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Subject:	Report of the EU Day against impunity of genocide, crimes against humanity and war crimes (23 May 2016, Eurojust, The Hague)

Delegations will find in the annex the report of the EU Day against impunity of genocide, crimes against humanity and war crimes.

**Presidency report of the EU Day against impunity of genocide,
crimes against humanity and war crimes**

I) Introduction

On 23 May 2016, representatives of EU Member States, the European Commission, the General Secretariat of the Council, EU agencies, international tribunals, NGO's, journalists, academics, and international organisations took part in the first annual EU Day against impunity of core international crimes.

The event was organised by the Netherlands' Presidency of the Council of the European Union, in cooperation with the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (the 'Genocide Network') Eurojust and the European Commission.

The annual EU Day against impunity's goal is to raise awareness of the most heinous crimes of genocide, crimes against humanity and war crimes. Moreover it is intended to promote national investigations and prosecutions, to appropriately recognise the common efforts of the EU Member States and the European Union in enforcing international criminal law, to address the position and participation of victims in criminal proceedings for these crimes and to reinvigorate Europe-wide commitment for the continuing fight against impunity of these crimes.

With this initiative, the Netherlands' Presidency implements one of the measures recommended in the Strategy of the Genocide Network to combat impunity for the crime of genocide, crimes against humanity and war crimes within the European Union.

On 30 October 2014, this Strategy was formally adopted by the Genocide Network. This Strategy was endorsed in the Council Conclusions by the Justice and Home Affairs Ministers on 15-16 June 2015.

II) Programme

The conference was opened by the President of Eurojust and host of the event, Ms. Michèle Coninsx. The Dutch Minister of Security and Justice, Mr Ard van der Steur held a speech on the importance of national prosecution of core international crimes. A video message of Ms. Věra Jourová, Commissioner for Justice, Consumers and Gender Equality was presented during the event, in which the Commissioner put this event into the historical European context and stressed the importance of legal cooperation and preservation of victims' rights in the fight against impunity. After the speeches a press moment was organised.

The press moment was followed by a panel discussion with the theme “National jurisdictions in the front line of fighting impunity – Lessons learned, contemporary and future challenges”. The panel discussion was introduced by three case presentations on the investigation of core international crimes in the EU Member States. The discussion highlighted the efforts, challenges and necessary improvements of national jurisdictions to fight in the front line against impunity. The panel was comprised of representatives from the International Criminal Court, an NGO, the Dutch parliament, academia, and the Belgian Ministry of Justice.

III) Conclusions

- The Netherlands’ Presidency, together with the Genocide Network, has drawn the following conclusions from the panel discussion:
National jurisdictions are in the front line of fighting impunity of core international crimes. The EU Member States consider this as an obligation under international law.

- The ICC’s jurisdiction is based on the principle of complementarity. Due to its focus on higher ranking persons responsible for the most serious crimes of international concern, the ICC has only limited capacities to investigate and prosecute all situations and all perpetrators. In addition, the ICC has scarce financial and human resources to carry out its mandate.

- Effective investigations and prosecutions of core international crimes must be ensured by measures taken at national level. Thus States carry primary responsibility of combating impunity for core international crimes themselves. If States are unwilling or unable to take measures, the ICC becomes involved.
- Due to their factual and legal complexity, investigations and prosecutions of core international crimes are extremely challenging in terms of nature and scale. The number of people involved, the remoteness of crime scenes in instable states, legal cooperation with states that may not be willing to cooperate internationally, logistical and financial implications, safety concerns regarding personnel and witnesses, application of both national and international law and participation of victims are some examples of these challenges.
- Specialisation at all levels of proceedings related to core international crimes (immigration, law enforcement, prosecution, and judiciary) is necessary to handle the specific challenges in the often complex investigations and prosecutions of these crimes. Appropriate training is required at the EU level to ensure national authorities are equally equipped to combat impunity.
- Only a minority of EU Member States have set up specialized units to investigate and prosecute this crime area. Nevertheless, the situation of today, with armed conflicts at the EU borders, shows that further improvements are needed to ensure effective national prosecutions of serious international crimes.
- Efficient instruments for judicial cooperation are necessary. The presentations by the prosecutors during the EU Day against impunity have demonstrated that international cooperation, with EU Member and third States (but also with , international tribunals, international organisations and NGO's), is crucial. For this reason, the initiative of the Netherlands, Belgium, Slovenia and Argentina for an agreement on mutual legal assistance and extradition for core crimes is highly appreciated and should be supported by all EU Member States.

- The challenges of EU Member States to investigate and prosecute the most heinous crime of genocide, crimes against humanity and war crimes are globally recognised as an important contribution to the worldwide fight against impunity.
- Supporting, informing and protecting victims and witnesses is a crucial aspect of criminal proceedings relating to core international crimes. Cooperation with civil society in this regard is essential. Financial compensation (e.g. damages for pain and suffering, restitution of property, reconciliatory payments/lump-sums) of victims has been stressed as an important aspect, apart from criminal responsibility of the perpetrators. Discussions have shown that legal representation of victims, victim participation during the trial and financial compensation for victims are fundamental and remain a challenge.
- Core international crimes are regularly linked with other serious crimes, such as migrant smuggling, trafficking in human beings, drug trafficking, illegal trade of natural resources, counterfeiting of documents, fraud, money laundering and other offences within organised crime structures. These associated crimes seem to often finance the parties of an armed conflict. Core international crimes are thus not isolated phenomena but have to be seen in a wider context. It is essential to ensure and improve exchange of information and cooperation between designated services at national level as well as at international level. In this respect, extending the mandate of Europol and Eurojust to genocide, crimes against humanity and war crimes is an important step towards further improving the exchange of information and cooperation between EU Member States.
- Further engagement of national parliaments and the European Parliament is envisaged as well as involvement of all EU institutions to ensure awareness raising among citizens and decision makers, as well as the necessary financial support and legal framework.

IV) EU Day against impunity of genocide, crimes against humanity and war crimes in 2017

The second annual EU Day against impunity of genocide, crimes against humanity and war crimes will be organised on or around 23 May 2017, by the Maltese Presidency of the Council of the European Union in cooperation with the European Genocide Network, Eurojust and the European Commission.
