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**NOTE**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Presentation/information by the Genocide Network  
- Conclusions of the 29th Genocide Network meeting

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Delegations will find in Annex the Conclusions of the 29th meeting of the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes ('Genocide Network').

## **Conclusions of the 29<sup>th</sup> meeting of the Network for investigation and prosecution of genocide, crimes against humanity and war crimes**

### *Via videoconference, 24-25 March 2021*

1. The Portuguese Presidency of the Council of the EU 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’) reiterated the importance of 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 (also referred to as ‘core international crimes’).
2. The Network members noted the continued challenges in organising the 29<sup>th</sup> Network meeting due to the persistent restrictions caused by the COVID-19 pandemic, and expressed their gratitude for making the event possible in an online format with Eurojust’s video conference system.
3. The Network members welcomed the UN Investigative Team to Promote Accountability for Crimes Committed by Da’esh/Islamic State in Iraq and the Levant (UNITAD), participating to the Network meeting for the first time under the Associate status.
4. The Network members expressed their appreciation for the focus of the open session on steps towards accountability for core international crimes committed in the Syrian Arab Republic (‘Syria’) and specifically the use of chemical weapons. The presentations highlighted the varied resources available to national jurisdictions in support of investigation and prosecution of those crimes, as well as the first conviction recently secured in Germany in relation to core international crimes (crime against humanity) committed in Syria by the Syrian regime.

5. The Network members observed with great interest presentations relating to the qualification of the use of chemical weapons as a war crime and potentially a crime against humanity under international law, and the role of the Organisation for the Prohibition of Chemical Weapons (OPCW) regarding prevention and response to the use of chemical weapons. The Network members took note of the work undertaken by the OPCW's Investigation and Identification Team to identify, on a factual basis, the perpetrators of chemical attacks in Syria. The Network members observed the ongoing cooperation between the OPCW and the UN International, Impartial and Independent Mechanism for Syria (IIIM) with the objective to share relevant information for future prosecution. The Network members stressed the importance of strong cooperation between organisations collecting information on the use of chemical weapons, such as OPCW and IIIM, and national judicial authorities.

6. The Network members expressed their appreciation of presentations made by the Global Public Policy Institute, the Syrian Center for Media and Freedom of Expression, Syrian Archive and Open Society Justice Initiative on their strategies for obtaining and analysing information on chemical attacks in Syria. The use of datasets and pattern analysis was presented to the Network members as a useful tool to identify trends, chemical used (sarin or chlorine), persons or entities responsible, and potential strategic motives behind attacks against the civilian population. Victims associations supported by civil society gather a high number of potential witnesses who can document the use of chemical weapons. Multiple sources of information, including open source videos and photos, are being digitally archived and preserved for future use. The Network members recognised the active, complementary role that civil society organisations can play in this context. They took note with particular interest of the recent criminal complaints filed by three NGOs, on behalf of victims of chemical attacks, before national authorities in Germany and France. Further, the Network members noted with concern the potential security threats faced by witnesses testifying in ongoing trials and their families, and stressed the need to ensure their protection.

7. The Network members were grateful for the presentation of the IIIM on the execution of its mandate (evidence collection, evidence review and characterisation of offences) and cooperation frameworks with existing organisations, supporting work on accountability for the use of chemical weapons in Syria. They stressed again the importance of information sharing and close cooperation with the IIIM given the complex nature of chemical weapons use in Syria.

8. The Network members learned with great interest about initiatives taken by the International Partnership against Impunity for the Use of Chemical Weapons, a cooperation forum uniting the EU and 40 states, to promote awareness and support accountability for the use of chemical weapons in Syria at the diplomatic level.

9. The Network members were highly appreciative of the overview of ongoing cases and trials provided by the German authorities. One of the presented cases related to the non-applicability of functional immunity for foreign state officials before domestic courts. The decision of the Federal Court of Justice in Germany determined that foreign state officials do not enjoy functional immunity for committing core international crimes. Further, the Network members greeted the detailed presentation of proceedings leading to the first conviction, in the EU, of a member of Syrian intelligence services for aiding and abetting crimes against humanity, including torture and arbitrary deprivation of liberty. The decision of the Court in Koblenz determined that the Syrian regime committed crimes against humanity against Syrian civilians.

10. The Network members took note of the presentation of civil society organisations regarding their ongoing work and projects. The Network acknowledged the critical support provided by NGOs to national authorities in fighting impunity for core international crimes and ensuring justice for victims. In particular, the Network expressed its appreciation for the presentation of the International Accountability Platform for Belarus (IAPB), a consortium of independent Belarusian and international human rights organisations aiming to collect evidence of alleged grave human rights violations, including torture, committed by Belarusian authorities in the context surrounding the 2020 presidential election. The IAPB was launched on 25 March 2021 and is steered by DIGNITY, Human Rights Center Viasna, International Committee for the Investigation of Torture in Belarus, and Redress.

11. The Network members took note of the update on the Secretariat's activities and administrative matters. The members of the Network voiced their appreciation for the Secretariat's dedication and its continued successful activities to raise awareness and improve support for the fight against impunity on national and international levels.

12. The Network members expressed their appreciation for the update on the *Initiative for a new Treaty on Mutual Legal Assistance and Extradition* for domestic prosecution of the most serious international crimes. They noted that a *Draft Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes against Humanity, and War Crimes* ('Draft Convention') would be circulated in the coming weeks. They also welcomed information on the dates of informal consultations on Parts 1-4 of the Draft Convention scheduled on 22 and 23 June 2021, as well as informal consultations on the remaining Parts of the Draft Convention planned on 19 and 20 October 2021, to take place via electronic means. The Network members noted that the diplomatic conference was postponed to the first half of 2022. The Network encouraged all members to participate in this important process for the fight against impunity for the crime of genocide, crimes against humanity and war crimes.

13. The members of the Network reiterated the need for a regular meeting of the Network per EU Presidency, according to the legal basis, with an open and closed session. The Network members and observer states acknowledged the value of discussing ongoing investigations and sharing experience and best practices during the closed session. The closed sessions are essential in establishing a confidential environment for the exchange of information on current proceedings and, if appropriate, requests for extradition pertinent to the work of the Network. In addition, the Network members emphasized the necessity to facilitate additional *ad hoc* operational meetings on specific situations or cases, such as the recent workshop on cooperation and extradition to Rwanda. In this manner, the Network could increase operational cooperation with a view to advancing cases for coordination meetings at Eurojust or even joint investigation teams.

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