BRIEFING
Towards a ‘complementary preparedness’ approach to universal jurisdiction – recent trends and best practices in the European Union

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ABSTRACT

The exercise of universal jurisdiction is a key element of the global ‘fight against impunity’ of crimes under international law, such as genocide, crimes against humanity and war crimes. Contrary to the common ‘rise and fall’ narrative, recent empirical data shows an increase in the number of universal jurisdiction cases during the past decade. At the same time, there are indications of a shift from the prevalent ‘no safe haven’ paradigm to a ‘complementary preparedness’ approach to universal jurisdiction, reflecting the underlying idea of a transnationally organised and multi-level system of international criminal justice based on the sharing of labour between various stakeholders. The briefing concludes with recommendations to the European Union in order to expedite the goal of ending impunity of gross violations of human rights.
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1 Introduction

This briefing examines the legal practices and strategies in universal jurisdiction cases brought before domestic criminal courts in the European Union (EU). The analysis of recent trends and good practices in enforcing accountability for crimes under international law and gross human rights violations is timely, given the 20th anniversary of the adoption of the Rome Statute of the International Criminal Court (ICC Statute), the 20th anniversary of the arrest of former Chilean dictator Augusto Pinochet on an international arrest warrant in London, and the 10th anniversary of the establishment of the AU-EU Technical Ad Hoc Group on the Principle of Universal Jurisdiction.

1.1 Definition

The term ‘universal jurisdiction’ is used in different contexts and interpreted in different ways. As a legal concept and for the purpose of this paper, universal jurisdiction is defined as the assertion by a state (the so-called ‘third state’) of criminal jurisdiction over crimes allegedly committed by non-nationals against non-nationals on the territory of another state with the crime posing no direct threat to the vital interests of the state asserting jurisdiction. Universal jurisdiction is solely based on the nature of the crime which affects the interest of the international community as a whole.

The international legal basis for universal jurisdiction – and therefore the basis on which domestic legislation may authorise national law enforcement agencies and courts to exercise universal jurisdiction – is the principle of universality, which constitutes a firmly settled permissive rule of customary international law. Notwithstanding continuing controversy on the precise scope and preconditions of the exercise of universal jurisdiction, it is generally accepted that all crimes under international law (‘core crimes’), i.e. genocide, crimes against humanity and war crimes as defined in Articles 6 to 8 of the ICC Statute, fall under the principle of universality.

1.2 Rationale

Universal jurisdiction is derivative jurisdiction. The authority of a state to exercise universal jurisdiction ensues from the ius puniendi (authority to punish) of the international community whose interests (such as...
international peace and security) are infringed or endangered by the offense. The state exercising universal jurisdiction acts as an agent of the international community.43

With the ICC having only very limited resources, a limited jurisdictional scope, and, more importantly, being designed as a court of last resort which should not replace national courts, the main responsibility to investigate, prosecute and punish war crimes, crimes against humanity and genocide lies on the states. While at present, crimes under international law are, in general, committed outside Europe, the criminal justice systems of EU Member States come into play, in particular, first if EU citizens or legal persons based in the EU are involved in the commission of these crimes or second if foreign perpetrators, victims or witnesses enter EU territory as visitors or as refugees.

But even beyond these scenarios, the concept of universal jurisdiction allows for and encourages an active role of domestic justice systems. The derivative nature of universal jurisdiction brings about the complementary character of its exercise. Prosecution and punishment are achieved through a transnationally organised sharing of labour between states (horizontal) and between states and international courts and tribunals (vertical). Therefore, the idea of international solidarity in the enforcement of international criminal law through the different stakeholders is an integral part of the concept of universal jurisdiction.

In view of this, it is, arguably, an essential function of the exercise of universal jurisdiction by a ‘third state’ to stimulate (so-called ‘Pinochet effect’) and support investigations and prosecutions in a state closer to the crime, such as the territorial state or the state of the nationality of the offender. This points to a more recent trend regarding the exercise of universal jurisdiction (‘complementary preparedness’, see below). According to this approach, the contribution of a state to the joint effort to prosecute and punish crimes under international law on the basis of universal jurisdiction need not necessarily aim to or result in the completion of a criminal trial or even the conviction of a perpetrator in court. To the contrary, a ‘successful’ exercise of universal jurisdiction could also consist, inter alia, in securing evidence, in particular witness testimonies, for future proceedings before courts in another (international or domestic) jurisdiction.44 This approach could in particular be applicable to crimes committed in ongoing conflict situations.

2 General trends

Regarding crimes under international law impunity still is the rule and accountability the exception. Despite considerable progress on the international and national levels resulting in the establishment of (international) institutions (first and foremost the ICC) and the implementation of specific domestic legislation during the past 20 years, the chances to get away with ‘core crimes’ are still much higher than with shoplifting or murder.

2.1 Beyond the ‘rise and fall’-narrative

The common narrative about universal jurisdiction concerns its ‘rise and fall’45. Beginning in the late 1990s and triggered, inter alia, by the arrest of Augusto Pinochet46 a series of criminal complaints, investigations and trials based on universal jurisdiction in some EU Member States fueled expectations of victims of

44 Therefore, the overemphasis on the completion of trials in the ‘third state’ and on the investigation/complaint to conviction ratio is to a certain extent misleading in universal jurisdiction cases.
46 In 1998 former Chilean dictator Augusto Pinochet was arrested in the UK under an international arrest warrant issued by Spanish Investigative Judge Garzón.
human rights violations around the world that perpetrators would be brought to justice. These expectations, however, are confronted with a negligible number of convictions based on ‘true’ universal jurisdiction ever since and several ‘setbacks’, such as the restriction of far reaching legislation on universal jurisdiction in Belgium and Spain. The tale concludes with the ‘fall’ or ‘decline’ of universal jurisdiction, a perception which to some extent mirrors the general perception of international criminal justice – in particular the ICC – being ‘in crisis’. This narrative is challenged by new empirical data.

2.1.1 Quantitative dimension

Recent studies suggest that the number of universal jurisdiction cases, worldwide but also in Europe, has been constantly growing over the past decade. The 2017 annual report on universal jurisdiction compiled by five NGOs found a considerable increase in universal jurisdiction cases worldwide in the past twelve months (TRIAL survey). Similarly, another study found a significant increase in numbers of trial verdicts between 2008 and 2017 if compared with the previous decade (Langer survey). Compared to the (much lower) number of verdicts delivered by the ICC during the same time period, these numbers are of remarkable significance.

The findings of the two studies are supported by official statistical data published in Germany. In Germany, comprehensive legislation concerning crimes under international law and including a ‘pure’ notion of universal jurisdiction entered into force in 2002. In the first years after the entry-into-force, hardly any investigations were initiated and no case reached the trial stage. In 2009, a specialised unit within the Federal Prosecutor’s Office has been established. In the same year the Federal Criminal Police established a Central Unit for the fight against war crimes and further offences pursuant to the Code of Crimes against International Law (ZBKV). Between 2009 and 2017 the numbers of cases dealt with constantly grew, from three investigations in 2009 to 46 in 2017. Of these, six are so-called structural investigations (see below). Similarly, the number of complaints and information submitted to the Prosecutor’s Office grew dramatically, from 25 in 2013 and 2000 in 2015 to 600 in 2017. This, obviously, has been closely connected with the conflict in Syria and the ensuing migration to Germany; the majority of information was submitted to the Prosecutor’s Office and the police by the Federal Office for Migration and Refugees. At the same time, the number of prosecutors assigned to the specialised unit as well as the number of officers working at the ZBKV grew constantly. In sum, Germany seems to be a good example of a ‘learning curve’ regarding the exercise of universal jurisdiction in recent years.

48 It should be noted, however, that in July 2018 the newly appointed Spanish Minister of Justice announced the government’s intention to re-establish universal jurisdiction legislation and extend it to economic, financial and environmental crimes; see https://elpais.com/politica/2018/07/11/actualidad/1531322927_005203.html.
49 Evidence for the decreasing support for the ICC may be: Russia withdrawing its signature from the Statute; Burundi and the Philippines withdrawing from the Statute; the African Union adopting a ‘withdrawal strategy’ and so forth. See generally the contributions in the symposium edited by F. Jeßberger & J. Genusee, Journal of International Criminal Justice 11 (2013), 501 et seq.
50 It is scientifically sound to refer to the general trends indicated in these surveys although some of the more specific findings are, for statistical reasons, to be used with more caution (different notions of universal jurisdiction etc.).
51 TRIAL, ECCHR, FIDH, REDRESS, Fundación Internacional Baltasar Garzón.
56 See Bundestags-Drucksache (BT-Drs., official documents of the German Parliament) 18/12487 of 24 May 2017.
2.1.2 Qualitative dimension

Regarding the qualitative dimension of recent practice (i.e. who is investigated and prosecuted and for what crimes) three observations can be made.

First, universal jurisdiction still primarily targets so-called ‘low cost defendants’ (M. Langer) that persons coming from politically and economically weak states and/or representing a low level of responsibility. Typically, the prosecution of those persons is initiated because they are present in the state exercising universal jurisdiction or residents of that state. The prosecution or trial of ‘high cost defendants’ – citizens of powerful states, including representatives of Western/European companies whose activity can be linked to conflict regions, and/or those most responsible for the crimes – is extremely rare. The same holds true for the prosecution of sexual and gender-based violence.

Secondly, universal jurisdiction cases do not adequately reflect the (geographical) distribution and gravity of the crimes actually committed. There is an obvious mismatch between the scale and nature of the crimes and the cases which authorities are able (and willing) to prosecute. Obviously (and not surprisingly), prosecutions and trials are opportunity-driven rather than the result of a rational selection of cases.

Thirdly, often the prosecution and trial of perpetrators of ‘core crimes’ is based on charges other than crimes under international law, such as terrorism or immigration offences, arguably for evidentiary reasons. This trend also reflects the growing intertwining between international criminal law on the one hand and counter-terrorism law on the other. The practice sends the message that prosecution and punishment in those cases is about protecting against domestic threats rather than contributing to the universal ‘fight against impunity.’

2.1.3 Preliminary assessment

There are good reasons to believe that the recent increase of universal jurisdiction cases reflects efforts of institution building, improved legislation, and institutional learning as well as better opportunities to ‘successfully’ investigate and prosecute ‘core crimes’ in Europe. The two main factors for the increase in universal jurisdiction cases during the past decade are:

- regarding the legal circumstances: improvement and consolidation of the legal environment (substantive, procedural and institutional), also resulting in greater awareness of law enforcement and prosecutorial agencies. At present, the majority of Member States provides for specific offenses regarding ‘core crimes’ in their domestic legislation, with Sweden and Austria having amended their legislation most recently; in a number of Member States, e.g. in France, Sweden, the Netherlands and Germany, specialised war crime units were established at the police and/or the prosecutor’s offices; in a number of EU Member States immigration and refugee protection procedures have been better linked to police, prosecution, and courts allowing for an exchange of information regarding crime victims and alleged perpetrators.

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58 Universal jurisdiction trials that have been completed concerned primarily defendants from Africa, South-East Europe and the Middle East. Recently, there has been a significant shift in the focus of investigations from Sub-Saharan Africa to the Middle East.

59 One notable exception is the Lafarge case in France: In June 2017 and following a complaint filed by former Syrian Lafarge employees and, inter alia, the French NGO Sherpa, a judicial inquiry into the activities of the cement and construction group LafargeHolcim and its subsidiary Lafarge Cement Syria was launched in France on allegations of complicity in crimes against humanity and war crimes. In December 2017, the former chief executive of the Lafarge group and three former directors, as well as two former French directors of the subsidiary, were formally indicted for financing of terrorism and endangering people’s lives.

60 But happen: see, e.g., the complaint filed in 2017 by a group of Swedish lawmakers against Turkish President Recep Tayyip Erdogan for genocide, crimes against humanity and war crimes committed against the Kurdish population.


62 See, e.g. Human Rights Watch, ‘These are the Crimes we are Fleeing’, Justice for Syria in Swedish and German Courts, 2017, 38; P. Frank & H. Schneider-Glockzin, Neue Zeitschrift für Strafrecht 2017, 1.
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- regarding the factual circumstances: better and new opportunities to successfully prosecute and punish ‘core crimes’, in particular through better access to suspects and evidence. These ‘new opportunities’ are related, in particular to the arrival of a large number of refugees from Syria in Europe and the increased use of open sources, such as internet and social media, by the perpetrators and the victims.

While these reasons may explain the quantitative increase of universal jurisdiction cases, the (still) relatively low number of cases and the stalemate in terms of qualitative progress is, arguably, caused by the following factors:

- legal challenges, such as the complexity of crimes (collective nature, context elements) and the variety of applicable sources; immunities and the legal challenges of gathering evidence (e.g. witness statements) extraterritorially;

- factual challenges, resulting in particular from the foreign element of the crimes investigated, prosecuted and tried, such as the factual difficulties of gathering evidence, and the lack of familiarity of prosecutors and judges with the socio-cultural background of the case; the amount and nature (language) of information etc.

It should be noted, however, that universal jurisdiction cases share many of these obstacles to a smooth investigation and prosecution with other extraterritorial cases and transnational litigation (e.g. based on nationality or the effects or protective principles in the area of terrorism, organised crime, drug trafficking etc). However, it may be argued that in particular the three following factors single out universal jurisdiction cases for international ‘core crimes’ and are, therefore, universal jurisdiction specific:

- investigation, prosecution and trial take place within a comprehensive system of international criminal justice with various international (e.g. ICC) and national (states) stakeholders;

- investigation, prosecution and trial take place in an ongoing or post-conflict situation; and

- investigation, prosecution and trial refer to acts which typically (although not necessarily) have a political dimension (state-sponsored crime).

2.2 Further (global) trends

In addition to the general increase in universal jurisdiction cases two further global trends which have repercussion on the practice in EU Member States need to be mentioned:

First, the regionalisation⁶⁴ of universal jurisdiction is a novel phenomenon, which was demonstrated, inter alia, in the prosecution of former Chadian dictator Hissène Habré before the Extraordinary African Chambers in the Senegal ‘on behalf of Africa’ and on the basis of universal jurisdiction. This is, arguably, a welcome development not only because local (or, in this case, regional) justice is ‘better justice’ than universal justice delivered by ‘third states’ far removed from the affected community⁶⁵, but also a tool to address concerns of ‘legal imperialism’ voiced, inter alia, by the African Union.

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⁶³ See also the statement of the present Head of the War Crimes Unit at the German Federal Prosecutor’s Office, Christian Ritscher, before the Legal Committee of the German Parliament on 25 April 2016, p. 2.

⁶⁴ For details see F. Jellberger, in G. Werle et al. (eds.), Africa and the International Criminal Court, 2014, p. 155. Nota bene: I do not refer to the regionalisation of international criminal law here (e.g. by the Malabo Protocol and an African Criminal Court), but to the regionalisation of universal jurisdiction.

⁶⁵ The well-described advantages (such as the availability of evidence, the familiarity of the defendant, witnesses and judges, the purposes of punishment, the costs) of providing for prosecution and punishment as close as possible to the affected community need not be repeated here.
A second trend refers to the reversion\(^6\) of universal jurisdiction on European perpetrators (boomerang effect). This trend is demonstrated, inter alia, by the efforts of Argentinean prosecutors investigating crimes committed under the Franco regime in Spain.

Both these trends have the potential to address (and ease) the perception of universal jurisdiction as a post-colonial tool of European justice systems to deal with crimes allegedly committed in the Global South.

### 2.3 From ‘global enforcer’ and ‘no safe haven’ to ‘complementary preparedness’: Shifting the paradigm (again)

Traditionally, the development of universal jurisdiction has been described along the lines of two different approaches (M. Langer): the ‘global enforcer’ approach and the ‘no safe haven’ approach. The ‘global enforcer’ approach is a more ‘offensive’ conception in which states have a proactive role in preventing and punishing core crimes committed anywhere in the world. The ‘no safe haven’ approach on the other hand, which has been prevalent in the practice of states in recent years, embodies the more defensive conception, according to which states act in their own interests in not becoming a refuge for participants in core crimes\(^6\).

It is suggested here, that a new paradigm to universal jurisdiction can be identified in most recent state practice, the here so-called ‘complementary preparedness’ approach to universal jurisdiction. While the ‘global enforcer’ approach may be overambitious and the ‘no safe haven’ approach is merely reactive and disregards the interests of the international community at stake in universal jurisdiction cases, the ‘complementary preparedness’ approach reflects the specific characteristics of universal jurisdiction as described above. The idea of the ‘complementary preparedness’ approach has been expressed, inter alia, by the German legislator and to some extent applied by the German Federal Prosecutor’s Office\(^6\) and law enforcement agencies of other Member States.

The approach is based on the idea of prosecutorial activity (monitoring procedures, structural investigations, anticipated legal assistance) on the basis of universal jurisdiction designed to prepare and support possible future trials in the same or in a different jurisdiction. Available evidence is collected, consolidated, preserved and analysed in order to facilitate criminal proceedings in a national or international court that exercises or may exercise in the future jurisdiction over the crime. The ‘preparedness’ may be relevant for two different scenarios\(^6\): a) if the person suspected of having committed a ‘core crime’ enters the territory of the state exercising universal jurisdiction, b) if another state or an international court start a prosecution or trial of the suspect (anticipated legal assistance).

It is important to recall that a trial based on universal jurisdiction typically is the least desirable option (if compared to territorial jurisdiction or jurisdiction based on the nationality principle)\(^7\). This points to the complementary function of universal jurisdiction proceedings which often do not result in a conviction – and are not even necessarily meant to result in a conviction, at least not in a court of the state exercising universal jurisdiction\(^7\).

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\(^6\) For details see F. Jeßberger, in G. Werle et al. (eds.), *Africa and the International Criminal Court*, 2014, p. 155 et seq.

\(^7\) The ‘no safe haven’ approach is also acknowledged in EU instruments such as the Council Decision 2003/335/JHA of 8 May 2003, where it is provided that ‘the competent authorities of the Members States are to ensure that [...] the relevant acts may be investigated, and, where justified, prosecuted in accordance with national law’ in cases where ‘they receive information that a person who has applied for a residence permit is suspected of having committed or participated in the commission of genocide, crimes against humanity or war crimes.’

\(^8\) See, e.g., the statement of the present Head of the War Crimes Unit at the German Federal Prosecutor’s Office, Christian Ritscher, before the Legal Committee of the German Parliament on 25 April 2016, 3.

In view of this it may be argued that using the number of completed trials and convictions in the state exercising universal jurisdiction as a benchmark to measure ‘success’ (of universal jurisdiction) misses the point. It disregards the role and function of universal jurisdiction within the multi-level system of international justice based on the idea of transnational, horizontal and vertical sharing of labour. The so-called ‘Pinochet-effect’ – where investigations in a ‘third state’ on the basis of universal jurisdiction trigger prosecution and trial in the state where the crimes have been committed – lends the concept of universal jurisdiction much of its legitimacy.

3 Best practices

Whether a practice is ‘best’ very much depends on the aims and objectives of this practice. Based on the understanding of providing as much accountability as possible, it is possible to identify a number of reasons which facilitate the investigation and prosecution of crimes under international law under universal jurisdiction.

As regards ‘successful’ litigation and adjudication of universal jurisdiction cases, the observations made above can be summarised as follows: The chance of completing a trial (in the ‘third state’) are high if the state exercising jurisdiction has comprehensive legislation, a well-functioning specialised war crimes unit with previous experience and access to the necessary evidence, including witnesses, and, most importantly, the suspect. Concerning the latter aspect, one factor which appears to have a strong impact on the number of universal jurisdiction cases is the (improvement in) communication between the immigration authorities and the police and prosecution. Better linking information gathering by immigration and law enforcement authorities has, however, also its pitfalls: It is reported that a trend to self-incrimination by applicants for asylum or refugee protection creates an additional work load for the prosecution authorities, but often enough does not result in the conviction of the alleged perpetrator in a criminal court – since, as it frequently seems to be the case, he or she withdraws his or her statement/confession and no other evidence is available.

Based on the understanding that universal jurisdiction cases need not necessarily result in trial and conviction in the state exercising universal jurisdiction (the ‘complementary preparedness’ approach), ‘best’ practices may also include relatively low thresholds for initiating preliminary examinations and investigations. In particular it should not be required that the suspect is present in the territory to conduct a preliminary examination or even investigation.

One legal mechanism to enforce the ‘complementary preparedness’ approach are so-called ‘structural investigations’. Structural investigations are broad preliminary investigations without specific suspects, designed to gather evidence related to potential crimes that can be used in future proceedings either before a court in the investigating state itself or before another domestic or international criminal court. It is interesting to note that the ‘structural investigations’ resemble the procedure applicable at the ICC where the Prosecutor can open a preliminary examination or even a formal investigation referring to a situation rather than to a specific individual suspect. There, the distinction between situation-oriented examination/investigation and individual-oriented prosecution is key. This approach makes the exercise of jurisdiction also less opportunity-driven: While in some Member States the presence of the suspect is a requirement for the exercise of jurisdiction as such, others, e.g. Germany and Sweden, allow – similar to the

72 Such ‘war crimes units’ exist, inter alia, in Germany, France, Netherlands, Sweden, Norway and Switzerland; see also the recommendation in Council Decision 2003/335/JHA.
74 As it is rightly stressed in the Joint Staff Working document, 2013, pp. 10 et seq. with a view to preliminary examinations at the ICC, it is in the phase of preliminary examination that maximum political pressure can be exerted in order for a particular state (e.g. the territorial state, ‘Pinochet effect’) to take up its responsibility and start domestic proceedings.
procedure before the ICC – for preliminary examinations and investigations notwithstanding presence of the suspect in the territory. In case sufficient evidence has been secured, the investigation can be individualised and an arrest warrant against a specific suspect may be issued. One example for the successful ‘individualisation’ of an originally situation-oriented investigation is the international arrest warrant issued by the German Federal Prosecutor against Jamil Hassan, the head of Syria’s Air Force Intelligence, in June 2018.25 The arrest warrant results from a structural investigation concerning Syria and conducted by the Federal Prosecutor since 2011.

An additional factor which appears to have a clear impact on prosecution and trial is whether and to what extent civil society and non-governmental organisations are active and advocating for holding accountable perpetrators of ‘core crimes’ in a certain state. NGOs can play a role, inter alia, in the fact-finding on the crimes and perpetrators (identifying perpetrators and victims/witnesses), in the selection of cases, in assisting and representing the victims’ communities and in the documentation of the crimes and dissemination in the general public. In doing so, they complement (and often enough stimulate) official efforts to investigate and prosecute ‘core crimes’. In this regard, also the important role of lawyers from affected communities (such as Anwar Al-Bunni from Syria or Jacqueline Moudeina from the Chad) must be acknowledged. As a side effect, the involvement of victims’ communities and their representatives fosters the acknowledgement of the victim’s status and the protection of the victim’s rights which is of particular significance in international criminal justice.

4 EU coordination and cooperation

The European Union has developed a comprehensive strategy of promotion and support to international criminal justice, including universal jurisdiction76. The issue is typically, but not exclusively addressed as an issue of foreign affairs rather than one of justice and home affairs.

Among the organs, it is the European Parliament which takes a particularly progressive position. In its comprehensive Resolution of 4 July 2017 the Parliament stresses ‘the primary responsibility of its States Parties to investigate and prosecute atrocity crimes’ and ‘expresses its concern that not all EU Member States have legislation defining those crimes under national law over which their courts can exercise jurisdiction’, advocates for a further ‘Europeanisation’ of the ‘fight against impunity’ by encouraging ‘Member States to amend Article 83 of the Treaty on the Functioning of the European Union in order to add atrocity crimes to the list of crimes for which the EU has competences’ and, most importantly for our purposes ‘calls on the Member States to apply the principle of universal jurisdiction’.

In addition, the European Union has implemented a number of tools to facilitate cooperation among Member States. Most importantly, in 2002 the European Network of Contact Points for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network) has been established77. In 2011, the Network Secretariat hosted by Eurojust in The Hague has been created. In 2014, the Genocide Network presented its Strategy to combat impunity for the crime of genocide, crimes against humanity and war crimes within the European Union and its Member States. The strategy has been endorsed by the Council Conclusions adopted by the Justice and Home Affairs Ministers on 16 June 2015. Furthermore, and most recently grave international crimes have become part of Europol’s mandate78.

27 Council Decision 2002/494/JHA.
5 Recommendations

With the current turbulent times for the international legal order and international law in general, the European Union should reinforce its global leadership in the area of human rights and the ‘fight against impunity’ and see that the issue remains on the political agenda albeit other pressing global challenges (climate change, terrorism). The ‘justice and home affairs’ dimension of the ‘fight against impunity’ should be strengthened. The EU Genocide Network’s strategy as it has been endorsed by the Council still constitutes a strong starting point for further action.

In particular, it is recommended that the EU, and, where appropriate, specifically the European Parliament, i. on the level of the European Union

- acknowledge the ‘fight against impunity’ as an issue of justice and home affairs and reshape its commitment accordingly;
- draft and implement an Action Plan and Toolkit on universal jurisdiction which provides guidance to Member States and complements the existing Action Plan and Toolkit on the principle of complementarity;
- ensure appropriate resources for EU coordination efforts regarding the investigation and prosecution of international ‘core crimes’;
- continue its support to initiatives to exercise universal jurisdiction on a regional level, such as the Extraordinary African Chambers;
- initiate the establishment of a European database on universal jurisdiction cases in order to have a solid basis for future policy decisions;
- initiate and support further research to develop a general model (‘model legislation’) compatible to the different procedural laws in the Member States for a ‘complementary preparedness’ approach to universal jurisdiction;
- acknowledge the role of and continue the support of civil society organisations active in the field.

ii. on the level of the Member States

- remind Member States to establish and adequately resource specialised war crimes units;
- encourage Member States to review their legislation with a view to allow for preliminary examinations and structural investigations even if the alleged perpetrator is not present on the territory;
- encourage Member States to urge their police and prosecution services to collect and preserve all available evidence concerning grave international crimes with a view to possible future prosecutions and trials;
- encourage Member States to engage in outreach and dissemination regarding the exercise of universal jurisdiction.

79 As the European Parliament Resolution of 4 July 2017 (No. 34) already emphasises.
81 It is reported that the establishment of a database within Europol has already been started on the initiative of some Member States.
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**EU sources**


**NGO sources**


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