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Delegations will find in the annex the report of the EU Day against impunity of genocide, crimes against humanity and war crimes on 23 May 2017 in Brussels.

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

I) Introduction

On 23 May 2017, representatives of Member States, the Commission, EU agencies, international tribunals, NGO's, academics, and international organisations took part in the second annual EU Day against impunity for core international crimes.

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

II) Programme

The conference was opened by the Permanent Representative of Malta to the EU and host of the event, Ambassador Marlene Bonnici. A short introductory movie was presented during the event. This movie highlighted the need to give a voice to the victims of genocide, crimes against humanity and war crimes, as well as the importance of cooperation and mutual assistance between Member States and EU institutions in order to “provide for accountability and ensure that the EU does not serve as a safe haven for the most heinous crimes.” The Commissioner for Justice, Consumers and Gender Equality, Ms. Věra Jourová held a speech in which she reaffirmed the support of the EU for the actions of national authorities related to the investigation and prosecution of core international crimes. The Commissioner also underlined the importance of the work of the Genocide Network to ensure the success of this type of trials. The President of Eurojust, Ms. Michèle Coninx, affirmed the benefit of solid international judicial cooperation and the existence of the Genocide Network in order to bring perpetrators to face justice. Due to unforeseen circumstances, the Maltese Minister for Justice, Culture and Local Government, H.E. Owen Bonnici, could not attend the conference. However, on behalf of the Minister, the Permanent Representative of Malta to the EU insisted on the need to hold perpetrators of core international crimes accountable and to remember all victims of these crimes.

The introductory speeches were followed by a panel discussion with the theme “National jurisdictions in the front line of fighting impunity – stepping up collective action and cooperation within the European Union”. The panel discussion was introduced by a war crime case presentation by a public prosecutor of the International Prosecution Office in Stockholm. The panellists emphasised the importance to foster mutual legal assistance and cooperation in order to facilitate and support the work of national jurisdictions which are in the front line to fight against impunity. The panel was composed of representatives from the International Criminal Tribunal for the former Yugoslavia (ICTY), Europol, national jurisdictions and Human Rights Watch.

III) Conclusions

The Maltese Presidency of the Council of the EU, together with the Genocide Network, have drawn the following conclusions from the panel discussion:

- The panellist underlined the EU's continuous support for the fight against impunity of perpetrators of international crimes. The effectiveness of international criminal justice depends on the support given by such strong stakeholders on the international scene.
- Despite the unprecedented scale on which crimes have been perpetrated in the Balkans during the 1990s, the ICTY has persistently observed its commitment to guarantee fair trial and due process for all 161 individuals who have been indicted. Fair trial and due process are also at the core of each case related to international crimes that is dealt with by domestic jurisdictions. Guaranteeing fair trial and due process makes international justice stand apart from the perpetrators. Fair trial and due process at the international level also increase the credibility of international courts and tribunals, which fosters state cooperation.
- The ICTY has a tremendous legacy with respect to the establishment of international criminal proceedings. As a unique institution and a pioneer in this particular field, the ICTY has made a number of lasting contributions to international justice and has expanded the boundaries of international humanitarian and international criminal law, both in terms of substance and procedure.
- The panellists underlined that people are the heart of every case related to core international crimes. Therefore, they acknowledged that outreach programmes are necessary in order to report the legitimacy of each judgment pronounced by domestic or international courts to the very same countries where the crimes have been committed.

- The panellists welcomed the new Europol Regulation¹ including genocide, crimes against humanity and war crimes to Europol's scope of competence. With the new Europol Regulation, practitioners can benefit from further tools and assistance in the context of investigations and prosecutions. In this way, Europol provides for operational and strategic analysis of data in order to identify specific links between crimes as well as patterns of criminality. Europol's new analysis project has the potential to simplify and encourage collective action and cooperation within the EU in the field of core international crimes.
- The presentations made by the national prosecutors during the EU Day against impunity have demonstrated that membership of the Genocide Network is a real asset for practitioners at the domestic level. The Genocide Network enables them to easily contact their counterparts in other Member States and obtain information about similar cases that have already been investigated or tried.
- The presentations made by the prosecutors also emphasised that cases related to core international crimes generate large numbers of mutual legal assistance (MLA) requests for evidence and legal advice. Cooperation and negotiations with some countries can sometimes be a challenging process.

¹ Regulation 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.

- The panellists observed that the current situation in Syria and Iraq goes beyond the cornerstone of the existing system of international criminal justice given the hindrance of the UN Security Council, which prevents the referral of the situation to the International Criminal Court. This obstruction gives rise to a situation of impunity and puts domestic jurisdictions in the front line to deal with the serious crimes that have been and are still being committed. With this in mind, the universal jurisdiction of national authorities with respect to core international crimes can be considered as a “safety net” in the fight against impunity.

- The creation of specialised units in more States for both investigative authorities and prosecution divisions is conducive to increasing the efficiency of the collective action and cooperation within the EU with respect to core international crimes.

- Cases related to genocide, crimes against humanity and war crimes are time-consuming and complex in essence. The panellists, therefore, stressed the need for further support from the national governments and international organisations with respect to both financial and logistical needs arising from such cases.

- The panellists all recognised the added-value of the Genocide Network in the fight against impunity for core international crimes and called for EU institutions to foster support and funding for the Network.

IV) EU Day against impunity of genocide, crimes against humanity and war crimes in 2018

The EU Day against impunity is planned as an annual event. The third annual EU Day against impunity of genocide, crimes against humanity and war crimes is foreseen to be organised on 23 May 2018, by the Bulgarian Presidency of the Council of the EU in cooperation with the EU Genocide Network, Eurojust and the Commission.
