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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Report of the 8th EU Day Against Impunity for genocide, crimes against humanity and war crimes (Ljubljana, Slovenia, 22 May 2023) - Outcome report

Delegations will find attached the above-mentioned report.



## 8<sup>th</sup> EU DAY AGAINST IMPUNITY FOR GENOCIDE, CRIMES AGAINST HUMANITY AND WAR CRIMES 22 May 2023

### OUTCOME REPORT

#### I. Background

The EU Day Against Impunity for the crime of genocide, crimes against humanity and war crimes ('EU DAI') is since 2016 an annual event taking place on 23 May which aims to raise public awareness of core international crimes and promote national investigations and prosecutions, highlighting the common efforts of the EU and Member States in enforcing international criminal law. The event also pays homage to the victims and addresses their position and participation in national criminal proceedings. The EU DAI is an important measure to combat impunity, bringing together decision-makers, practitioners and other stakeholders involved in combating core international crimes.

This year, the event fell in the midst of the MLA Diplomatic Conference that took place from 15 to 26 May 2023 in Ljubljana, Slovenia. The event was marked on the eve of the 8<sup>th</sup> EU DAI and hosted by Slovenia on 22 May 2023. The event was co-organised by the Swedish Presidency of the Council of the EU the European Commission, Eurojust and the EU Network for investigation and prosecution of genocide, crimes against humanity and war crimes ('Genocide Network').

The 8<sup>th</sup> EU DAI was devoted to the importance of Member State-led investigations and prosecutions in preventing impunity. Main themes of discussions revolved around the EU response to impunity, the creation and development of specialised units at national level and the importance of universal jurisdiction provisions.

On this occasion, the Genocide Network Secretariat launched a new joint publication: [At a Glance: Universal Jurisdiction in EU Member States](#) – a factsheet that provides an overview of the current state of universal jurisdiction in the legislations of EU Member States, including the conditions under which universal jurisdiction can be applied (e.g. presence of the suspect on the territory of the Member State).

#### II. Event overview

##### a. **Format and timing**

The 8<sup>th</sup> EU DAI was entitled "**Stepping up the fight against Impunity – EU's response**".

The hybrid event was attended in-person by the delegations present in Ljubljana to lead the diplomatic negotiations (UN Member States, UN Observers, international and non-governmental organisations). The event was also livestreamed on Eurojust's YouTube channel (about 630 views as of 6 June 2023) and included keynote presentations and panel discussions.

The recording of the event is available on [Eurojust's YouTube channel](#).

Online participants had the possibility to make written interventions and submit questions through the e-mail address: [EUDayAgainstImpunity@eurojust.europa.eu](mailto:EUDayAgainstImpunity@eurojust.europa.eu).



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## b. Keynote Remarks

**Mr Didier Reynders, EU Commissioner for Justice**, opened the event and addressed the MLA Diplomatic Conference. In his intervention, he stated that with Russia's illegal war of aggression against Ukraine, the world is confronted with the largest international armed conflict on the European continent since the Second World War. He stressed that the culture of impunity, which threatens the stability of the international legal order and leads to a vicious circle of violence and human suffering, should not be tolerated. He further commended the efforts of Eurojust to set up the Core International Crimes Evidence Database and the extension of the scope of the Joint Investigation Team (JIT) investigations into the crime of genocide in addition to war crimes. With respect to the crime of aggression, Mr Reynders mentioned the common understanding in the EU that such a crime must not go unpunished but stressed that a common position is still to be found. While he acknowledged that discussions on the creation of a dedicated tribunal are ongoing, he took the opportunity to announce that the International Centre for the Prosecution of the crime of Aggression (ICPA) hosted by Eurojust will take up its work from the summer of 2023.

Mr Reynders noted as well the effective cooperation system put in place to support national authorities and coordinate their investigations and prosecutions through Eurojust and the Genocide Network. While Eurojust provides operational support to ongoing investigations and prosecutions, the Genocide Network offers a cooperation forum where the main accountability stakeholders interact to exchange expertise and best practices. He also welcomed initiatives towards civil society organisations such as the Guidelines on Documenting international crimes and human rights violations for accountability purposes, published by Eurojust, the Genocide Network and the Office of the Prosecutor of the International Criminal Court (ICC).

Mr Reynders concluded by stating that all these initiatives illustrate how a global and multi-layered criminal justice system is built together by all actors in order to prevent atrocities and guarantee lasting enforcement of international justice. The two main goals of the European Commission in the field of justice are: (i) to bring all perpetrators of international crime to justice and (ii) to ensure that Russia will pay for the reconstruction of Ukraine and the reparation of the damage caused by the aggression.

**Ms Dominika Švarc Pipan, Minister of Justice of Slovenia** as host country of the event made welcoming remarks and expressed confidence that the new MLA Convention will be another very important piece in the puzzle of the ever-evolving and improving system of international cooperation. Ms Švarc Pipan also highlighted the obligation of every country to prosecute these crimes at national level. By working together, accountability for victims will be ensured and States will be able to prevent or at least minimise the risk of further violence and atrocities.

**Mr Gunnar Strömmer, Minister of Justice of Sweden** (video address) highlighted three main pillars in the Swedish experience: (i) the establishment of independent specialised units within the prosecution and law enforcement authorities, (ii) good international cooperation between States but also with the International Criminal Court and other international organizations, and (iii) necessary legislation that must be implemented to tackle core international crimes. He stressed the role of Eurojust and the Genocide Network in facilitating cooperation and exchange of knowledge and best practices between practitioners in the EU and beyond. He expressed confidence that other jurisdictions will find inspiration in these initiatives to further strengthen the global fight against impunity.

**Mr Marko Štucin, State Secretary of the Ministry of Foreign and European Affairs of Slovenia**, welcomed the participants and reaffirmed the engagement of the international





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community to work jointly to ensure that those who have committed atrocities are held accountable. The State Secretary emphasised as well that ensuring accountability for international crimes is not a choice but the obligation of each State.

**Mr Andriy Kostin, Prosecutor General, Prosecutor General's Office of Ukraine** addressed the audience via video and offered some reflections on Ukraine's experience in fighting impunity during the ongoing conflict in Ukraine. He noted that it is for the first time in history that justice is being served in parallel to ongoing fighting. He continued by emphasising that success in investigating and prosecuting these crimes is dependent on the existence of specialised units and dedicated staff that possess knowledge, experience and adequate resources. Mr Kostin expressed gratitude for that the participation of Ukraine in the JIT supported by Eurojust and mentioned the recent amendment of the JIT Agreement providing for the establishment of the ICPA. He expressed his conviction that this is the first step towards establishing an ad hoc special Tribunal for the crime of aggression. Finally, he highlighted the close cooperation between Ukraine and the Office of the Prosecutor of the ICC and other international bodies. He concluded by thanking the civil society organisations involved in documenting atrocity crimes in Ukraine.

**Mr Milanko Kajganić, Prosecutor General, Prosecutor's Office of Bosnia and Herzegovina** offered insights on Bosnia and Herzegovina's continued experience in fighting impunity, more than 30 years after the conflict. He recalled the severe conflict faced by Bosnia and Herzegovina in the period between 1992 – 1995, when 100 000 civilians died and many more were victims of war crimes. Mr. Kajganić mentioned that Bosnia and Herzegovina as a post-conflict country has managed to process a huge number of cases. The general Prosecutor presented the achievements and results obtained by the Special War Crimes Department and gave an overview of the Witness Support and Investigation Department. Mr Kajganić concluded his intervention by acknowledging the difficulties faced by the Prosecutor's Office in investigating and prosecuting the crimes committed on its territory and presented best practices to improve cooperation between countries in the region.

### c. Panel discussions

The second part of the event was dedicated to a high-level panel discussion including: **Mr Didier Reynders**, EU Commissioner for Justice, **Mr Ladislav Hamran**, President of Eurojust, **Mrs Beth van Schaack**, Ambassador-at-Large for Global Criminal Justice, United States, **Mr Peter Frank**, Federal Public Prosecutor General of Germany, **Ms Hanna Lemoine**, Deputy Chief Prosecutor, Swedish Prosecution Authority and **Ms Anya Neistat**, Legal Director, The Docket initiative, Clooney Foundation for Justice. **Ms Anna Carin Svensson**, Director General for International Affairs, Ministry of Justice, Sweden moderated and structured the panel discussions.

Panellists addressed the role of the EU in seeking justice for international crimes, the support provided by Eurojust in fighting impunity, the determination of States to collect admissible evidence, centralisation of the evidence, efforts done at national level, the importance of a national legal framework implemented in the Member States, the importance of having specialised units and staff, political support and good cooperation among judicial authorities and the role of civil society.

The panellists highlighted the importance of having a good coordination of all the initiatives that are currently ongoing and stressed that proper legislation – both substantive and procedural – represents a key factor for successful investigations. Strong legislation strengthens the possibility to prosecute and results are possible through the efforts of dedicated and committed prosecutors and investigators on the long term. Furthermore, successful convictions can only be



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achieved if a number of conditions are met: (i) awareness of both national legislation and international jurisprudence and customary international law, (ii) capacity to access and gather evidence shattered all around the world, and (iii) bearing always in mind the cultural challenges (showing the context where crimes were committed). The discussions brought forward as well the need for political support in order to develop specialised units with adequate resources and the need for training of dedicated staff offered by States with experience, the Genocide Network or international accountability bodies.

From a global perspective, panellists indicated that Europe's efforts are being recognised and that strategies put in place are remarkable and should be replicated in other regions as well. Developing the law and building confidence in war crimes prosecutors and investigators as well as opening structural investigations closes the space for impunity and removes the privilege of anonymity that some of the perpetrators think they enjoy.

In terms of engagement with civil society organisations, over the last decade law enforcement and prosecutors showed increasing trust in specialised NGOs and journalists as they are most of the times first responders on the crime scene. The online tools developed by civil society in support of the accountability efforts are also widely used and recognised.

Finally, closing remarks for the event, delivered by **Mr Matevz Pezdirc**, Head of the Genocide Network Secretariat, stressed again that the fight against impunity cannot be sustained without the adoption of appropriate legislation, both by having crimes criminalised in the national legislation and by making use of universal jurisdiction provisions. It is also of high importance to have specialised staff or dedicated staff within specialised units who know how to work within the complex environment of international law and its interplay with national law. It is as well critical to have resources available to investigate and prosecute these crimes, which is only viable in presence of a long-term commitment at governmental and parliamentary levels. Another factor is coordination and cooperation between national authorities and international bodies on sharing of expertise and experience. Finally yet importantly, a coherent international justice ecosystem necessarily entails close cooperation with local, regional and international civil society organisations. All these are vital factors that enable practitioners to successfully fight against and deliver justice to victims.



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