2017 training programme on the prosecution of core international crimes in the context of Europe’s refugee crisis

In November 2017, the EJTN and the Genocide Network together with the International Nuremberg Principles Academy co-organised a training programme in Nuremberg, which focused on the prosecution of core international crimes in the context of Europe’s refugee crisis.

The learning outcomes of this training include the following:
- an improved understanding of substantive international criminal law, as well as of the most relevant international and national jurisprudence therein;
- an advanced understanding of criminal liability in this field;
- knowledge of the practical issues related to building a case on core international crimes and of the ensuing evidentiary challenges; and
- practical knowledge of the instruments of judicial cooperation within the EU and of the applicable international treaties.

This three-day training allowed the participants to learn more about the investigative approaches of their colleagues within the European Union, and served as a platform for the exchange of best practice on the prosecution of cross-border cases. This training included lectures delivered by experienced judges or prosecutors as well as eminent legal experts combined with workshops and plenary debriefings aimed at improving the participants’ practical skills.
Wednesday, 22 – Friday, 24 November 2017
22-23 November: Nuremberg Park Plaza Hotel, Bahnhofstraße 5, 90402 Nuremberg, Germany
24 November: Courtroom 600, Palace of Justice, Fürther Strasse 110, 0429 Nuremberg, Germany

EJTN- GNS JOINT TRAINING ON EU’S REFUGEE CRISIS AND THE PROSECUTION AND JUDGMENT OF CORE INTERNATIONAL CRIMES

[CR/2017/11]
The learning outcomes of this training include (a) an improved understanding of substantive international criminal law, as well as of the most relevant international and national jurisprudence therein, (b) an advanced understanding of criminal liability in this field, (c) knowledge of the practical issues involved in building a case on core international crimes and the ensuing evidentiary challenges, and (c) practical knowledge of the instruments of judicial cooperation within the EU and of the applicable international treaties. This introductory training will combine lectures with workshops and plenary debriefings aimed at improving the participants’ practical skills, pursuant to a ‘learn-by-doing’ methodology. The event will conclude with a moot court session held at Courtroom 600, where participants will take the role of the prosecution, defence or chamber in solving a practical case based on real-facts. This training will provide participants with the opportunity to learn more about the legal systems and investigative approaches of their colleagues in different EU Member States, and will serve as a platform for the exchange of best practices on the management of complex cases. Participants will be assisted by national and international experts in this field.

**DRAFT PROGRAMME**

**TUESDAY, 21 NOVEMBER 2017**
*(OPTIONAL PROGRAMME)*

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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</thead>
<tbody>
<tr>
<td>15.00-18.00</td>
<td>Arrival of the participants</td>
</tr>
<tr>
<td>19.00-21.00</td>
<td>Welcome Dinner at Bratwurstglöcklein <em>(Waffenhof 5; 3 min walking from Park Plaza Hotel – map)</em></td>
</tr>
</tbody>
</table>

**WEDNESDAY, 22 NOVEMBER 2017**
*Venue: Park Plaza Hotel Nuremberg - Bahnhofstraße 5, 90402 Nuremberg, Germany*
*Moderator: Matevž PEZDIRC, Head of the Genocide Network Secretariat, Eurojust*

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>08:30-09:00</td>
<td>Registration of the participants</td>
</tr>
<tr>
<td>09.00-09.15</td>
<td>Welcome and Introduction to the Programme</td>
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<tr>
<td>09.15-09.30</td>
<td>Presentation of the EJTN and Knowledge Assessment Exercise <em>(Turning Technologies)</em></td>
</tr>
<tr>
<td>09.30-10.00</td>
<td>Key Speech: The Refugee Crisis as a Challenge for the Fight against Impunity for Core International Crimes</td>
</tr>
<tr>
<td>10.00-11.00</td>
<td>Introduction to International Humanitarian Law <em>(IHL)</em></td>
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<tr>
<td>11.00-11.30</td>
<td>Coffee Break</td>
</tr>
</tbody>
</table>
| 11.30 – 12.45 | **Substantive International Criminal Law:** *(War Crimes: A case law focused outline)*  
  • Characterisation of international armed conflict and non-International armed conflict  
  • Non-state actors  
  • Protection of civilians  
  • Notion of military objective, dual use objects, principle of proportionality  
  • Prohibited weapons  
  • Offences in an international armed conflict  
  • Offences in a non-international armed conflict                                                                                                                                                                                                                                               |
| 12.45-14.00 | Lunch & ‘food for thought’ *(Short case-study for discussion (War Crimes))*                                                                                                                                                                                                                                                                                |
**14.00 – 14.30**

**Substantive International Criminal Law:**

**War Crimes:** War crimes based on evidence from open sources – Recent development in EU Member States

(TBC) Federal Prosecutor’s Office, Germany

Structure: Presentation of recent national case law. Input from participants on domestic legislation and law practice.

Michelle Jarvis Office of the Prosecutor, International Criminal Tribunal for the Former Yugoslavia (ICTY), The Netherlands

Preparatory work/ reading materials: [Rome Statute](#) and [Elements of Crimes](#);

Structure: References to the main international and national case law. Input from participants on domestic legislation and law practice.

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**14.30 – 15.45**

**Substantive International Criminal Law:**

**Crimes against Humanity and the Crime of Genocide: A case law focused outline**

Michelle Jarvis Office of the Prosecutor, International Criminal Tribunal for the Former Yugoslavia (ICTY), The Netherlands

Preparatory work/ reading materials: [Rome Statute](#) and [Elements of Crimes](#);

Structure: Brief presentation of the principles on circumstances excluding liability in international criminal law, based on selected cases. Input from participants on domestic legislation and practice, as well as on its conformity or lack thereof with the relevant ICL principles.

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**15.45 – 16.15**

Coffee Break

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**16.15-17.30**

**Workshop: Introduction to the Case-Study (Identification of crimes; circumstances and contextual elements)**

3 breakout rooms

Group 1 Michelle Jarvis

Group 2 Ray Murphy

Group 3 TBC / Matevž Pezdirč

Workshop moderators & participants/rapporteurs

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**17.30 – 17.45**

Conclusions of the Workshop and follow-up by the participants / moderators in workshops

Plenary Session

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**17.45 – 18.15**

Round up and End of Day 1

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**18.15 – 19.30**

Official Seminar Dinner (venue TBC – within walking distance of Park Plaza Hotel)

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**THURSDAY, 23 NOVEMBER 2017**

**Venue:** Park Plaza Hotel Nuremberg - Bahnhofstraße 5, 90402 Nuremberg, Germany

**Moderator:** Matevž Pezdirč, Head of the Genocide Network Secretariat, Eurojust

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**08.45-09.00**

Registration of the participants

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**09.00-09.45**

**Specifics of Investigating and Prosecuting Conflict Related Sexual Violence**

Maxine Marcus Transitional Justice Clinic, Institute for International Criminal Investigations (IICI), The Netherlands

Structure: Introduction to the principles of self-perception and the perception by others in foreign cultures; the aims of the judicial process

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**09.45-11.00**

**Substantive International Criminal Law:**

**Modes of Liability and Circumstances Excluding Liability - International and National Perspectives: An International Law Case Law Focused Outline**

- General remarks concerning the applicability of national legislations
- Command Responsibility
- Justifications and excuses
- Obedience to superior orders
- Duress
- Personal immunity
- Material immunity
- Immunity of special missions
- Other excuses (error in facts and law)

Maxine Marcus Transitional Justice Clinic, Institute for International Criminal Investigations (IICI), The Netherlands

Structure: Brief presentation of the principles on circumstances excluding liability in international criminal law, based on selected cases. Input from participants on domestic legislation and practice, as well as on its conformity or lack thereof with the relevant ICL principles.

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**11.00-11.30**

Coffee Break

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**11.30-13.00**

**Workshop: Analysis of the Case-Study (Modes of Liability)**

3 breakout rooms

Group 1 Michelle Jarvis

Group 2 Maxine Marcus

Group 3 Ray Murphy

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**13.00-13.45**

Lunch

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**14.00-14.45**

**Challenges in dealing with foreign cultures**

- Recognising and analysing intercultural challenges
- Better understanding of cultural differences
- Influencing factors in the criminal process
- Response and integration into the criminal process

Maxine Marcus Transitional Justice Clinic, Institute for International Criminal Investigations (IICI), The Netherlands

Structure: Introduction to the principles of self-perception and the perception by others in foreign cultures; the aims of the judicial process

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**14.45-15.45**

**Evidentiary Challenges in Core International Crime Cases in Domestic Proceedings**

(TBC) Federal Prosecutor’s Office, Germany
### 15.45-16.15
Coffee Break

### 16.15-17.30
**Practical Issues in International Crime Cases**
- Building a case
- Geography, site visits, missions
- Names and spelling, time and dates
- General challenges, preparation, relation to local authorities
- Location of the hearing, setting the hearing room
- Use of psychologist, witness protection, use of interpreter
- Instructions to the witness prior to the questioning
- Challenges during the questioning, language issues
- How to account for the hearing
- Using expert witnesses
- The position of the defense during the hearings

*Maarten VAN DER VLUGT*  
Prosecutor’s Office, International Crimes Unit, The Netherlands

### 17.30
Round-up and End of Day 2

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Guided Tour of Nuremberg’s Rock-Cellar below the Old Town, followed by Dinner (Altstadthof Brewery, Bergstr. 19; 20 min walking from Park Plaza Hotel – [map](#))

### FRIDAY, 24 NOVEMBER 2017

**Venue:** Courtroom 600, Palace of Justice, Fürther Strasse 110, 90429 Nuremberg, Germany

**Moderator:** Matevž PEZDIRC, Head of the Genocide Network Secretariat, Eurojust

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Speaker</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>08.15</td>
<td>Departure of Bus Shuttle from Park Plaza Hotel to the Palace of Justice</td>
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<tr>
<td>09.00</td>
<td><strong>International Cooperation: Mutual Legal Assistance and Extradition within the EU, with non-EU MS and International Courts – Theoretical and Practical Considerations</strong></td>
<td>Christine Gödl, Ministry of Justice, Austria</td>
<td>Structure: Presentation of legal and practical issues of international cooperation. Input from participants on practical experience in this field. EJTN’s trainings on EU judicial cooperation in cross-border criminal cases (MLA and EAW simulations).</td>
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<tr>
<td>09.00</td>
<td>Coffee Break</td>
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<tr>
<td>10.00</td>
<td><strong>Moot Court:</strong></td>
<td>Participants and moderators/speakers</td>
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<tr>
<td>10.30</td>
<td>Moot Court:</td>
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<tr>
<td>10.30</td>
<td>Opening of the session by the Chamber</td>
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<tr>
<td>10.30</td>
<td>Oral arguments by the Prosecution</td>
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<tr>
<td>10.30</td>
<td>Oral arguments by the Defence</td>
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<tr>
<td>10.30</td>
<td>Deliberation by the Chamber</td>
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<tr>
<td>12.00</td>
<td><strong>The Role of the Genocide Network Secretariat (GNS) in Supporting and Assisting Investigations and Prosecutions of Core International Crimes</strong></td>
<td>Matevž PEZDIRC, Head of the Genocide Network Secretariat, Eurojust, The Netherlands</td>
<td></td>
</tr>
<tr>
<td>12.30</td>
<td>Knowledge Assessment, Evaluation and Closing Words</td>
<td>Wojciech Postulski, Brussels</td>
<td>Matevž PEZDIRC, Head of the Genocide Network Secretariat, Eurojust, The Netherlands</td>
</tr>
<tr>
<td>13.00</td>
<td>Departure of participants</td>
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</tbody>
</table>
Optional Visit of the Exhibition ‘Memorium Nuremberg Trials’

The exhibition informs visitors about the background, progression and repercussions of the Nuremberg Trials. Selected historical exhibits such as parts of the original dock, as well as historical audio tapes and films, convey a vivid impression of the trials.

Optional programme for participants with late flights or extending their stay in Nuremberg.

NB: Costs incurred with late departure in order to attend this event will not be reimbursed by the EJTN.

Address: Palace of Justice, Fürther Str. 110

Fee: This visit is kindly offered to EJTN participants by the Nuremberg Academy. Registration required.

Suggested restaurants near the Palace of Justice: Lederer-Kulturbrauerei (Sielstraße 12) and Brauerei Schanzenbräu (Adam-Klein-Str. 27)

LIST OF SPEAKERS

Christine GÖDL Judge, Department of International Law, Federal Ministry of Justice, Austria

Michelle JARVIS Deputy to the Prosecutor, Office of the Prosecutor, International Criminal Tribunal for the Former Yugoslavia (ICTY), The Netherlands

Maxine MARCUS International Prosecutor and Expert in Transformative Justice, Transitional Justice Clinic, Institute for International Criminal Investigations (IICI), The Netherlands

Ray MURPHY Interim Director, Irish Centre for Human Rights, National University of Ireland School of Law, Galway

Matevz PEZDIRC Head of the Genocide Network Secretariat, Eurojust, The Netherlands

Wojciech POSTULSKI Judge, Secretary-General, European Judicial Training Network (EJTN), Brussels

Klaus RACKWITZ Director, International Nuremberg Principles Academy, Germany

Maarten VAN DER VLUGT Prosecutor, Public Prosecutor’s Office, International Crimes Unit, The Netherlands

TBC Federal Prosecutor’s Office, War Crimes Unit, Karlsruhe, Germany