

Karolina Aksamitowska*

INTERNATIONAL CENTRE FOR THE PROSECUTION OF RUSSIA'S CRIME OF AGGRESSION AGAINST UKRAINE AND THE ROLE OF NEW TECHNOLOGIES AND JUSTICE HUBS IN THE FIGHT AGAINST IMPUNITY

Abstract: *The accountability response to Russia's 2022 full-scale invasion of Ukraine attests to the growing importance of regional accountability frameworks in the fight against impunity. Many Member States of the European Union have taken active steps towards accountability for core international crimes committed by Russia in Ukraine by initiating domestic criminal investigations. The creation of centralised justice hubs, such as the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine, can bridge the knowledge gap between different accountability actors involved in international investigations, and additionally contribute towards developing best practices and the universalisation of investigative standards. In this context, new technology infrastructure and expertise play the role of an accelerant, actively contributing to the coordinated fight against impunity and fostering information exchange and collaboration on an increasingly global scale.*

Keywords: digital evidence, International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine, international criminal justice, justice hubs, Ukraine

INTRODUCTION

Historically, international criminal justice has been an *ad hoc* endeavour.¹ The mass atrocities of the Second World War, the war in the former Yugoslavia, and the Rwandan and Cambodian genocides have all motivated accountability initiatives

* Ph.D., School of Governance, Law and Society, Tallinn University (Estonia); email: kaksamit@tlu.ee; ORCID: 0000-0001-9396-4420.

¹ M. Sterio, M. Scharf, *The Legacy of Ad Hoc Tribunals in International Criminal Law Assessing the ICTY's and the ICTR's Most Significant Legal Accomplishments*, Cambridge University Press, New York: 2019.

which have resulted in the creation of international criminal tribunals. An argument might be put forward that since the establishment of the International Criminal Court (ICC) in the early 2000s, international criminal justice has relinquished its *ad hoc* nature for the pursuit of a more permanent future.² However, the impunity for the crimes committed in recent years in Syria, Yemen, and Myanmar, among others, has once again led to an unprecedented proliferation of *ad hoc* accountability initiatives on the domestic, regional, and international levels.³ Accompanied by tailor-made operational solutions and cooperation frameworks, these accountability initiatives have taken central stage in the investigations into contemporary core international crimes.

The accountability response to the Russia's 2022 full-scale invasion of Ukraine attests to the growing importance of regional accountability frameworks in the fight against impunity. Many Member States of the European Union (EU) have taken active steps towards accountability for the core international crimes committed in Ukraine by initiating domestic criminal investigations.⁴ Moreover, through centralised regional frameworks supported by Eurojust, states now have the opportunity to exchange best practices and actively contribute to the coordinated fight against impunity. In the same way that some of the accountability initiatives have already proven successful in relation to past conflicts – such as the 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 Syria; Joint Investigation Teams; War Crimes Units; and the Europol Analysis Project in relation to the armed conflicts in Syria and Northern Iraq – the accountability response to the full-scale war in Ukraine has also led to the creation of new centralised accountability “hubs”.⁵ For instance, the International Centre for the Prosecution of the Crime of Aggression against Ukraine is a unique judicial hub embedded in Eurojust that enables coordination and cooperation between accountability actors such as, among others, the War Crimes Department at Ukraine's Office of the Prosecutor General and Joint Investigation Team members (Lithuania, Latvia, Estonia, Poland and Romania). In addition, through building

² C. Stahn, *The ICC in Its Third Decade: Setting the Scene*, in: C. Stahn, R. Braga da Silva (eds.), *The International Criminal Court in Its Third Decade Reflecting on Law and Practices*, Brill, Boston: 2024, p. 4.

³ B. Van Schaack, *Imagining Justice for Syria*, Oxford University Press, New York: 2021; M. Hasan, S. Mansoob Murshed, P. Pillai, *The Rohingya Crisis Humanitarian and Legal Approaches*, Routledge, New York: 2023.

⁴ *Lithuania Prosecutors Launch Ukraine War Crimes Investigation*, Reuters, 3 March 2022, available at: <https://www.reuters.com/world/europe/lithuania-prosecutors-launch-ukraine-war-crimes-investigation-2022-03-03/>; *Poland Say It Has Collected More Than 300 Witness Statements On War in Ukraine*, Reuters, 16 March 2022, available at: <https://www.reuters.com/world/poland-say-it-has-collected-more-than-300-witness-statements-war-ukraine-2022-03-16/> (both accessed 30 August 2024).

⁵ *Policy on Complementarity and Cooperation*, International Criminal Court, Den Haag: 2024, p. 4, available at: <https://www.icc-cpi.int/sites/default/files/2024-04/2024-comp-policy-eng.pdf> (accessed 30 August 2024).

expertise in evidence processing and analysis, these accountability “hubs” have the potential to bridge knowledge gaps between different justice actors and institutions and contribute towards norm-sharing.⁶

This article outlines the potential of the International Centre for the Prosecution of Russia’s Crime of Aggression Against Ukraine to build capacity in the field of digital technology infrastructure and expertise, fostering information exchange and collaboration, contributing towards international criminal investigations and prosecutions and advocating for comprehensive accountability.⁷ It does so by closely examining the accomplishments of accountability mechanisms and cooperation networks in advancing analytical capabilities and improving the prospects for accountability, and also highlights the role of new technologies in the growing importance of centralised frameworks.

1. THE ROLE OF CENTRALISED ACCOUNTABILITY FRAMEWORKS IN INTERNATIONAL CRIMINAL INVESTIGATIONS AND PROSECUTIONS

The prevalence of digital evidence in modern armed conflicts (encompassing open source intelligence and information, social media communications, and seized electronic devices, among others),⁸ has given rise to a demand for analytical expertise and technological infrastructure. Novel accountability mechanisms and networks – that can offer expertise, technology and logistics support – are playing an increasingly important role in facilitating evidence collection, analysis and processing, and contribute towards international criminal investigations and prosecutions.⁹ In the long run, the growing specialised practice of the novel mechanisms has galvanized the need to establish justice hubs with a similar nature of expertise on a more global scale, thereby transforming the future envisaged role the Office of the Prosecutor of the ICC (ICC OTP), and combining technological prowess while serving as a hub for collaboration and coordination of accountability efforts.¹⁰

⁶ *Ibidem*.

⁷ *International Centre for the Prosecution of the Crime of Aggression against Ukraine*, EuroJust, available at: <https://www.eurojust.europa.eu/international-centre-for-the-prosecution-of-the-crime-of-aggression-against-ukraine> (accessed 30 August 2024).

⁸ K. Aksamitowska, *Digital Evidence in Domestic Core International Crimes Prosecutions: Lessons Learned from Germany, Sweden, Finland and The Netherlands*, 19(1) *Journal of International Criminal Justice* 189 (2021), p. 199; M. de Arcos Tejerizo, *Digital Evidence and Fair Trial Rights at the International Criminal Court*, 36(3) *Leiden Journal of International Law* 749 (2023), pp. 749–769; M. Gillett, W. Fan, *Expert Evidence and Digital Open Source Information: Bringing Online Evidence to the Courtroom*, 21(4) *Journal of International Criminal Justice* 661 (2023).

⁹ *Policy on Complementarity...*, *supra* note 5, p. 4.

¹⁰ *Ibidem*, p. 15.

1.1. The contribution of accountability mandates to the fight against impunity for core international crimes

The lack of multilateral justice responses to the atrocities committed in Syria, Northern Iraq, and Myanmar motivated the international community to attempt to take a different approach towards accountability.¹¹ In response to the paralysis of the UN Security Council on the issue of international criminal accountability in relation to the Syrian war,¹² on 21 December 2016 the UN General Assembly adopted resolution 71/248,¹³ establishing the International, Impartial and Independent Mechanism (IIIM) to assist in the investigation and prosecution of persons responsible for the most serious crimes under International Law committed in the Syrian Arab Republic since March 2011.¹⁴ The mandate of the International, Impartial and Independent Mechanism for Syria is:

to collect, consolidate, preserve and analyse evidence of violations of international humanitarian law and human rights violations and abuses and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law.¹⁵

The IIIM supports competent jurisdictions by sharing information and evidence collected and preserved in its Central Repository, either proactively on its own initiative or upon request by national authorities.¹⁶ The IIIM has had a period of immense growth since its founding, expanding from a small start-up team to a fully operational mechanism supporting 15 jurisdictions,¹⁷ including for instance

¹¹ UNHRC, *Resolution: Situation of human rights of Rohingya Muslims and other minorities in Myanmar* 39/2, 3 October 2018, A/HRC/RES/39/2; UNITAD, *Terms of Reference*, 14 February 2018, S/2018/118.

¹² H. Moodrick-Even Khen, T. Boms, S. Ashraph, *The Syrian War Between Justice and Political Reality*, Cambridge University Press, New York: 2020.

¹³ UNGA resolution of 21 December 2016, *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 since March 2011*, Doc A/RES/71/248.

¹⁴ I. Elliott, *A Meaningful Step towards Accountability? A View from the Field on the United Nations International, Impartial and Independent Mechanism for Syria*, 15(2) *Journal of International Criminal Justice* 239 (2017).

¹⁵ UNGA resolution of 21 December 2016, *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 since March 2011*, Doc A/RES/71/248, para. 4.

¹⁶ *Support to Jurisdictions*, International, Impartial and Independent Mechanism, available at: <https://iiim.un.org/what-we-do/support-to-jurisdictions/> (accessed 30 August 2024).

¹⁷ *Strategic Plan 2023–2025*, International, Impartial and Independent Mechanism, p. 1, available at: <https://iiim.un.org/wp-content/uploads/2023/02/IIIM-Strategic-Plan-2023-2025.pdf> (accessed 30 August 2024).

Germany.¹⁸ The prospect of creating a central database containing evidence of international crimes emerged in the early years of the operation of the IIIM when the challenges of handling massive amounts of data became apparent. Since then, the IIIM has developed expertise in evidence storage and processing, and by the end of 2022, “2.3 million records were processed, and the Mechanism had deployed an array of digital information management tools.”¹⁹

With the help of new technologies, IIIM automated the process of language translation, audio analysis, transcription of audio files into text. In addition, machine learning and artificial intelligence assist in performing advanced analysis on geolocation data to draw up patterns and links and to visualise different events, as well as employing conceptual analytics, video deduplication and segmentation of videos “to identify not only copies of the same video file, but also videos which constitute segments of larger videos contained within our collected population.”²⁰

In addition to its expertise in evidence analysis and processing, according to its Strategic Plan 2023-2025 IIIM aims to provide continued assistance to present and future investigations into core international crimes investigations and subsequent prosecutions, as well as to amplify the voices of the survivors of the most serious crimes. Although the IIIM is not equipped or mandated to conduct prosecutions and trials with respect to core international crimes, its advanced technological and capacity building capabilities attest to its status as a pioneer accountability hub, contributing towards expertise and norm sharing between international and local justice actors within the larger international criminal justice ecosystem. A plan for establishing a hub with expertise of a similar nature has been revealed by the Office of the Prosecutor of the ICC (ICC OTP). The new OTP policy includes the strategy of harnessing digital capabilities to better respond to requests from national jurisdictions, thereby serving as a hub for cooperation and complementarity efforts across States Parties and non-Party States to the Rome Statute.²¹

1.2. The Contribution of Regional Accountability Frameworks to the Fight Against Impunity for Core International Crimes

The regional accountability frameworks in the EU have played a significant role in the fight against impunity as a response to the atrocities committed in Syria and Northern Iraq and, as will be illustrated further below, are key in harnessing new

¹⁸ *IIIM-Syria Welcomes German Court’s Crimes Against Humanity Verdict*, International, Impartial and Independent Mechanism, 14 January 2022, available at: <https://iiim.un.org/iiim-syria-welcomes-german-courts-crimes-against-humanity-verdict/> (accessed 30 August 2024).

¹⁹ *Strategic Plan 2023-2025*, *supra* note 17, p. 2.

²⁰ *Bulletin No. 5*, International, Impartial and Independent Mechanism, February 2021, available at: <https://iiim.un.org/wp-content/uploads/2021/08/IIIM-Syria-Bulletin-5-ENG-Feb-2021.pdf> (accessed 30 August 2024).

²¹ *Policy on Complementarity...*, *supra* note 5, p. 29.

technologies and best practices in the context of other core international crimes investigations, for instance in Ukraine. The EU Network for the investigation and prosecution of genocide, crimes against humanity, and war crimes (EU Genocide Network) was established in 2002 by the Council of the European Union to “enable close cooperation between the national authorities when investigating and prosecuting the crime of genocide, crimes against humanity and war crimes, known collectively as core international crimes.”²² With its establishment date correlating with the entry into force of the Rome Statute of the International Criminal Court, the operationalisation of the EU Genocide Network constitutes a significant step towards regional and domestic accountability in Europe. The EU Genocide Network provides assistance to the European war crimes units – through facilitating exchange of best practices and lessons learned – and hence effectively centralises international criminal investigations and prosecutions in Europe. Moreover, it served as a prototype for setting standards for cooperation and coordination frameworks within the broader Rome Statute system. Building upon the important work of the EU Genocide Network, the ICC OTP announced the establishment of the global Complementarity and Cooperation Forum.²³ The Complementarity and Cooperation Forum will provide a “dedicated and continuous space for engagement with national authorities addressing OTP investigations and activities within a wider, global pool of actors. A priority in this respect will be deepening of dialogue with national authorities from Africa, Asia and Latin America and the Caribbean.”²⁴

Another example of a regional accountability mechanism contributing towards norm sharing and advancing collaboration is the creation of Joint Investigation Teams in the EU. The EU legal framework for setting up Joint Investigation Teams between Member States can be found in Article 13 of the 2000 EU Mutual Legal Assistance Convention and the 2002 Framework Decision on Joint Investigation Teams.²⁵ They can also be established on the basis of other international instruments, particularly with and between competent authorities of states outside the European

²² *Genocide Network*, EuroJust, available at: <https://www.eurojust.europa.eu/judicial-cooperation/practitioner-networks/genocide-network> (accessed 30 August 2024); Council Decision of 13 June 2002, No. 2002/494/JHA, setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes [2002] OJ L 167/1; Council Decision of 8 May 2003, No. 2003/335/JHA, on the investigation and prosecution of genocide, crimes against humanity and war crimes [2003] OJ L 118/12.

²³ *Policy on Complementarity...*, *supra* note 5, p. 16.

²⁴ *Ibidem*, p. 18.

²⁵ Council Act of 29 May 2000 establishing in accordance with Article 34 of the Treaty on European Union the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union [2000] OJ C 197/1; Council Framework Decision of 13 June 2002 on joint investigation teams [2002] OJ L 162/1.

Union (third States, such as Ukraine).²⁶ Providing operational, legal and financial support to Joint Investigation Teams is a key part of Eurojust's mission.²⁷ An EU Network of National Experts on Joint Investigations Teams (JITs Network) was founded in 2005.²⁸ The JIT Network develops guidelines and evaluates the use of JITs in the European context. Joint Investigation Teams play an increasing role in facilitating cooperation between EU institutions, third States, international organisations, and civil society actors involved in accountability initiatives in relation to core international crimes. Joint Investigation Teams have been particularly successful in investigations of transnational and core international crimes.²⁹ For instance, a Joint Investigation Team between Germany and France led to the successful conviction of a high-ranking official of the Syrian regime in the Koblenz trial.³⁰ Moreover, arrests were carried out in the Netherlands on the basis of the information provided by the German police in relation to alleged crimes committed in Syria.³¹ Other examples of successful joint investigative efforts include the Sweden and France JIT targeting crimes against Yazidis in Syria and Iraq,³² as well as the Joint Team aimed at supporting investigations into crimes against migrants and refugees in Libya.³³ The members of the latter include the ICC OTP as well as national authorities from Italy, the Netherlands, the United Kingdom and Spain. The Joint Team is supported by the European Union Agency for Law Enforcement Cooperation (Europol) and its work has already resulted in arrests and extradition to Italy and The Netherlands of key suspects, with the support of the OTP.³⁴

The expertise gained during the investigations related to the core international crimes committed in, among other states, Syria and Northern Iraq, informed the

²⁶ Council of the Europe, *Joint Investigations Team Practical Guide*, No. 6182/17, 8 February 2017, available at: <https://db.eurocrim.org/db/en/doc/2672.pdf> (accessed 30 August 2024).

²⁷ *Joint Investigation Teams*, EuroJust, available at: <https://www.eurojust.europa.eu/judicial-cooperation/eurojust-role-facilitating-judicial-cooperation-instruments/joint-investigation-teams> (accessed 30 August 2024).

²⁸ *JITs Network*, EuroJust, available at: www.eurojust.europa.eu/judicial-cooperation/practitioner-networks/jits-network (accessed 30 August 2024).

²⁹ *Policy on Complementarity...*, *supra* note 5, p. 41.

³⁰ *Syrian official sentenced to life for crimes against humanity with support of joint investigation team assisted by Eurojust*, EuroJust, 13 January 2012, available at: <https://www.eurojust.europa.eu/news/syrian-official-convicted-crimes-against-humanity-with-support-joint-investigation-team> (accessed 30 August 2024).

³¹ *Suspected commander of Jabhat al-Nusra battalion arrested in the Netherlands*, Politie, 21 May 2019, available at: www.politie.nl/nieuws/2019/mei/20/suspected-commander-of-jabhat-al-nusra-battalion-arrested-in-the-netherlands.html (accessed 30 August 2024).

³² *Support to joint investigation team of Sweden and France targeting crimes against Yazidi victims in Syria and Iraq*, EuroJust, 7 January 2022, available at: <https://www.eurojust.europa.eu/news/support-joint-investigation-team-sweden-and-france-targeting-crimes-against-yezidi-victims> (accessed 30 August 2024).

³³ *Statement of ICC Prosecutor, Karim A.A. Khan QC: Office of the Prosecutor joins national authorities in Joint Team on crimes against migrants in Libya*, International Criminal Court, 7 September 2022, available at: <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-qc-office-prosecutor-joins-national-authorities-joint-0> (accessed 30 August 2024).

³⁴ *Policy on Complementarity...*, *supra* note 5, p. 42.

choice of accountability responses to Russia's full-scale invasion on the entire territory of Ukraine in 2022. The accountability responses have been characterised by a stronger emphasis on new technologies and reliance on centralised cooperation and information sharing frameworks.

2. CENTRALISATION OF EXPERTISE IN INTERNATIONAL CRIMINAL INVESTIGATIONS RELATED TO THE WAR IN UKRAINE SINCE 2022

Although the armed conflict in Eastern Ukraine has been ongoing since 2014, only the outbreak of the full-scale Russian invasion on the entire territory of Ukraine on 24 February 2022 motivated a substantial accountability response on an international scale.³⁵ Modelled on the centralised accountability efforts that proved effective in relation to other recent conflicts – namely the establishment of Joint Investigation Teams and *ad hoc* cooperation and collaboration mechanisms – the European Union has taken a leading role in the fight against impunity.

2.1. The Joint Investigation Team into alleged crimes committed in Ukraine

The Joint Investigation Team (JIT) into alleged crimes committed in Ukraine was established on 25 March 2022 by the national authorities of Lithuania, Poland, and Ukraine.³⁶ The ICC OTP joined the JIT on 25 April 2022, which marked the first time that the ICC Prosecutor has joined a JIT.³⁷ Four more states have joined the JIT in the following months, including Estonia, Latvia, Slovakia and Romania.³⁸ Moreover, an advanced technological support system has been created, including setting up a common database to gather, store, and evaluate evidence.³⁹

Eurojust, together with the EU Genocide Network and Europol are occupying central space in strengthening international criminal investigations in relation to the full-scale war in Ukraine. For example, the Eurojust's mandate has been expanded to further facilitate evidence-sharing and cooperation. The European Parliament adopted the proposal to reinforce Eurojust's mandate to: (1) preserve, analyse

³⁵ *Report on Preliminary Examination Activities 2020*, International Criminal Court, Den Haag: 2020, pp. 68–72.

³⁶ *Joint investigation team into alleged crimes committed in Ukraine*, EuroJust, available at: <https://www.eurojust.europa.eu/joint-investigation-team-alleged-crimes-committed-ukraine> (accessed 30 August 2024).

³⁷ *Policy on Complementarity...*, *supra* note 5, p. 41.

³⁸ *Estonia, Latvia and Slovakia become members of joint investigation team on alleged core international crimes in Ukraine*, EuroJust, 31 May 2022, available at: <https://www.eurojust.europa.eu/news/estonia-latvia-and-slovakia-become-members-joint-investigation-team-alleged-core-international> (accessed 30 August 2024).

³⁹ *Core International Crimes Evidence Database (CICED)*, EuroJust, 23 February 2023, available at: <https://www.eurojust.europa.eu/publication/core-international-crimes-evidence-database-ciced> (accessed 30 August 2024).

and store evidence centrally; (2) exchange evidence with national authorities, the International Criminal Court and other countries, in full respect of the EU data protection rules and; and (3) process additional types of digital evidence, such as videos, audio-files and satellite images.⁴⁰ On 1 June 2022, EU Regulation 2022/838 entered into force, allowing Eurojust to preserve, analyse and store evidence of core international crimes, paving the way for the Core International Crimes Evidence Database. The Database has been set up within Eurojust's secure IT environment and complies with the highest IT security and data protection standards as managed by Eurojust. It combines three elements: advanced analysis tools; safe digital data transfer; and secure data storage. The Core International Crimes Evidence Database will include a record containing details on those who provided the evidence; the occurrence and kind of crime it relates to, in addition to the evidentiary material. Evidence already submitted to the Database in the context of other international crimes (crimes of genocide, crimes against humanity and war crimes) may be equally relevant for the investigation into the crime of aggression. It is also possible to store evidence that is submitted by participants of the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine for analysis purposes.⁴¹

The creation of the Core International Crimes Evidence Database marks another step in developing regional expertise in evidence collection, processing, and analysis in Europe and paves the way for the operationalisation of the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine. Previously, the Europol Analysis Project on Core International Crimes (AP-CIC) and the Yazidi Initiative contributed towards developing best practices in centralised information storage, analysis and cross-checking.⁴² With the growing mandate of Eurojust, comes the possibility of increased contributions towards capacity building, norm sharing, and advocating for comprehensive accountability. This attests to its growing role as a regional accountability hub, bringing together different actors and combining innovative approaches towards accountability for core international crimes that serve as a precedent for the creation of a global accountability forum with a similar function.⁴³

⁴⁰ *Russian War Crimes in Ukraine: Commission Welcomes European Parliament's Adoption of Eurojust's Reinforced Mandate*, European Commission, 19 May 2022, available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_3180 (accessed 30 August 2024).

⁴¹ *International Centre for the Prosecution...*, *supra* note 7.

⁴² Aksamitowska, *supra* note 8, p. 209.

⁴³ *Policy on Complementarity...*, *supra* note 5, p. 18.

2.2. The Role of the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine in the Process of Capacity Building and Norm Sharing

Faced with the ongoing impunity for Russia's act of aggression against the territory of Ukraine in 2022, the EU Member States decided to establish an innovative judicial hub embedded in Eurojust to support national investigations into the crime of aggression related to the war in Ukraine, i.e. the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine (ICPA).⁴⁴ The ICPA is supported by the European Commission, Eurojust; and additionally the US Department of State offered to provide the ICPA with \$1 million financial assistance.⁴⁵ As a part of ICPA's unique infrastructure, 20 prosecutors from different countries, including the JIT members and the US,⁴⁶ are able to work together on-site, exchange evidence in a fast and efficient manner, and develop a common prosecutorial strategy.⁴⁷ The ICPA allows for the participation of non-JIT Member States and constitutes an important step towards establishing a Special Tribunal for the Crime of Aggression against Ukraine in the future. Building upon the experience of recent accountability mechanisms and frameworks coordinated by European and international accountability actors, the mandate of the ICPA includes: promoting collaboration between national prosecutors; taking advantage of the technological know-how at Eurojust; facilitating information exchange; coordinating the investigative strategies and contributing towards future prosecutions.⁴⁸

The technological advancement and increasing relevance of digital evidence and user-generated content in international criminal investigations and prosecutions has inevitably influenced the increasing roles of various accountability actors, including both state and non-state institutions. It highlights the important capacity-building role of both Eurojust and the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine. The ICPA has a real chance to change the accountability landscape through its role as a unique justice hub in (i) conducting investigations with a view to gathering information and evidence for potential use in criminal proceedings; and (ii) using the expertise in capacity building to contribute towards existing and future accountability instruments in national jurisdictions or at the Special Tribunal for the Crime of Aggression against Ukraine. Moreover, the evidence gathered by the ICPA may be valuable to the ICC OTP, national

⁴⁴ *International Centre for the Prosecution...*, *supra* note 7.

⁴⁵ *U.S. Assistance to International Investigation of the Crime of Aggression Against Ukraine*, U.S. Department of State, 14 November 2023, available at: <https://www.state.gov/u-s-assistance-to-international-investigation-of-the-crime-of-aggression-against-ukraine/> (accessed 30 August 2024).

⁴⁶ *Ibidem*.

⁴⁷ *International Centre for the Prosecution...*, *supra* note 7.

⁴⁸ *Ibidem*.

jurisdictions prosecuting alleged war crimes, crimes against humanity or genocide, or may be used for the purposes of imposing further sanctions or in determining compensation claims.⁴⁹

Its future potential role lies in its capability to preserve evidence and information important to the survivors' community, engage in a transparent dialogue with all justice actors, manage the expectations of different stakeholders and promote and advocate for comprehensive accountability for the crime of aggression and other international crimes committed in Ukraine. In addition, it may contribute towards developing best practices and the universalisation of standards that will become helpful in future efforts related to accountability for the crime of aggression globally.

CONCLUSIONS

In recent years, regional hubs that enable effective centralisation of accountability efforts and strengthen international criminal investigations in domestic settings have taken central stage in the fight against impunity. This is in line with the strategy of the Office of the Prosecutor of the International Criminal Court, that emphasised the importance of relying on local expertise in international criminal trials, without the need to engage 'The Hague' in all justice matters.⁵⁰ The expertise in analysis and processing of digital evidence gained during the Syrian investigations can inform future accountability efforts related to the full-scale war in Ukraine, as well as other conflicts. The know-how and technological infrastructure in place at Eurojust, Europol and the EU Genocide Network can assist the International Centre for the Prosecution of Russia's Crime of Aggression Against Ukraine and the Joint Investigation Team in their work. With its digital technology infrastructure and support of Eurojust; and its dedicated expertise on international criminal law and procedure, the ICPA has a unique potential to advance accountability and contribute towards capacity building and the sharing of best practices globally.

Whilst centralised accountability hubs – including the EU Genocide Network and the International Centre for the Prosecution of the Crime of Aggression against Ukraine – allow for effective cooperation with the OTP, they were not designed in a way to position the ICC at the apex of these frameworks, but rather to enable the ICC to contribute, as an equal participant, to capacity building and norm-sharing activities with the aim of facilitating the investigations and prosecutions that are

⁴⁹ *Ambassador Van Schaack's Remarks on the U.S. Proposal to Prosecute Russian Crimes of Aggression*, U.S. Department of State, 27 March 2023, available at: <https://www.state.gov/ambassador-van-schaacks-remarks/> (accessed 30 August 2024).

⁵⁰ S. Kendi, *Karim Khan's First Speech as ICC Prosecutor*, Journalists for Justice, 16 June 2021, available at: <https://jfjustice.net/karim-khans-first-speech-as-icc-prosecutor> (accessed 30 August 2024).

taking place in national jurisdictions. This approach is an inevitable consequence of the role played by centralised cooperation frameworks and national jurisdictions in catalysing innovation and progress in the field of international criminal justice in relation to the core international crimes committed in Syria and Northern Iraq. Embracing the capacity building and norm sharing role can help situate the ICC as an equal, yet indispensable, partner in novel justice hubs, and enable it to respond effectively to the needs of the moment in international criminal investigations and prosecutions without having to commit all its limited resources to selected situations. At the same time, it will allow the ICC OTP to contribute with the state-of-the-art technology and set investigatory standards for future accountability efforts globally.