



Council of the
European Union

Brussels, 3 December 2018
(OR. en)

14823/18

COPEN 424
EUROJUST 167
ENFOPOL 585
COHOM 155

NOTE

From: General Secretariat of the Council
To: Delegations

No. prev. doc.: 10182/18

Subject: 25th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (The 'Genocide Network') (The Hague, 14 - 15 November 2018) - Conclusions

Delegations will find attached the Conclusions of the 25th Meeting of the Network of contact points for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network), which took place in The Hague on 14 and 15 November 2018.

Conclusions of the 25th Meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (the ‘Genocide Network’)

The Hague, 14-15 November 2018

1. The Austrian Presidency of the Council of the European Union stressed the importance of the Genocide Network (hereinafter ‘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 (core international crimes).
2. The Network adopted the *Guidelines on the Functioning of the Network*. This document includes principles that supplement the Network’s legal basis (Council Decision 2002/494/JHA and Council Decision 2003/335/JHA) by providing a detailed framework on the Network’s composition, facilitating requests from non-EU Member States to participate in meetings, determining the level of engagement of national contact points and the nature of different sessions, and by outlining the existing practices of the functioning of the Network.
3. The Network members reiterated the difference between the sets of legislation on counter-terrorism offences and core international crimes, namely the crime of genocide, crimes against humanity and war crimes. As both sets of legislation can apply to a particular case, in accordance with the respective national legislations, it is important to stress that core international crimes are different in nature than counter-terrorism offences. Therefore, units dealing with both sets of legislation should reflect this difference by possibly including both names. Additionally, the victims’ perspective in this regard and their access to justice should be carefully considered.
4. The Network members welcomed the very timely discussion of the issue of secondary trauma as a health risk for investigators, prosecutors, interpreters and other associated staff of authorities and organisations dedicated to the pursuit of criminal accountability for core international crimes. Secondary trauma was recognised as an issue of particular importance because of the substantial impact it has upon both the personal and professional lives of those concerned.

5. The Network identified the factors that increase the risk of experiencing secondary trauma and explored what aspects of a person's constitution, past and personal life contribute to vulnerability and resilience. The Network members recognised that secondary trauma affects not only the mental well-being of the people affected but also their physical health. It was acknowledged that secondary trauma is a sort of occupational hazard that can affect any professional exposed to traumatised victims and witnesses, violent events and other traumatic evidentiary material, such as graphic material.
6. The Network took note of the defining aspects of secondary trauma and acknowledged the differences as well as overlaps between secondary trauma and other psychological issues, such as post-traumatic stress disorder (PTSD), burnout and compassion fatigue.
7. The Network members engaged in a fruitful discussion on the clinical aspects of secondary trauma and noted the importance of discerning the indicative signs of secondary trauma and identifying ways to prevent or treat these symptoms. The Network stressed the need for structural attention in the workplace to the risk of secondary trauma for the aforementioned groups of professionals, through awareness raising, removal of the stigma and enhanced engagement.
8. The Network welcomed the identification of measures to prevent, and mitigate the effects of, secondary trauma, as well as of the possibilities for self-care. Support programmes at work could include measures such as obligatory periodic consultations with psychotherapists, regular debriefings after difficult missions or exposure to traumatised witnesses and other evidentiary material, peer and group discussions under the leadership of the management or in the presence of a psychologist.
9. The members of the Network gave special attention to the measures undertaken by the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia and the International Residual Mechanism for Criminal Tribunals and the Syria Justice and Accountability Centre in an attempt to prevent secondary trauma affecting their staff. They also acknowledged the usefulness of these measures also for professionals working in the area of international core crimes at national level.
10. The Network members expressed their concern about the fact that interpreters often suffer from secondary trauma due to their repeated exposure to traumatic information and extremes of emotion. Network members took great interest in the personal and professional experiences of two interpreters from the Special Tribunal for Lebanon and the International Criminal Court and realised how interpreters are highly susceptible to secondary trauma due to the fact that traumatic experiences and emotions of anger and frustration are channeled through them using a common language with the victims, witnesses and perpetrators. As interpreters are the voice of victims, witnesses and perpetrators, during the interpretation services, it is essential to also ensure protective measures for interpreters and their engagement prior to specific assignments, contacts with victims, witnesses and perpetrators, hearings and exposure to material to be presented or discussed. Network members addressed the need to draw on the experiences of international tribunals in this matter, as interpretation services similar to those of the international organisations are used at national level.

11. The Network members emphasised the important role of management in ensuring self-care and team care. They agreed that employers and management staff have the duty to ensure both the physical and mental well-being of their employees and that support services and protection plans should be implemented, as appropriate, to meet this duty. The Network recognised that openness and developing proactive strategies will assist in detecting and preventing situations of secondary trauma among employees.
12. The Network members voiced their appreciation of the work of the International Association of Prosecutors (IAP) and welcomed the possibility for the Network to gain membership in the IAP to increase cooperation, sharing of expertise and global outreach on the topic of investigation and prosecution of core international crimes. In this context, the Network supported the Network Secretariat's endeavours to formally apply for membership of the Network in the IAP.
13. The Network members noted the cooperation possibilities with the Ukrainian authorities in investigating and prosecuting crimes committed in Ukrainian territory. In this respect, the Network members noted that Ukraine appointed a Liaison Prosecutor to Eurojust in August 2018 after having signed a cooperation agreement with Eurojust in June 2016.
14. The Network members also highlighted the value of the SIRIUS project, the secure web platform for law enforcement and judicial authorities to share knowledge, best practice and expertise in relation to internet-based investigations. Network members aired their appreciation for the fact that the platform allows law enforcement and judicial authorities to quickly and effectively share, receive and analyse information from a variety of service providers.
15. The Network members also embraced the updates on the initiative for a new treaty on mutual legal assistance and extradition for domestic prosecution of the most serious international crimes. As the Network is deeply committed to fighting impunity for core international crimes, it encouraged all members to participate in the process. A dedicated meeting with all States was held on 14 November 2018 for a brief presentation of the draft text of the treaty. The Network members were informed that a second preparatory conference will take place in The Netherlands in March 2018 to exchange views on the draft text.
16. The Network has taken many steps towards ending impunity. The Network members acknowledged the work of the Network Secretariat in raising awareness and improving the support provided to States in furtherance of their activities in investigating and prosecuting core international crimes. In this respect, the review on the implementation of measures foreseen in the Genocide Network Strategy, adopted in 2014, is of particular relevance to comprehend the measures already implemented among Member States and further possibilities to enhance the fight against impunity at national level.

17. The Network members acknowledged the new Eurojust Regulation (Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation, replacing and repealing Council Decision 2002/187/JHA), which was adopted on 6 November 2018 and will enter into force 20 days after its publication in the Official Journal of the European Union (21 November 2018). The Network welcomed the explicit Eurojust competences relating to core international crimes.
18. The Network took note of the information on the reorganisation of Eurojust and the placement of the Network Secretariat in the Operations Department. In view of the future budgetary discussions, the Network members called upon the competent EU institutions and bodies, including Eurojust, to propose and allocate appropriate resources, budget and staff to the Network Secretariat to enable the Network completely fulfill its mandate.
19. The Network noted with great interest the activities of civil society organisations regarding their work towards ending impunity for core international crimes. The Network reiterated the importance of close cooperation between non-governmental organisations and Member States.
20. The Network members also expressed their gratitude for the continuance of webinars and training organised by the Network in cooperation with the European Judicial Training Network and European Union Agency for Law Enforcement Training (CEPOL), and highlighted their importance in building expertise and capacity to investigate and prosecute.
21. The Network members placed particular emphasis on the closed sessions of the Network, which allow them to exchange more sensitive operational information regarding ongoing investigations. They unanimously agreed that the closed sessions provide a suitable environment in which they are able to share experience and confidential information. Further, the Network highlighted the importance of adopting a more proactive approach by tailoring the meetings to specific relevant situations. Such meetings and discussions can lead to setting up a coordination meeting at Eurojust.
22. While creating a pool of areas of focus for future meetings, the Network members expressed their interest in learning more about, and discussing topics related to:
 - available financial programmes for capacity building regarding investigation and prosecution of core international crimes at national level;
 - the responsibility of legal persons for core international crimes;
 - the cooperation between immigration authorities and law enforcement and prosecution authorities when faced with 1F cases;
 - rules and experiences on international immunities of foreign officials;

- model mutual legal assistance requests for the investigation and prosecution of international crimes to find best practice for the Network members, including a template for requests to United Nations fact-finding bodies;
- new investigative approaches to links between core international crimes on the one side and transnational organised crime and terrorism on the other;
- the effects of post-traumatic stress on the reliability of witnesses' memories;
- an outreach communication strategy related to the affected communities or diaspora;
- the attribution of criminal responsibility for committing core international crimes;
- core international crimes committed in cyberspace;
- the implementation 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 application of the principles of distinction and proportionality as challenges in modern and asymmetric armed conflicts;
- victim participation in international crime cases; and
- a survey of new developments in immunities of foreign officials and heads of state.
