



ICC Assembly of the State Parties, 18 November 2016

Key points of the speech of Ms Michèle Coninx, President of Eurojust on the “Added value of judicial and prosecutorial networks in fighting serious crime”

- Experience shows that genocide, crimes against humanity and war crimes concern all European Union (EU) Member States and that the investigation and prosecution of these crimes requires **close cooperation between states**. A single state is not able to efficiently and successfully prosecute the perpetrators of these heinous crimes. A **common EU justice response is vital** to ensure that the European Union is not a safe haven for criminals. The need for intensified cooperation with third States and partners becomes clear when fighting impunity. The numerous¹ closed and ongoing core international crime cases in EU Member States demonstrate that the fight against impunity is a reality and current challenge faced by national authorities. Nationals of EU Member States can be involved in such cases as perpetrators, victims or witnesses regardless of the geographical location of the crimes.
- **Eurojust** is a unique EU body that was set up in 2002 in the framework of the creation of a European Area of Freedom, Security and Justice. It is the only European Union entity which has been entrusted with stimulating and improving **coordination and cooperation between all judicial actors of the EU Member States**. Our mandate is to facilitate an effective judicial response to serious organised crime with cross-border elements, with the aim of closing impunity gaps and successfully bringing criminals to justice.
- Eurojust is located here in The Hague and **brings together, under the same, roof prosecutors or judges** from all 28 EU Member States and liaison magistrates from Norway, Switzerland and the USA. Eurojust is **an operational body** which promptly responds to **requests for assistance** from national authorities to support their ongoing investigations and prosecutions in criminal cases with a cross-border dimension. Last year alone, Eurojust dealt with more than 2200 cases, was recognised as **instrumental in enabling and speeding up judicial cooperation**, in assisting national efforts to secure convictions and the confiscation of the proceeds of crime. We work on building mutual trust and often bring to the same table national judicial authorities to discuss prosecution strategies, to solve conflicts of jurisdiction, to facilitate the execution of instruments giving effects to the principle of mutual recognition, such as the European Arrest Warrant (EAW), amongst others.
- Within its mandate Eurojust is **competent** to assist EU Member States in fighting **genocide, crimes against humanity and war crimes** as defined in Articles 6, 7 and 8 of the Rome Statute. Experience has shown that the investigation and prosecution of these **core international crimes** has become ever more complex due to the growing **interconnection** of these crimes with other more mundane forms of organised crime. Perpetrators of core international crimes increasingly **rely on already established criminal networks**, for instance, to secure funds, smuggle weapons and travel undetectably between States. Thus, an effective judicial response to this challenge

¹ 1 607 closed and 1 339 ongoing as of 30 November 2014.



requires close cooperation between States and a common effort to tackle at the same time all interconnected crimes. Eurojust fosters and facilitates such cooperation with the aim of countering the impunity of crime.

- The EU established in 2004 a **European Network for investigation and prosecution of genocide, crimes against humanity and war crimes**, to facilitate a close cooperation between the national judicial authorities of EU Member States in this important area. The Network consists of Contact Points at the judicial level designated by each country who meets twice a year. The Network is the **flagship EU initiative** with regards to the Rome Statute of the ICC and can be regarded as the only one of its kind in the world: **a unique permanent forum that brings together prosecutorial authorities from 32 jurisdictions**, all 28 EU Member States and four observers, USA, Canada, Norway and Switzerland. **Eurojust** is proud to have been entrusted with **hosting and supporting** this network. The network cooperates closely with ICC and other international criminal courts and tribunals. We are open to sharing experiences with other regions of the world that are willing to develop such a network.
- The functioning of the network can only be regarded as a **success**. On the one hand, this permanent established network allows practitioners to meet regularly and discuss, exchange knowledge, case-law and best practice and identify solutions to common challenges. On the other hand, the network also has **significant operational added value**, as it allows its members to cooperate and assist each other in investigating and prosecuting persons responsible for core international crimes, ensuring that progress can be achieved much more rapidly. The network has contributed to successful prosecutions of perpetrators of genocide, crimes against humanity, war crime and torture in a number of EU Member States.
- **Its added value and importance in the current security context** cannot be overstated: the current influx of migrants into Europe means that not only victims and witnesses of core international crimes are entering the EU but also the perpetrators of these crimes. We might be confronted with cases where the crimes may have been committed in one state, the victims and witnesses have sought refuge in another state and the perpetrators have fled to a third state. In such cases, one could be successful in prosecuting and bringing criminals to justice only by bringing together all pieces of the puzzle from the different States involved. The assistance of the Genocide Network is invaluable in such operational cases to assure that justice is done, that judicial authorities can exchange information, can consult with one another and coordinate actions. The network does not work in isolation. In the event where judicial cooperation is needed from a State that is not a participant or observer to the Network, the Network members can easily exchange their contacts in non-participating states and use them to ensure that no core international crime goes unpunished.
- To support existing efforts, practitioners have identified concrete measures and recommendations for EU Institutions, EU Member States, and the Network which were compiled and included in the **2014 Strategy of the EU Genocide Network to combat impunity for the crime of genocide, crimes against humanity and war crimes within the EU and its Member States**. This strategy is based upon practitioners' experiences and knowledge, reflecting the lessons learned and best practice of investigators, prosecutors and other experts in this field, as well as the discussions in the Genocide Network over the past twelve years. The measures outlined in the Strategy constitute a



knowledge base that could serve as a set of practical guidelines and tools to consider for the EU and individual EU Member States.

- On 23 May 2016, to help ensure that the EU is no safe haven for perpetrators of atrocious crimes, Eurojust hosted the **first annual EU Day Against Impunity for genocide, crimes against humanity and war crimes** under the Netherlands EU Presidency. The event was organised in cooperation with the European Commission and the Network for investigation and prosecution of genocide, crimes against humanity and war crimes. It was then emphasized that it is primarily the responsibility of states to investigate and prosecute alleged perpetrators of core international crimes. International criminal courts and tribunals are often set up as courts of last resort, and are not able to prosecute ALL violations of international criminal law. This initiative raised awareness, promoted national investigations and prosecutions of these heinous crimes, highlighted the common efforts of the EU Member States and the EU in enforcing international criminal law, addressed the position and participation of victims in criminal proceedings for these crimes and reinvigorated a Europe-wide commitment to the continuing fight against impunity for these crimes.
- As highlighted, judicial and prosecutorial networks are essential cross-border tools to facilitate successful prosecutions and convictions. Eurojust hosts and supports not only the network for investigation and prosecution of genocide, crimes against humanity and war crimes but also **other practitioners' networks** whose work is also instrumental in effectively responding to the complex reality of interconnected crime.
- One of them is the **Network of national experts on joint investigation teams (JITs)** which promotes the use of these key judicial cooperation instruments in serious cross-border crime cases, helps in sharing best practice, and assists practitioners in the EU Member States with legislative, administrative and operational aspects relating to the setting up of JITs. Another one is the **European Judicial Network (EJN)** made up of judicial contact points based in the EU Member States to facilitate international judicial cooperation through direct contact between competent authorities. Eurojust maintains privileged relations with the EJN based on consultation and complementarity.
- Since 2005, Eurojust has facilitated the **networking of specialised counter-terrorism prosecutors** from the EU Member States. Terrorism represents one of the main security threats; therefore this informal network is essential for the timely exchange of information, best practice and data on new trends in terrorism. At Eurojust's request, this network was put on stand-by immediately after the Paris and Brussels attacks. In June 2016, Eurojust brought together the counter-terrorism prosecutors and representatives of ICC to discuss existing links between core crimes and terrorism and identify ways to coordinate actions to efficiently counter them.
- Recently, in June, the Council of the EU requested Eurojust to support the activities of a newly created network, the **European Judicial Cybercrime Network**. This network responds to the borderless nature of cyberspace which poses special challenges for law enforcement and judicial authorities. The network aims to function as a centre of specialised expertise supporting prosecutors and judges dealing with cybercrime, cyber-enabled crime and investigations in cyberspace. The kick-off meeting of the network will take place at Eurojust next week, 24 November 2016 to address technical and legal challenges in relation to encryption and undercover



investigations online. Eurojust has also started to produce a **Judicial Monitor on Cybercrime** to facilitate the exchange of lessons learnt from convictions and legislative developments in this area.

- Our extensive experience at Eurojust has shown that the **functioning of these networks has increased mutual trust, understanding, knowledge and the capacity to effectively investigate, prosecute and adjudicate cases of serious organised crime, including core international crimes**. These networks, whether formal or informal, serve not only to enable **horizontal cooperation**, between the prosecutorial authorities of the Member States, but also **vertical cooperation**, between police and judicial authorities. In this way, Eurojust and the networks it supports **serve as a bridge** between the different levels of actors involved in criminal justice. This **integrated approach** allows for the effective fight against all forms of serious organised crime, including core international crimes.
- A plethora of specialised tools are now at our disposal and we must make use of them in order to tackle core international crimes. Our **aim remains to work towards a coordinated, coherent and truly integrated approach** to combatting these crimes. The **opportunities for synergies** arising from an integrated and all-encompassing approach to judicial cooperation are abundant and essential, as improving the operational framework for combatting core international crime will also inevitably contribute to the fight against other forms of serious organised crime.