



Council of the
European Union

Brussels, 12 June 2019
(OR. en)

9981/19

COPEN 255
EUROJUST 117
ENFOPOL 287
COHOM 70

NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Presentation/information by the Genocide Network
- 4th EU Day Against Impunity

Delegations will find in Annex the report of the 4th EU Day Against Impunity of genocide, crime against humanity and war crimes.

Presidency report of the 4th EU Day Against Impunity of genocide, crime against humanity and war crimes

I) Introduction

On 23 May 2019, the fourth EU Day Against Impunity took place at the premises of Eurojust.

The event was organised by the Romanian Presidency in cooperation with the European Commission, the Network for investigation and prosecution of genocide, crimes against humanity and war crimes and Eurojust, hosting this year's event.

Approximately 150 participants attended the event, representing EU Member States, EU agencies, the European Commission, the International Criminal Court (ICC), the diplomatic community, academia, international criminal tribunals and civil society.

The objective of the annual EU Day Against impunity is to raise awareness of the most heinous crimes of genocide, crimes against humanity and war crimes. Moreover, the aim of the event is to promote national investigations and prosecutions, and to appropriately recognize the common efforts of the Members States and the European Union in enforcing international criminal law. This day further provides the opportunity to address the position and participation of victims in criminal proceedings for these crimes and to reinvigorate the European-wide commitment to continue fighting against impunity of perpetrators of these crimes.

This year's EU Day Against impunity focused on the relevance of joining forces in the fight against impunity, more precisely, on providing synergies between external and internal European dimensions in regard of fighting impunity.

II) Programme

Mr Ladislav Hamran, President of Eurojust and host of the event, welcomed participants and immediately highlighted the need of EU Member States to cooperate closely in the investigation and prosecution of core international crimes. He stressed that Member States need to step up and take their share of responsibility to ensure that the EU will not become a safe haven for perpetrators of these heinous crimes. Mr Hamran's speech was followed by the opening speech of Ms Ana Birchall, Deputy Prime Minister for Romania's Strategic Partnerships Implementation and interim Minister of Justice, delivered by Mr Lorin Ovidiu Hagimă, Director of the Department of European Affairs and Human Rights in the Romanian Ministry of Justice. In the opening speech, the speaker emphasized the commitment of the European Union in fighting impunity. She further reminded the audience of the need of Member States to enhance cooperation in order to ensure a sound system of international justice and to hold those, responsible for having committed the most serious offences possible, accountable.

Following key note speeches were provided by Mr Ferdinand Grapperhaus, the Minister of Justice and Security of the Netherlands; the EU Commissioner for Justice, Consumers and Gender Equality Ms Vera Jourová and Ms Fatou Bensouda, Chief Prosecutor of the ICC.

Mr Grapperhaus underlined the importance of having proper tools in place that allow for the effective investigation and prosecution of core international crimes. In this respect, he made reference to the MLA Initiative working on the creation of a new Multilateral Treaty for Mutual Legal Assistance and Extradition for Domestic Prosecution of the Most Serious International Crimes. Moreover, he revealed the concrete endeavour of the Dutch cabinet to initiate a ministerial meeting at the next General Assembly on the prosecution of ISIS perpetrators of mass atrocity crimes. The aim would be to bring ISIS perpetrators to justice in the very region where these crimes have been committed and under the jurisdiction of an *ad hoc* or hybrid international criminal tribunal. Ms Jourová's speech was delivered in form of a video message 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. Finally, the ICC Prosecutor, Ms Bensouda pointed out the support of the European Union provided to the ICC and the EU's endeavour to work towards ending impunity. She further provided insight in her Office's new draft Strategic Plan for 2019 to 2021 by elaborating on various important goals of this Plan. Prosecutor Bensouda concluded her speech by urging the EU and its Member States to show disapproval in times of deliberate attempts to undermine the Courts credibility and attacks against the values and goals of the Rome Statute.

Following the introductory speeches, a panel members addressed the topic of “Joining forces in the fight against impunity – providing synergies between external and internal European dimensions”. The panel was composed of the Ambassador Mika Markus Leinonen of the European External Action Service (EEAS), Judge Iulia Motoc of the European Court for Human Rights, Prosecutor Nicole Vogelenzang from the International Crimes Unit located within the Prosecution Office of the Netherlands, Ms Olympia Bekou representing academia, and Ms Virginia Amato, Regional Coordinator at the Coalition for the ICC.

III) Conclusions

The Romanian Presidency of the Council of the EU has drawn the following conclusions from the panel discussion:

- The panellists underlined the efforts of the EU and its EU Member States in the fight against impunity and the EU’s crucial support to the Rome Statute and the ICC. The fight against impunity is of great priority to the EU’s foreign policy and policy in the area of justice and home affairs. EU and its Member States have been the firmest supporters of international criminal justice. With Eurojust and Europol, both having extended their competencies to incorporate core international crimes, and the Genocide Network, the EU demonstrates serious commitment to enforce accountability for perpetrators of genocide, crimes against humanity and war crimes. The panellists acknowledged activities of the EEAS in ensuring the global fight against impunity and further welcomed the extension of the mandate of the new EU Special Representative for Human Rights in the area of international criminal justice and international humanitarian law.

- Synergies between EU’s external actions and the internal European dimension have to be ensured for a consistent and coherent approach between external and internal stakeholders. The EU has policy framework in place regarding the fight against impunity, it has promoted the universal ratification of the Rome Statute, remains one of the largest financial supporters of institutions and mechanisms promoting accountability and has strived to advance the principle of complementarity *inter alia* with its “2013 Complementary Toolkit”.

- The panellist stressed that all states have obligation to fight impunity. For this reason it is of paramount importance to support justice and accountability in non EU countries, in particular in those that have experienced atrocity crimes and lack capacity to ensure accountability. We can assist non EU countries by developing their capacity and in this manner ensure they are able to conduct their own national investigations and prosecutions. Non EU countries, developing their national capacity to prosecute international crimes, can greatly benefit from best practices, experiences and expertise of EU Member States national authorities. In this respect it is necessary to connect activities, such as technical and financial assistance, with national authorities of EU Member States, Eurojust and the Genocide Network. Moreover, the panellist emphasized that outreach to affected communities and victims in situation countries are essential, a step that can be jointly provided by national authorities of the EU Member States and EU foreign policy actions.

- All Member States have ratified the Rome Statute, but the ICC remains complementary to the national system of criminal law. Every State is still obliged to investigate and prosecute persons responsible for the crime of genocide, crimes against humanity and war crimes. Therefore, Member States should ensure that they have the necessary legal and institutional framework in place in order to effectively investigate and prosecute suspects of international crimes, including providing universal jurisdiction over these crimes. Universal jurisdiction is of utmost importance to enable national prosecutions of perpetrators of core international crimes regardless of their nationality. Essential in the fight against impunity are further specialized war crimes units dealing exclusively with international crimes on all national levels, meaning, on immigration, law enforcement and judicial level. A number of Member States have already set up such specialized units and these example countries show that the existence of such units furthers investigations and prosecutions of perpetrators of core international crimes. Countries without specialized or dedicated war crimes units risk providing a safe haven for perpetrators of these crimes.

- The panellists highlighted that it is crucial that the issue of fighting impunity of core international crimes remains high on the political agenda of the EU. The EU's political support for national prosecutions, the ICC, and newer mechanisms such as the International, Impartial and Independent Mechanism for the Syrian Arab Republic (IIIM), is significant for ending impunity. An annual debate in the Council of the EU and in the European Parliament on the fight against impunity and regular Council Conclusions would assist in building political will in this regards. Consequently, the EEAS can respond with more capacity on the topic of accountability for core international crimes within its services.
-