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RCN Justice & Démocratie

To:

Minister of Interior Rihards Kozlovskis

Minister of Justice Dzintars Rasnačs

Latvia

15 January 2015

Re: JHA Council conclusions on the fight against impunity for serious international crimes within the EU and Member States

Dear Minister Kozlovskis and Minister Rasnačs,

We are writing to urge Latvia, as the current holder of the European Union (EU) Presidency, to put the fight against impunity for serious international crimes within the EU on the agenda for ministerial discussion at an upcoming Justice and Home Affairs (JHA) Council meeting. The Latvian Presidency, and particularly your respective ministries, are ideally placed to further advance the EU's and Member States' efforts to ensure that suspects of serious international crimes- including genocide, crimes against humanity, war crimes, torture and enforced disappearances- do not find a safe haven in EU Member States and are investigated and, if there is sufficient evidence, prosecuted so that victims of these crimes obtain justice.

In October 2014, the EU Genocide Network adopted a strategy detailing measures at the EU and Member States' levels that would help strengthen the fight against impunity for serious international crimes before EU national courts. The Italian Presidency of the EU presented draft conclusions on this topic at a meeting of the GENVAL working group in November (see

background below). The Latvian Presidency can now play a critical role to ensure that these conclusions are adopted at an upcoming JHA Council Meeting.

By placing this topic on the ministerial agenda, the Latvian Presidency will help raise awareness of the challenges faced by national criminal justice authorities of EU Member States in

investigating, prosecuting and punishing serious international crimes. Council conclusions endorsing the EU Genocide Network’s Strategy would significantly strengthen the EU’s and Member State’s efforts and provide for EU support for Member States to put in place structures to effectively address these challenges.

Council conclusions re-affirming the EU’s and Member States’ commitment to combat impunity for serious international crimes within the EU would furthermore ensure continuity of previous Presidency’s activities and constitute an important landmark in the EU’s efforts to combat impunity within the EU.

We thank you for your attention to this important matter.

Yours sincerely,

Carla Ferstman Director, REDRESS	William R Pace Convenor, Coalition for the ICC	Philip Grant Director, TRIAL	Richard Dicker Director, International Justice Program, Human Rights Watch
Wolfgang Kaleck Secretary General, ECCHR	Antoine Bernard Chief Executive, FIDH	Stephanie A. Barbour Head of Office, Centre for International Justice Amnesty International	Martien Schotsmans Director RCN Justice & Démocratie

Background

The EU has a fundamental role to play in ensuring that its Member States can effectively investigate and prosecute serious international crimes. EU Member States are bound by legal obligations under international law to ensure that the perpetrators of war crimes, crimes against humanity, torture, genocide and enforced disappearances do not enjoy impunity. The need for EU Member States to investigate and prosecute these crimes has been recognised in Council Decision 2003/335/JHA of 8 May 2003, stating that “Member States are regularly confronted with persons who were involved in international crimes and who are trying to enter and reside in the European Union.”¹ In addition, Member State nationals can be involved in serious international crimes, both, as victims and as perpetrators.

¹ Council Decision on the investigation and prosecution of genocide, crimes against humanity and war crimes, 2003/335/JHA, Official Journal 118/12, 14 May 2003.

The EU has already taken several steps demonstrating its commitment to tackle these crimes within the EU. In 2002, it established the EU Network of Contact Points in respect of persons responsible for genocide, crimes against humanity and war crimes (the “EU Genocide Network”), further strengthened through the establishment of the EU Genocide Network Secretariat in 2011. Member States have appointed contact points to participate in bi-annual meetings of the EU Genocide Network and to facilitate inter-State cooperation in several serious international crimes cases prosecuted in EU Member States.

In November 2013, Lithuania, speaking as the EU Presidency at the time, considered that these existing efforts to fight impunity “should be reinforced by a renewed commitment of the EU and its Member States to ensure that they do not provide a safe haven for suspected perpetrators of serious international crimes.”²

In a first step towards such a renewed commitment, the EU Genocide Network, consisting of practitioners (prosecutors, judges, police investigators and other experts) on 30 October 2014 adopted a “Strategy to combat impunity for the crime of genocide, crimes against humanity and war crimes within the European Union and its Member States.”³ The Strategy identifies concrete measures the EU and Member States should take to support national investigations and prosecutions of serious international crimes in EU Member States.

The Italian Presidency subsequently presented draft Council conclusions on the fight against impunity for discussion at the meeting of the Council Working Group on General Affairs (GENVAL) on 21 November 2014. During the meeting, 13 Member States took the floor to stress the importance of the topic in the context of Justice and Home Affairs. Several Member States urged for the topic to be brought to the attention of JHA ministers. No Member State expressed any reservation or concern about a ministerial discussion of this topic.⁴

² See ‘Strengthening efforts to combat impunity within the EU and its Member States for serious international crimes– renewed engagement in the field of Justice and Home Affairs’, Council of the EU document 16340/13 GENVAL 13, 19 November 2013, and ‘Summary of discussions’, Council of the EU document 17164/13 GENVAL 87, 4 December 2013.

³ Strategy of the EU Genocide Network to combat impunity for the crime of genocide, crimes against humanity and war crimes within the European Union and its Member States, at <http://www.eurojust.europa.eu/doclibrary/genocide-network/genocidenetwork/Strategy%20of%20the%20EU%20Genocide%20Network%2028November%202014%29/Strategy-Genocide-Network-2014-11-EN.pdf>.

⁴ Council of the EU, ‘Outcome of Proceedings- Working Party on General Matters, including Evaluations (GENVAL), 21 November 2014’, 28 November 2014, at http://www.parlament.gv.at/PAKT/EU/XXV/EU/04/82/EU_48240/imfname_10514463.pdf.