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From:	General Secretariat of the Council
To:	Delegations
Subject:	Conclusions of the 35th meeting of the Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Eurojust, The Hague, 16-17 April 2024)

Delegations will find attached the above-mentioned conclusions, transmitted by the Genocide Network Secretariat (Eurojust) for their information.

Conclusions of the 35th Meeting of the Network for Investigation and Prosecution of Genocide, Crimes against Humanity and War Crimes

The Hague
16–17 April 2024

1. The Belgian Presidency of the Council of the European Union and the European Network of Contact Points for the investigation and prosecution of genocide, crimes against humanity and war crimes (hereinafter referred to as the 'Network') underlined the relevance of the Network as a forum for practitioners to exchange information, facilitate cooperation and enhance national investigations and prosecutions for the crime of genocide, crimes against humanity and war crimes ('core international crimes').
2. The Network members expressed their gratitude towards the Belgian Presidency of the Council and the Network Secretariat for organising the meeting, allowing hands-on operational exchanges and discussions between practitioners. They appreciated the commitment demonstrated by all participants, with approximately 150 contact points of the Network attending the meeting in person on the Eurojust premises in The Hague, Netherlands.
3. In addition, the Network members welcomed a representative from the Australian Federal Police, who was invited as a guest on this occasion and delivered updates on Australia's recent efforts in investigating and prosecuting core international crimes.
4. The Network members expressed great distress regarding the approaching closure of the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL, raising pertinent questions about the fate of its evidentiary holdings and their accessibility to national authorities post-closure. The pivotal issue at hand revolves around ensuring the continuity of access to this evidence, vital for ongoing investigations to bring justice to victims of ISIL crimes and to hold perpetrators – foreign terrorist fighters – accountable for the crimes committed.
5. The main part of the meeting was dedicated to the topic of witness protection and support in core international crimes and universal jurisdiction cases before national jurisdictions. In the opening of the meeting, the Network members welcomed key considerations and specific challenges of witness protection in core international crimes and universal jurisdiction cases. International tribunals and domestic prosecutions face different challenges in dealing with risks for witnesses and protective measures.

6. The Network members reaffirmed that core international crimes cases are highly complex and unconventional, due to factors including state actors as a threat element, complex fact patterns, the magnitude of perpetrators and a lack of security in the countries where the crimes occurred. Consequently, witness protection also brings unprecedented challenges which remain outside of the conventional frameworks at the national level. Additionally, social media, language barriers and cultural differences further complicate the protection efforts.

7. The Network members discussed strategies to address these challenges, which require a multifaceted approach, including intra- and inter-state collaboration, the issuance of travel documents and the establishment of national protection programmes tailored to the needs of high-risk witnesses. The effectiveness of witness protection centres in navigating a complex web of legal, logistical and political considerations while prioritising the safety and well-being of witnesses is crucial to the pursuit of justice.

8. The Network members acknowledged that at the national level, the level of protection encompasses wide sets of measures: from non-disclosure of personal data, covering the protected witness's face and the exclusion of the public from the courtroom and closed hearings; to specific systems put in place with particular focus on core international crimes and terrorism proceedings, such as partial or total anonymity of the protected witness. In some jurisdictions protective measures are not restricted only to witnesses; translators and defendants may also file a request for protective measures. Additional applicable measures do not relate to classic witness protection but to a broader range of activities to ensure support for witnesses.

9. The Network members identified, as a critical issue, the fact that many of the witnesses residing in Europe request anonymity not for the purpose of their own safety but to prevent retaliation against their family members who reside in conflict areas or under oppressive regimes. Anonymous statements are therefore often used in cases of core international crimes. However, practitioners expressed concern over these statements, as their probative value decreases at trial proceedings. Nonetheless, Network members stressed that the dignity, well-being and safety of witnesses or their relatives are always the priority concerns for investigative and prosecuting authorities.

10. The Network members also expressed serious concerns in relation to the protection of insider witnesses, as EU Member States have diverse approaches and legal traditions in this matter. In many jurisdictions, anonymity for insider witnesses who were involved in the commission of crimes cannot be granted. The Network members concluded that adaptations to national legal frameworks could be considered to tackle these issues, taking into account that evidence provided by insider witnesses is often essential in securing convictions for core international crimes.

11. The Network members further noted that relocating witnesses presents significant challenges due to lengthy and high-cost relocation procedures, the need to obtain agreement from multiple domestic stakeholders, the psychological impact on witnesses and their families and the logistical difficulties in maintaining contact with their relatives.

12. The Network members welcomed information on the provisions dedicated to witness protection in the new Ljubljana – The Hague Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity, War Crimes and other International Crimes. The Network members were pleased to learn that 33 states have already signed the convention, which remains open for signature until 14 February 2025 in Brussels.

13. Further, the Network members followed with great interest the success achieved by the Belgian Prosecution Service on the conviction of five high-ranking Guatemalan government officials for crimes against humanity committed between 1978 and 1982 in Guatemala. In relation to witness protection, some witnesses refused to testify, while others did so via videoconference. In addition, alternate flight routes avoiding direct travel to Belgium were chosen to avoid any suspicion. Finally, the names of the witnesses were left out in the final public judgement, mentioning only their initials.

14. The Network members welcomed the intervention of the Ukrainian Liaison Prosecutor at Eurojust and commended as a best practice the recent creation of a Victims and Witnesses Coordination Center in Ukraine (the premises opened in January 2024) and the efforts on establishing a unified register of victims and survivors of international crimes. The plenary was particularly appreciative of the Center's fundamental mission to ensure that survivors feel protected, respected and informed about their rights and available services, are provided with up-to-date information about the cases they are involved in and receive counselling to prevent re-victimisation.

15. The Network members welcomed the contribution of the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel ('Commission'). The plenary took note of the Commission's mandate to investigate all alleged violations of international humanitarian and human rights law, and the possibility for national authorities to access information intended for use in legal proceedings upon request. The Commission also reported on the catastrophic humanitarian crisis in the current conflict in Gaza.

16. The Network members were also introduced to the newly launched Iranian Archive project, aiming to preserve open-source digital information related to the violent crackdowns and alleged core international crimes against civilians during the nationwide

protests in the Islamic Republic of Iran. Furthermore, the Network members greatly welcomed the presentation by the UN Independent International Fact-Finding Mission on the Islamic Republic of Iran, reporting on its findings, accountability and engagement and sharing recommendations on universal jurisdiction avenues to address human rights violations and alleged core international crimes.

17. The Network members welcomed the remarks of several representatives of civil society organisations (CSOs) who highlighted the importance of cooperation between national authorities and CSOs. The CSO representatives elaborated on the challenges witnesses encounter in legal proceedings, highlighting the unavailability of support services before or after the time of testimony and trial. The plenary acknowledged that language barriers present a significant hurdle during this process, as legal procedures regarding witness protection are often in different languages, depending on the country in which the proceedings take place.

18. The Network members expressed their appreciation for the accomplishments of the Secretariat, in particular with regard to past activities focusing on the theme of cumulative prosecutions, support for national authorities in the context of the conflict in Ukraine and general awareness raising, capacity building and outreach activities.

19. The Network members discussed the management of the Network during the Restricted session, specifically the membership of the Steering Board, according to paragraph 5.2 of the Guidelines on the Functioning of the Network. The Network members reiterated the decision obtained via written procedure to renew the membership of Mr Gérard Dive (Belgium), Mr Jean-Pierre Chemaly (France), Ms Duscha Gmel (Germany), and Ms Hanna Lemoine (Sweden), and confirmed nomination of Ms Mirjam Blom (the Netherlands). Thus, the Steering Board continues to represent the Network's composition of prosecutors, law enforcement and judicial cooperation officers, alongside with the representatives of the trio Presidency. The Steering Board members have been appointed for a new term of 2 years, until 16 April 2026.

20. Finally, the Network members and Observer States recognised the value of discussing ongoing investigations and sharing experiences and best practices during the closed sessions. The closed sessions are essential in providing a confidential environment for the exchange of information on ongoing proceedings.