



Council of the
European Union

Brussels, 27 April 2015
(OR. en)

8361/15

GENVAL 14
COPEN 105
EUROJUST 87
ENFOPOL 95
COHOM 36

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Conclusions of the 18th meeting of the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes

On 22nd and 23rd April 2015, the 18th 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 Latvian Presidency with the support of the Network's Secretariat and Eurojust, took place in The Hague.

The above meeting focused mainly on the collection, use and analysis of information obtained from Open Sources (OS) and Earth Observation (EO) for the purpose of investigating and prosecuting "core international crimes", involving both a change of approach and new challenges linked to the potential and advantages of such information and to its admissibility and reliability as evidence in judicial proceedings. Other main issues included the new Principles of Universal Jurisdiction and the Initiative for a new Treaty on international cooperation for domestic prosecution of the most serious international crimes.

Delegations will find in the Annex, the conclusions of the above "Genocide Network" meeting.

Conclusions of the 18th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes

22 - 23 April 2015, The Hague

1. The Latvian Presidency and the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (hereinafter the 'Network') stressed the importance of the Network's activities in bringing perpetrators to justice and closing the impunity gap for the crime of genocide, crimes against humanity and war crimes (core international crimes).
2. The Members of the Network expressed their regret over the UK's decision to opt out of Council Decisions 2002/494/JHA and 2003/335/JHA on setting up the Network. The Network finds this current situation unfortunate and, given the noteworthy commitment of the UK government to fighting impunity for the crime of genocide, crimes against humanity and war crimes, invites the competent UK authorities to reconsider their position.
3. The Members of the Network expressed appreciation for the Secretariat's continued efforts to raise awareness and efforts to present the Strategy to the relevant working groups of the Council of the EU. In this respect, the Network invites the Latvian Presidency and future Presidencies of the Council of the EU to endorse the Strategy at political level and to assign appropriate attention to the judicial response to armed conflicts in proximity to EU borders in light of the global fight against impunity.

4. The efficient use of open sources as evidence was recognised as an important evidentiary element in the process of investigation and prosecution of core international crimes. The use of videos taken from social media and open source information, in particular, has great potential, and can be used as incriminating evidence, as corroborating evidence, as a lead for investigations and to create awareness of the situation without an actual physical presence. In addition and apart from investigative aspects, open source information also has a potential use in tracing missing persons.
5. The Members of the Network expressed appreciation for the information provided by the International Criminal Court (ICC) on its experiences in collection and analysis of open source evidence in core international crimes.
6. The Members of the Network acknowledged the approach presented by various organisations to store and analyse open source documents on core international crimes.
7. The presentations highlighted the temporary nature of open source information. For this reason, the Network calls for a collective collaboration and timely effort to download and store data for potential future use in investigations and prosecutions, preferably coordinated by the ICC.
8. The Members of the Network noted Europol's expertise concerning open source analysis. In light of the probable future extended mandate of Europol, the Network looks forward to the use of these capacities with regard to investigations and prosecutions of core international crimes.
9. The Members of the Network acknowledged the approach of the Eye Witness Project to set up a secure application for the general public to document commission of core international crimes in affected areas. In this respect, the documentation obtained via the Eye Witness Project is potentially important for national authorities when investigating core international crimes.

10. The Members of the Network took note of the technical potential of earth observation systems outlined in a presentation by the European Space Agency (ESA). Earth observation systems are valuable tools to provide information for investigative and evidentiary purposes in the process of prosecuting core international crimes. Further engagement with the ESA is recommended to find an appropriate methodology for accessing earth observation information and to suggest specific requirements for the purpose of investigating and prosecuting core international crimes. The Network noted with interest the ICC's experiences concerning specific aspects of reliability and admissibility of evidence originating from earth observation information in its cases.

11. The Members of the Network took note of the Baltasar Garzón International Foundation (FIBGAR) initiative for outlining the new principles of universal jurisdiction and acknowledged underlying challenges.

12. The Members of the Network appreciated the efforts of the Working Group, established according to the conclusions of the 17th meeting of the Network, supported by the Secretariat, and welcomed the presentation of the Draft Proposal for a Training Programme on core international crimes. The Network mandated the Secretariat of the Network to formally present the Draft Proposal to the European Judicial Training Network (EJTN) and work together with the EJTN in its implementation and further development.

13. The Members of the Network appreciated the activities of the Secretariat in acquiring expertise on the enforcement of embargo violations in national jurisdictions. Furthermore, the Secretariat of the Network was invited to look into possibilities for improving the exchange of information on core international crimes gathered by the UN Human Rights Council fact-finding bodies and commissions of inquiry with the national jurisdictions of the Network. The Members of the Network stressed the importance of providing States with information/evidence that could be used in national investigations and therefore saw a great opportunity to enter into close cooperation with the UN Human Rights Council fact-finding bodies.

14. The Members of 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 reiterated their support. In this respect, the Secretariat will, together with the Netherlands, Belgium and Slovenia, share the list of States that have made a political commitment to the initiative.

15. The Members of the Network took note of the explanations for International Committee of the Red Cross (ICRC) confidentiality and recognised that confidentiality, including the resulting testimonial immunity, served as a tool to enable the ICRC to help people affected by insecurity, violence and armed conflict.

16. The Members of the Network, the Observer States and the ICC recognised the value of discussing ongoing investigations and shared experiences during the closed session of the meeting. They will continue to dedicate more 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 extradition pertinent to the work of the Network. The Network welcomed initiatives for ad hoc meetings on specific situations, such as those relating to the ongoing conflicts in Syria and Ukraine, facilitating a proactive approach to combating impunity.

17. While 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 and cooperation with NGOs, as well as 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 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 and the issue of status of combatants according to international humanitarian law), and model MLA requests for the purposes of investigation and prosecution of international crimes to find best practice for the Members of the Network, including template for request to the UN fact-finding bodies.