific pertinent challenges. The Network members agreed on the importance of regularly exchanging experience on these current challenges for national authorities to fight impunity.
8. The Network members observed with great interest the presentation by the United Nations Office of the High Commissioner for Human Rights (OHCHR) on the UN International, Independent and Impartial Mechanism for investigating persons responsible for the most serious crimes under international law committed in Syria since March 2011. The Network members expressed their appreciation for this Mechanism to provide – in cooperation with the UN Commission of Inquiry – support to national authorities in fighting impunity for core international crimes in Syria.
9. The Network took note of the report of activities of the OHCHR Commission of Inquiry on Human Rights in Eritrea. The Network members concurred on the importance of these inquiries and appreciated the valuable work done by the Commission.

10. The Network members expressed their appreciation for the update on the Initiative for a new Treaty on Mutual Legal Assistance and Extradition for domestic prosecution of the most serious international crimes. Of particular importance is the planned meeting of supporting countries, scheduled for June in Doorn, the Netherlands. In view of the Network's dedication to fighting 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. The Network expressed its continued support for the initiative and encouraged all Members to participate in the further process.
11. The Network members expressed their appreciation for the update on activities of the Institute for International Criminal Investigations (IICI). The Network members acknowledged the valuable contribution provided by the IICI in building investigative capacity for national and international investigators.
12. The Network members took note of the budgetary restrictions at Eurojust but reiterated the need for a regular meeting per EU Presidency, according to the legal basis, with an open and closed session. In addition, ensuring the option of additional *ad hoc* operational meetings on specific situations or cases is necessary. The Network members stressed the importance of the Network meetings for the work of national authorities in addressing individual criminal responsibility of perpetrators of core international crimes. In this respect, the Network calls on the European Commission to ensure implementation of the Conclusions of the Council of 15-16 June 2015 (doc. 15584/2/14) and to provide sufficient support for the work of the Network and competent national authorities to combat impunity for core international crimes.
13. The Network members welcomed the appreciation of the Network, its meetings and their relevance to global efforts to fight impunity, as expressed by Human Rights Watch on behalf of other associated representatives of civil society.

14. The Network took note of the update on the Secretariat's activities and administrative matters. The Network members stressed their support for the planned activities of the Secretariat and expressed appreciation of the continued efforts and achievements of the Secretariat.
15. The Network members look forward to the 2nd EU Day against Impunity for genocide, crimes against humanity and war crimes, taking place on 23 May. The event will be co-organised by the Maltese Presidency, the European Commission, Eurojust and the Network.
16. The Network members welcomed the resumption of the joint efforts of the Secretariat and the European Judicial Training Network (EJTN) in developing and implementing a revised training programme on core international crimes for judges and prosecutors at EU level.
17. In light of the need for capacity building in the area of investigating and prosecuting core international crimes, the Network members welcomed the ongoing cooperation with the European Judicial Training Network (EJTN) in repeating the training programme on core international crimes for judges and prosecutors. In addition, Network members expressed their appreciation for the initiative for cooperation between the Secretariat and the European Union Agency for Law Enforcement Training (CEPOL) in implementing an additional training programme and webinars on core international crimes for investigators at EU level focusing on investigative aspects.
18. During the closed session of the meeting, the Network members and the Observer States expressed their recognition of the value of discussing ongoing investigations and shared experience during this session. They dedicated more time to this point in the closed session, establishing a confidential environment for the exchange of information on current investigations and, if appropriate, requests for extradition pertinent to the work of the Network. The Network emphasized the importance of *ad hoc* meetings on specific situations, such as those relating to the ongoing conflicts in Syria, facilitating a proactive approach to combating impunity that must also be ensured in the future.

19. While assembling a pool of areas of focus for future meetings, the Network members expressed their interest in learning more about and discussing topics related to:

- Methods of sharing information and cooperation with NGOs;
- Improving tools for the continued sharing of information on specific conflict situations;
- Model MLA requests for the purposes of investigation and prosecution of international crimes to find best practice for the Network members, including a template for requests to UN fact-finding bodies;
- New investigative approaches relating to links between core international crimes and transnational organised crime *and terrorism*;
- Effects of post-traumatic stress on the reliability of witness memory;
- Outreach communication strategy related to the affected communities or diaspora;
- Attribution of criminal responsibility for committing core international crimes;
- Core international crimes committed in cyberspace;
- Implementation and application of the crime of aggression in domestic legislation;
- Methods of introducing and presenting well-known facts in the evidentiary documents of a case;
- Rules of engagement and the principles of distinction and proportionality as challenges in modern and asymmetric armed conflicts;
- Victim participation in international crime cases;
- Survey of new developments in immunities of foreign officials and heads of state;
- Investigation methods of the ICC, e.g. in Libya; and
- Experience in investigating/prosecuting on basis of/with help of Eurojust/Europol.