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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Conclusions of the 17th meeting of the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes

On 30th and 31st October, 2014, the 17th meeting of the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes, convened and organised by the Italian Presidency with the support of the Network's Secretariat and Eurojust, took place in The Hague.

Delegations will find, for their information, in Annex, conclusions of the Network meeting.

Conclusions of the 17th Meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes

30-31 October 2014, The Hague

1. The Members of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (the “Network”), on the occasion of the 10th anniversary of the first Network meeting, reiterated the importance of the forum for providing practitioners with direct contact, best practice, and exchange of operational information, therefore facilitating judicial cooperation in criminal matters and improving efficiency of mutual legal assistance (MLA). With its work and activities, the Network has proved indispensable in the global fight against impunity.
2. The Italian Presidency and the Network reintroduced the topic of financial investigation and asset recovery and stressed the importance of conducting financial investigations in cases of the crime of genocide, crimes against humanity and war crimes (core international crimes) where it may present possible evidence in criminal proceedings, provide compensation and reparation for victims and allow for confiscation of illegal assets. In this context, the joint initiative with Justice Rapid Response (JRR) and the Institute of International Criminal Investigation (IICI) is highly appreciated, particularly in relation to the development of a specialised training course on this topic.
3. The Members of the Network expressed their appreciation for all endeavours being taken to bring perpetrators of crimes committed in Syria to justice. In this respect, the activities of the US Ambassador-at-Large for War Crimes are recognised, in particular regarding photographs taken by ‘Caesar’, a Syrian photographer who has documented the bodies of thousands of victims, providing potential evidence to investigate and prosecute perpetrators.

4. The Members of the Network recognise the importance of cooperation with the International Criminal Court (ICC). In this context the value of national central authorities and a focal point for facilitating cooperation with the Registry of the ICC was stressed. In relation to financial investigations performed by the Registry, a change of national legislation to enable the freezing and confiscation of assets for the purpose of legal aid at the ICC should be further considered by national authorities.
5. The Members of the Network recognise that financial investigations in cases of core international crimes are similar to financial investigations into other types of serious criminality and are part of an overarching strategy to fight impunity. These investigations may assist States in criminal investigations as a source of evidence; preventing other crimes being committed; deterring criminals; protecting the integrity of larger economic systems; returning stolen assets; and contributing to a victim's rights to compensation. At the same time, Members of the Network recognise that perpetrators, prosecuted at national level, are often without significant financial resources or assets. In addition, some international crimes do not result in any financial benefit for perpetrators.
6. The Network is aware of the many challenges to conducting financial investigations into core international crimes, such as the difficulties in tracing and identifying assets and the lack of requisite legal framework while acknowledging that not all financial investigations are necessarily onerous. The Network recognised the necessity of an integrated approach to financial investigations and understood that investigations into the predicate offence, money laundering and asset tracing should be considered as components of a single investigation. This approach allows focus on illegal activity and enables understanding of the process in commodity and money flow.

7. The Members of the Network highlighted the importance of MLA to enable effective financial investigations, both in formal terms such as well-drafted MLA agreements and also through informal MLA. In this context, the necessity of making requests for MLA with sufficient detail is crucial, so that the receiving State is able to act on the request in an efficient and timely manner, thereby maximising the effectiveness of limited MLA resources of many States. The same conclusions could be drawn in respect of cooperation with the ICC Office of the Prosecutor.
8. The Members of the Network took note of a civil forfeiture system, as outlined by the representative of the South African Asset Forfeiture Unit, which enables asset forfeiture in cases where the perpetrator has died or is unable to be convicted; includes unlawful activities including contraventions of the law which have not been criminalised; has a lower requirement of proof; and is less likely to be contested by perpetrators whose statements may later be used as evidence against them in court. Network Members also expressed their appreciation for the benefits of a system that not only allows seizures of criminal assets, but also the assets of criminals. Furthermore, the importance of having a specialised asset forfeiture unit was stressed, allowing improved cooperation and coordination between various units at national level.
9. The Network appreciates the work of the Camden Assets Recovery Interagency Network (CARIN) in taking a global approach to cooperation in financial investigations and asset recovery and welcomes the launch of the informal network of forensic accountants working for law enforcement.
10. The Members of the Network formally adopted the *Strategy of the Genocide Network to combat impunity for crime of genocide, crimes against humanity and war crimes within the European Union and its Member States* (the Strategy) and requested its translation into French as well as further dissemination to national decision-makers. The Network mandates the Secretariat of the Network to further present the Strategy to the relevant working groups of the Council of the EU and seeks its endorsement at political level.

11. The Network acknowledged that while the current mandate of the Network only relates to the ‘core international crimes’ of the crime of genocide, crimes against humanity and war crimes, a review of this mandate to encompass additional serious international crimes, such as torture and enforced disappearances, is needed, thus contributing to the overall fight against impunity.
12. The Network considers that a possible training programme, developed together with the European Judicial Training Network (EJTN), would greatly contribute to increasing the expertise and awareness of judges and prosecutors in Member States, and thereby contribute to the fight against impunity. Moreover, a joint programme between the European Police College (CEPOL) and EJTN, with possible cooperation with other organisations, such as the IICI and the JRR, could provide further possibilities for training a broader range of personnel, including police, investigators and MLA officers. For this purpose the Network will set up a Working Group, primarily working with the EJTN, to identify needs and develop a training programme.
13. The Network welcomed 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 expressed its appreciation for the large number of co-sponsoring States representing all geographical areas. Network Contact Points recognised the advantages of informing Ministries about the benefits of the new Treaty on Mutual Legal Assistance and advocating those States that have not already done so, to support the initiative.
14. The Members of the Network and the ICC acknowledged the value of discussing ongoing investigations and shared experience during the closed session of the meeting. They will continue to dedicate more time in the closed session to this point, establishing a confidential environment for the exchange of information on current investigations and requests for extradition pertinent to the work of the Network.

15. For assembling a pool of agenda items for future meetings, the Members of the Network expressed interest in discussing topics relating to: judicial cooperation with the UN and its organs and agencies or with the EULEX Kosovo Special Investigation Task Force; further developments in relation to criminal responsibility of corporations; methods of sharing information with NGOs; and exploring possibilities for further sharing of information on specific conflict situations, adding to the topics identified from previous meetings (such as the impact of post-traumatic stress on the reliability of a witness's 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 and the issue of the status of combatants according to international humanitarian law). In addition, model MLA requests for the purposes of investigation and prosecution of international crimes could be discussed in order to develop best practice for the Network Members.
