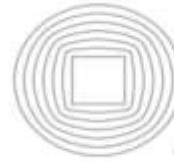




Network for investigation and
prosecution of genocide, crimes
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International Conference

Is the Future of International Criminal Law Domestic?

12 to 14 May 2022

Conference room 619, Nuremberg Palace of Justice

Baerenschanzstrasse 72, 90429 Nuremberg

Germany

Background

The Spring Conference is a regular yearly event of the [International Nuremberg Principles Academy](#), a foundation with a mandate to advance international criminal law, the fight against impunity and accountability for core international crimes.

The 2022 Conference is organized in cooperation with the EU Network for investigation and prosecution of genocide, crimes against humanity and war crimes ([‘Genocide Network’](#)) hosted by [Eurojust](#).

Concept

In his first speech as International Criminal Court (ICC) Prosecutor, on 16 June 2021, Karim Khan called upon all States, party or non-party to the Rome Statute of the ICC alike, to find a common ground in the quest for international justice and the imperative to eradicate genocide, crimes against humanity and war crimes. As he adeptly recalled, international criminal law is a “body of law owned by Humanity”, it is not constrained by any national or regional borders.

This means that States have a legal and moral obligation, whenever and wherever possible, to investigate and prosecute these crimes that shock the conscience of humanity. Should that fail, should States be unable or unwilling to genuinely carry out the investigation or prosecution of these crimes, the ICC comes into play. As such, the ICC was always meant to be a Court of last resort, a Court which, in the words of the first ICC Prosecutor, Luis Moreno Ocampo, would be at its most successful when it has no cases because national authorities are handling them.

Twenty years after the Court’s establishment, how far have we come towards achieving this ideal? Can we resolutely say that the future of International Criminal Law will be domestic?

Recent achievements indicate that national jurisdictions can carry a great deal of the load when equipped with appropriate tools and resources. In January 2022, the conviction in Koblenz, Germany of a former Syrian intelligence official for crimes against humanity marked a breakthrough in the fight against atrocities committed in Syria in the 11 years of conflict. Brought to German courts thanks to the principle



of universal jurisdiction, this successful case was supported by extensive cross-border judicial cooperation between France and Germany, facilitated by Eurojust and the Genocide Network.

Case Timeline - The 'Caesar files'

- 2011 : the Syrian conflict begins
- 2012: first *ad hoc* meeting within the Genocide Network → 2018: establishment of a joint investigation team (France-Germany) with [Eurojust support](#)
- 2019: first arrests within the EU and indictment filed against two Syrian defendants
- August 2020: [the trial starts in Koblenz](#), Germany under the principle of universal jurisdiction
- February 2021: first conviction in Koblenz, Germany (aiding and abetting crimes against humanity). An appeal is pending.
- January 2022: second conviction in Koblenz (co-perpetration of crimes against humanity including torture, murder and sexual violence). For the first time, a high-ranking official from the Syrian intelligence services (Head of the Investigations Section at General Intelligence Directorate's al-Khatib Detention Facility in Damascus, or "Branch 251") is sentenced to life imprisonment. The conviction has been appealed.

While this case attracted media and public attention, an increase in universal jurisdiction cases has been observed worldwide. From the conviction of former Chad dictator Hissène Habré before the Extraordinary African Chambers in Senegal (2016) to the opening by an Argentinian court of an investigation into genocide committed against the Rohingya in Myanmar (2021), the debate has shifted. Practitioners no longer question whether universal jurisdiction should be used, but rather how to make use of its full potential. The conference intends to propose innovative solutions to practical challenges brought by universal jurisdiction, diving into key cases and verdicts and established and developing best practices.

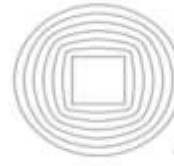
Universal jurisdiction, however, is but one side of the coin. Ideally, international crimes should be dealt with by local courts in the country or the region where they have been committed. Taking a close look at selected situations (Bosnia and Herzegovina, Democratic Republic of Congo, Kosovo, Rwanda, The Gambia), the conference will explore national accountability processes, and their advantages and drawbacks, and will highlight key takeaways that could be replicated in other jurisdictions, including in universal jurisdiction cases.

Case Highlight: Prosecutions of Mass Crimes in the Democratic Republic of Congo

Between 2017 and 2021, several convictions have been obtained in the DRC before Congolese military courts against former militiamen for war crimes and crimes against humanity, in particular rape and other forms of sexual violence, committed in the regions of [North](#) and South Kivu, as well as Central Kasai, including against [sitting government officials](#) and [local warlords](#). These successes have been largely supported by capacity-building initiatives led by various [collaboration networks](#) between local and international NGOs such as [TRIAL International](#) and other international actors such as the [United Nations Organization Stabilization Mission in the Democratic Republic of the Congo](#).



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A striking feature, these domestic proceedings were conducted before [mobile courts](#), with extraordinary hearings relocated to the remote areas where crimes were perpetrated. Mobile courts not only facilitate access to the trial for the victims (for practical but also psychological reasons), but also serve a larger deterrent and educational purpose. Justice is seen to be done by the affected community and judges can reach a full understanding of the socio-economic and security context in which the crimes were committed. Mobile courts present challenges, including security and logistics and rewards.

Ultimately, all international criminal cases share similar factual, legal, procedural, logistical and technical complexities. Drawing from case-based experience, the conference will identify key aspects of success. Some necessary, but insufficient, preconditions can already be cited as relevant to that success: political drive, favourable State penal policy, as well as adequate national legislation and procedural frameworks.

Taking these observations as a starting point, expert discussions will aim to provide a tailored toolbox to national practitioners in order to achieve increased efficiencies in the detection and prosecution of international crimes. Participants will be able to identify practical measures for implementation at the domestic level, including the creation of specialized units; the use of new technologies and artificial intelligence; the targeted involvement of immigration and custom authorities, revenue services and intelligence agencies; and necessary coordination with those addressing interlinked crime areas.

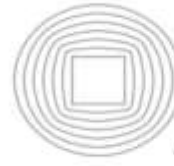
While national authorities can and must do more to boost domestic capacity, the conference will also acknowledge that investigating and prosecuting international crimes cannot happen in a vacuum. As emphasized by the current ICC Prosecutor on numerous occasions, national authorities and the ICC need to look at newly imaginative ways of partnering and creating synergies. In Europe, the recent surge of cases brought against Syrian perpetrators, but also against foreign terrorist fighters tried as war criminals for horrors committed in the name of Da'esh/the Islamic State, has shed light on the critical contribution made by novel justice facilitators, such as the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD) and the United Nations International Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic (IIIM). NGOs documenting crimes and supporting victims and affected communities have been an integral part of this process. In practice, how does this multi-faceted cooperation work? How can national authorities better engage with key partners, including international bodies and NGOs?

Practice Highlight: The Use of Joint Investigation Teams in Core International Crimes Cases

A Joint Investigation Team (JIT) is an advanced judicial cooperation tool, consisting of a legal agreement between two or more States for the purpose of carrying out coordinated criminal investigations. A JIT is made up of law enforcement and judicial national authorities who can, within the JIT framework, directly exchange information and evidence collected on the territory of the JIT members, cooperate in real time and carry out joint operations and investigative measures. A JIT significantly increases speed and efficiency in complex cross-border investigations, allowing for a more flexible cooperation than traditional mutual legal assistance channels.



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In recent years, national authorities have increasingly turned to JITs in the context of core international crimes cases. Due to the highly complex and fast-moving nature of these cases, JITs can play a critical part in securing successful prosecutions. Besides the 'Caesar files' JIT, in January 2022 Sweden and France signed a [JIT agreement to support proceedings involving core international crimes committed by foreign terrorist fighters against the Yezidi population in Syria and Iraq](#). Investigative efforts will notably avoid multiple interviews of the same victims, thus mitigating risks of re-traumatization. The JIT also supports streamlined cooperation with external partners such as UNITAD and IIIM. Remarkably, a [JIT between Ukraine, Lithuania and Poland](#) was set up barely a month after the Russian aggression against Ukraine was launched in February 2022. Tasked with investigating war crimes, crimes against humanity and other core crimes committed in Ukraine, the JIT has invited the ICC OTP to join and support its work. The ICC OTP joining a JIT set up by national authorities would be an unprecedented development in the fight against impunity, potentially giving a new meaning to complementarity in action.

National authorities need not stand alone in this joint fight against impunity. But they must be given adequate resources to make use of all available information and support that international, regional and intra-national cooperation can generate. They must learn to avoid the common pitfalls of a piecemeal approach to international justice, such as over-documentation and re-traumatization. This is what positive complementarity is all about: fostering cooperation rather than competition and enabling domestic jurisdictions to become leaders in the fight against impunity.

After keynote addresses by Dr Karim Khan (ICC Prosecutor), Ambassador Beth van Schaack (United States Ambassador-at-Large for Global Criminal Justice), Dr Aminata Touré (Former Prime Minister and Former Justice Minister of Senegal) and Ms Duscha Gmel (Federal Public Prosecutor, Head of War Crimes Unit S5, Germany), six roundtable discussions gathering national and international practitioners, civil society representatives and experts, will explore the following lines of inquiry:

- What is the current state of universal jurisdiction cases? What challenges are involved? Can innovative solutions be adopted?
- Which have been the most effective cases in moving the law forward? Which jurisdictions have been the most active and why? What case-related support can civil society organisations provide?
- What lessons can be drawn from 'historical' prosecutions?
- How important has the practice of universal jurisdiction been, as opposed to more traditional forms of jurisdiction? What best practices can be identified from domestic prosecutions of territorial crimes?
- How do national jurisdictions work together to address cross-border challenges? How can they work better together and with other stakeholders?
- How can national jurisdictions best exploit new opportunities provided by expanding sources of information and evidence?
- The conference will aim to assess progress thus far achieved, and pathways to success in the future, as well as encourage greater engagement of national prosecution services.