

European Commission proposes to reinforce the mandate of Eurojust

To collect evidence of war crimes

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USPA NEWS - The European Commission has proposed to amend the Eurojust Regulation to give the Agency the legal possibility to collect, preserve and share evidence on war crimes. Due to the ongoing conflict, it is difficult to store and preserve evidence securely in Ukraine. To ensure accountability for the crimes committed in Ukraine, said Commission, "it is crucial to ensure safe storage of evidence outside Ukraine as well as to support the investigations and prosecutions by various European and international judicial authorities."

Since March, Eurojust has been supporting an EU joint investigation team looking into the possible war crimes committed in Ukraine. While Eurojust has practical experience on international crimes, the existing Regulation did not envisage a situation of this scale and crimes of this extent, requiring an update in Eurojust's legal base. Vice-President for Values and Transparency Věra Jourová said: "Ukraine's fight is our fight. We must work together to make sure that war criminals are brought to justice. We need to reinforce Eurojust to make sure it has the necessary tools to deal with the scale of atrocities in Ukraine. Europe is determined and we will do what we can to help."

Commissioner for Justice, Didier Reynders, said: "Since the start of the Russian invasion, the world has been witnessing the atrocities committed in Bucha, Kramatorsk and other Ukrainian cities. Those responsible for the war crimes in Ukraine must be held accountable. To this end, we must ensure that evidence is safely preserved, analysed and exchanged with national and international authorities, including the International Criminal Court. Today we propose to empower Eurojust to perform these tasks. Impunity will not be tolerated".

Reinforced mandate for Eurojust

National authorities are already collecting evidence of possible crimes being committed in Ukraine. Due to the ongoing hostilities, evidence cannot be preserved securely in Ukraine. Thus, it is necessary to set up a central back-up storage, where evidence collected by Union agencies and bodies as well as national and international authorities or third parties, such as civil society organisations, could be preserved. While the Eurojust Regulation provides that Eurojust supports Member States' action in investigating and prosecuting serious crime, including core international crimes, it does not provide for Eurojust to preserve such evidence on a more permanent basis, or to analyse and exchange it when necessary, nor to directly cooperate with international judicial authorities, such as the International Criminal Court (ICC).

To allow Eurojust to properly perform its tasks in relation to such crimes, the Commission is proposing to amend the Eurojust Regulation. Once adopted by the co-legislators, the proposal will allow Eurojust to collect, analyse and preserve evidence in relation to core international crimes; process data, such as videos, audio recordings and satellite images, and share such evidence with the relevant national and international authorities, including the International Criminal Court. Sharing of such evidence would only take place when appropriate and in full respect of EU data protection rules. Eurojust will also coordinate and cooperate with Europol in accordance with their respective mandates.

Following the atrocities in Bucha, in Ukraine, President von der Leyen spoke with Ukrainian President Volodymyr Zelenskyy, agreeing to ensure a close cooperation. President von der Leyen tasked Commissioner for Justice, Didier Reynders, to follow-up and support the coordination of the EU efforts to investigate war crimes and crimes against humanity committed in Ukraine. Since then, Commissioner Reynders spoke with the Ukrainian General Prosecutor, Minister of Justice as well as the President of Eurojust to assess the needs on the ground and the support needed.

On 12 April, Commissioner Reynders sent a letter to EU Justice Ministers to call for further coordination at political level on this matter. Following the successful launch of the Freeze and Seize Task Force, the collection of evidence and support of investigations into war crimes is another area where the Commission together with the Member States and partners can take meaningful action. The Commissioner asked Ministers to assist with a list of requests he received from the Ukrainian Prosecutor General. This includes, for

instance, requests like the provision of investigators to document war crimes; experts with forensic expertise; equipment for the secure storage of evidence, secure lines of communication or on-the-job training for investigators.

The Commission is also supporting these efforts financially, be it through funding for equipment, experts or the work of the genocide network which has started to train judicial authorities for building cases on war crimes. The EU is also launching a dedicated €7.5 million project to support the investigations with ensuring large data collection on missing and disappeared persons.

HRVP Josep Borrell also announced that the European Union Advisory Mission (EUAM) that was already in Ukraine before the war, will now also be tasked to cooperate with the Ukrainian General Prosecutor to ensure investigation and collection of evidence on the ground.

The Ukrainian General Prosecution Office, 11 EU Member States and the Office of the Prosecutor of the International Criminal Court (ICC) have opened investigations for war crimes and crimes against humanity committed in Ukraine. The Ukrainian prosecution office has established a dedicated homepage, requesting citizens to register and document such crimes. The current number of registered incidents of war crimes and crimes against humanity in Ukraine is more than 6,000 with a high number of suspects identified (politicians, members of the military, etc.).

An EU Joint Investigation Team (JIT) was recently set up with Ukraine, supported by Eurojust. There are ongoing talks between Eurojust and the International Criminal Court to agree modalities of cooperation with the ICC. Other Member States have announced that they are considering joining the JIT. The Genocide Network, hosted at Eurojust, has started training sessions for judicial authorities in the Member States and in Ukraine to enhance case building for core international crimes.

Eurojust, together with the Genocide Network, has the necessary expertise in preserving and handling evidence related to war crimes and other core international crimes. They have successful operational experience in prosecuting war crimes and crimes against humanity by supporting recent JITs established between several Member States that led to convictions in the context of international crimes committed in Syria and Iraq. However, Eurojust's legal framework does not currently provide for the possibility of Eurojust collecting, preserving, analysing and sharing evidence relating to core international crimes nor to directly cooperate in this regard with the International Criminal Court. In this context, Eurojust will also cooperate with Europol in accordance with their respective mandates.

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