BALTASAR GARZÓN INTERNATIONAL FOUNDATION
NOVEMBER 2026

EXPERT WORKSHOP
TEN YEARS OF THE MADRID–BUENOS AIRES PRINCIPLES

Universal Jurisdiction in Europe

A Critical Perspective

REPORT

Rome, Italy - September 2026

FONDAZIONE LELIO E LISLI BASSO
ECCHR EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS
Co-funded by the European Union
Global Initiative Against Impunity — Making Justice Work
FIBGAR
10 ANIVERSARIO

Publication date: November 2026

FIBGAR Report



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Credits and acknowledgements:
We would like to thank all the experts who participated as speakers in the Workshop for their collective contributions, which made the preparation of this report possible.



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TABLE OF CONTENTS

1. INTRODUCTION 2
2. INSTITUTIONAL WELCOME 3
3. ROUNDTABLE I. THE GAP BETWEEN PRINCIPLES AND PRACTICE 5
4. PANEL II: BUILDING ACCOUNTABILITY: COOPERATION, CIVIL SOCIETY, AND THE WAY FORWARD 13
5. SUMMARY AND RECOMMENDATIONS 17
6. CONCLUSIONS 17

REPORT ON THE WORKSHOP "UNIVERSAL JURISDICTION IN EUROPE—A CRITICAL PERSPECTIVE."

Rome, September 17, 2026

INTRODUCTION

As part of the project "Rethinking Universal Jurisdiction: Contemporary Challenges and Recommendations for Strengthening the Fight Against Impunity", the International Foundation Baltasar Garzón (FIBGAR) organised the meeting "Universal Jurisdiction in Europe: A Critical Perspective" on 17 September 2026 at the Fondazione Lelio Basso in Rome. The event was jointly organised with the European Center for Constitutional and Human Rights (ECCHR) as part of the Global Initiative Against Impunity (co-funded by the European Union), with the support of Fondazione Basso.

The meeting took place at a particularly significant moment for FIBGAR's work on universal jurisdiction, coinciding with the tenth anniversary of the Madrid–Buenos Aires Principles on Universal Jurisdiction. These Principles were the result of a process initiated by FIBGAR following the First International Congress on Universal Jurisdiction, held in 2014, and the Second International Congress, held in Buenos Aires in 2015. Conceived as a reference point for promoting the effective, consistent and coordinated application of universal jurisdiction, the Principles constitute one of the main reference points for the review process currently being promoted by the organisation.

The project "Rethinking Universal Jurisdiction" stems precisely from the need to analyse the evolution of this mechanism over the past decade and to identify the obstacles that continue to limit its effective application. Although universal jurisdiction allows national courts to investigate and prosecute certain international crimes regardless of where they were committed or the nationality of the victims and alleged perpetrators, its practical exercise continues to be constrained by legal restrictions, institutional and political obstacles, resource limitations and operational difficulties. Through specialised dialogue, research and advocacy, the project seeks to gather experiences and perspectives from different regions in order to formulate recommendations aimed at strengthening the implementation, effectiveness and legitimacy of universal jurisdiction.

The Rome meeting formed part of this process of international reflection and continued the exchanges held during 2026 in New York, Buenos Aires and Brisbane, which made it possible to incorporate perspectives relating, respectively, to gender justice, the challenges of universal jurisdiction from a Latin American perspective, and the prosecution of international crimes within national systems in the Asia-Pacific region. The European forum made it possible to extend this reflection to the experience accumulated across the continent over the past decade and, in particular, to examine the gap between the legal recognition of universal jurisdiction and its effective application in practice.

The meeting on 17 September was structured around two roundtables.

The first, entitled "The Gap Between Principle and Practice", focused on analysing the gap between principles and their practical application, paying particular attention to the legal, institutional and operational conditions necessary for universal jurisdiction investigations and proceedings to be conducted effectively. The second, "Building Accountability: Cooperation, Civil Society & the Road Ahead", addressed the possibilities for strengthening accountability mechanisms through cooperation and examined the role played by civil society organisations in these processes.

Taken together, the two roundtables provided a forum for exchange among practitioners and specialists working in the field of international justice and made it possible to review the progress achieved during the ten years since the adoption of the Madrid–Buenos Aires Principles, as well as to identify the challenges that remain and possible ways to strengthen their application. This report summarises and systematises the main reflections, experiences and proposals that emerged during the two discussion sessions, with the aim of contributing to the process of updating and reviewing the Principles within the framework of the project "Rethinking Universal Jurisdiction".

INSTITUTIONAL WELCOME

Presented by: Alessia Schiavon—Lawyer and Director of FIBGAR—.

Alessia Schiavon, Director of FIBGAR, opened the session by welcoming everyone on behalf of the organisation and thanking those in attendance. She invited them to participate actively in what she described as a safe space for exchanging opinions, suggestions and recommendations. She also thanked the panellists for their participation, the Fondazione Basso for hosting the event and providing the venue for its organisation, and ECCHR for making both this session and the following day's session, focused on

Italy's role, possible. She then briefly introduced FIBGAR, established in 2011 with the aim of continuing the work and legacy of Baltasar Garzón as a judge, with universal jurisdiction occupying a central place in its activities.

She recalled that, in 2014 and 2015, FIBGAR organised two major conferences, in Madrid and Buenos Aires, which led to the Madrid–Buenos Aires Principles. These were conceived as guidelines for decision-making, particularly in the field of public policy, on the application of universal jurisdiction. Ten years later, she explained, the Foundation had decided to revisit the Principles and use the anniversary as an opportunity for reflection and to encourage debate.

Within this framework, several meetings had been organised: one in New York on gender and universal justice; another in Buenos Aires, from a Latin American perspective; a workshop on the Pacific region and universal jurisdiction, organised by a university in Brisbane with FIBGAR's support, whose organiser she thanked for attending the meeting in Rome; and an online event scheduled for November.

She explained that the purpose of this process was to gather information on the current situation and the state of implementation of the Principles, and to carry out advocacy work in countries such as Spain, which had played an important role in the past, particularly through Baltasar Garzón's work as a judge, with the aim of communicating to society that there are experiences that work. As well as that the session had been conceived as a constructive and open working meeting, in which the panellists would share their views on the state of universal jurisdiction, its gaps and their proposals. She invited participants to speak freely, given the small size of the group.

ROUNDTABLE I. THE GAP BETWEEN PRINCIPLES AND PRACTICE.

Speakers: Chloé Faucourt, Judicial Cooperation Officer, Genocide Prosecution Network; Rebeca Huete Salazar, Legal Counsel, Civitas Máxima; Kristina Hon, Senior Legal Counsel, Civitas Máxima.

Moderator: Alessia Schiavon—lawyer and Director of FIBGAR—.

The first panel focused on identifying the gap between the normative development of universal jurisdiction and its practical application, both in terms of the law itself and its implementation.

Chloé Faucourt, a French legal expert and judicial cooperation officer at the Genocide Prosecution Network, focused her contribution on explaining why, despite the existence of legal frameworks, the application of universal

jurisdiction in Europe remains narrower and more selective than might be expected.

She recalled that most criminal procedural laws in European Union Member States provide for some form of universal jurisdiction over core international crimes, but that this is usually subject to certain conditions: the suspect's presence or residence in the territory of the State; prior authorisation from the Ministry of Justice, the Public Prosecutor's Office or another authority; and, to a lesser extent, the requirement of double criminality. Only a few legal systems provide for what is commonly referred to as pure universal jurisdiction and, she pointed out, even in those cases it is not applied in practice without restrictions. If the legal framework poses no real obstacles, she asked, why are so few cases observed, and why are cases mostly concentrated on certain situations?

To answer this question, she used the Koblenz trials in Germany as a case study, as they constituted the first historic prosecution of crimes committed by the Syrian regime against its population and demonstrated both what universal jurisdiction can achieve when the appropriate elements are in place and the difficulties that arise when one of those elements is missing. She clarified that, when referring to extraterritorial jurisdiction, she meant both pure universal jurisdiction and cases in which a State acts on the basis of the nationality of the victim or perpetrator, since a combination of all these forms can be observed in the context of the European Union.

She recalled that the two defendants were arrested in Germany in 2019 and that proceedings began in Koblenz in 2020, concerning torture and other crimes committed in Section 251 of the Syrian General Intelligence Directorate in Damascus. In the first trial, a lower-ranking official was convicted in February 2021 of aiding and abetting crimes against humanity; in the second, broader trial, his superior, Anwar Raslan, was convicted in January 2022 of crimes against humanity, including torture, murder, grievous bodily harm and sexual violence. She noted that this was the first conviction anywhere in the world of a senior official of the Syrian regime and that it established that crimes against humanity had been committed in Syria.

Why did this happen in Germany? Because, at the time, there was no realistic prospect of accountability in Syria—although the situation is changing: the regime remained in power and the International Criminal Court lacked jurisdiction, meaning that universal jurisdiction was the only available avenue. The speaker identified the factors that accounted for the case's success. The first was a robust legal framework, with international crimes already incorporated into domestic law and broad universal

jurisdiction provisions. The second was the existence of specialised prosecution units and investigators within the Federal Criminal Police Office (BKA)—two at the time and three today—which, in addition to providing expertise, demonstrated the Government's political will to equip them with resources and concentrate those resources on international crimes. The third was the use of what is known as a "structural investigation", which the German authorities had been conducting into the situation in Syria for years and which made it possible to place the suspects' individual acts within the context of the widespread and systematic attack against the civilian population, a contextual element of crimes against humanity.

The fourth factor was exceptional access to evidence: more than 26,000 photographs of tortured bodies from Syrian detention centres (the so-called "Caesar files"), obtained through an informant and handed over to the national authorities, whose forensic analysis required 13 experts and three and a half years; access to survivors and witnesses in Germany, made possible by the large Syrian diaspora and the participation of victims in the proceedings, largely thanks to the legal representation of claimants provided by ECCHR and other NGOs; documentary evidence extracted from Syria by refugees and specialised NGOs; the suspects' presence on German territory; and the existence of the United Nations International, Impartial and Independent Mechanism for Syria (IIIM), which specialises in gathering evidence and preparing evidentiary packages and analytical documents for transfer to national authorities, and is a partner of the Network.

Another contributing factor was the establishment, in 2018, of a joint investigation team (JIT) between France and Germany, with the IIIM also participating in those meetings. These joint teams are a judicial cooperation tool that allows several States to establish a team, freely exchange evidence and work as though they were conducting a single investigation, without having to submit individual requests for mutual legal assistance. In recent years, more such teams have been established in investigations into international crimes.

Finally, civil society played a highly active role, through both international NGOs and Syrian organisations, which contributed an understanding of the cultural and historical context, connections with the diaspora, evidence, witness identification and public monitoring of the trial.

Regarding the long-term effects, she noted that the case had paved the way for new proceedings in the European Union concerning crimes committed by the Syrian regime: "the first case is always the most difficult". Although it does not constitute a binding precedent for other States, its

legal findings—such as the classification of the armed conflict as non-international or the establishment of a widespread and systematic attack—can be invoked by other prosecution services. In addition to other Syrian cases in Germany, proceedings have been initiated in France, Austria—where charges have been brought—and the Netherlands.

Her conclusions were clear: the case was exceptional because all these factors converged, and the absence of any one of them—resources and, with them, political will; a specialised unit and, with it, the expertise needed to lead investigations; or international cooperation to obtain evidence—makes it much more difficult, though not impossible, to open a universal jurisdiction case. For this reason, she argued, universal jurisdiction is not a panacea. She observed that, even where the law establishes pure universal jurisdiction, States rarely open an investigation unless a suspect is present on their territory or there is a reasonable prospect of their being there, whether through extradition or travel. This is what happened in the case of Syria: the arrival of refugees made it possible to anticipate the presence of victims and potential perpetrators, prompting the opening of the structural investigation in Germany.

Although she stated that she did not hold the solution to these gaps, she drew three lessons. First, there is never too much investment in developing capacity at the national level, even when the necessary legal framework is not yet in place, as she noted in relation to Italy. Second, cooperation and the possibility of building on work already carried out by others should not be underestimated: the Genocide Prosecution Network operates precisely as a forum for sharing knowledge, experience and mistakes, and membership of this ecosystem helps foster a common culture and compatibility between prosecutors and investigators. Third, it is important to look beyond the European Union, because universal jurisdiction is more effective when exercised closer to home. In this regard, she highlighted developments in Southeast Asia, where Timor-Leste and Indonesia have taken on cases relating to Myanmar, in contrast to the difficulty of seeing such cases brought in Europe due to the absence of connections, diaspora communities and migration links.

At the conclusion of this first presentation, the moderator emphasised that the term “ecosystem” was the best way to describe universal jurisdiction, which only works when all actors participate. Referring to the Pinochet case, she recalled that its development required joint action by victims, lawyers and the political will of two different States, with NGOs playing a highly significant role.

Next, **Kristina Hon**, from Civitas Maxima, echoed this idea and introduced the organisation: an NGO based in Geneva that works exclusively on

strategic litigation, without engaging in advocacy, and whose mandate focuses on forgotten victims of core international crimes. It primarily uses universal jurisdiction, although not exclusively, and seeks to be creative when the available avenues are less obvious. The organisation emerged from an effort to achieve accountability in Liberia following the two civil wars that took place between 1989 and 2003. Liberia remains at the core of its work, although its activities have expanded to other contexts. She drew on the Liberian cases to provide examples of the organisation's work.

She agreed with Chloé Faucourt that the universal jurisdiction community had focused on legal reform to codify these powers within national jurisdictions and that a concerted effort was now needed to work with those jurisdictions: continuing to build capacity in jurisdictions where cases had already been brought; testing the laws in those where this had not yet happened; ensuring their full and proper application; and simultaneously strengthening the entire criminal justice infrastructure—from law enforcement agencies to prosecutors and judges—so that it has the competence and expertise needed to conduct investigations leading to convictions, and can therefore be trusted to do so. In her view, Civitas Maxima's experience generally demonstrated a genuine willingness to use the available laws to achieve meaningful accountability, although levels of motivation and initiative varied and political influence also played a role.

The case she presented, that of Alieu Kosiah, was litigated in Switzerland, but the obstacles she identified, relating to the proceedings and the prosecution, are indicative of those faced by other countries as well. It was the first case before the Swiss Federal Criminal Court involving international crimes since Switzerland amended its legislation in 2011, following ratification of the Rome Statute, and concerned crimes committed during the first Liberian civil war. Civitas Maxima contributed to the criminal complaint, and its director, acting in a personal capacity, represented the victims as plaintiffs alongside other lawyers. As a test case, it offers much to analyse. She selected two shortcomings because they directly affect victims and their expectations of justice, and because in both instances States can amend their laws or policies to mitigate their effects.

The first shortcoming identified concerned civil compensation. Swiss law allows civil parties to claim compensation simultaneously, but the rules are complex and the record of payments is inconsistent. In the judgment against Kosiah, who was convicted of crimes against humanity and war crimes, victims were awarded compensation ranging from 6,600 to 8,000 Swiss francs, a very substantial sum for them—equivalent to more than two years' salary—but one they would probably never receive. (N.B. On 29 October 2026, the Swiss Federal Supreme Court overturned Kosiah's conviction for crimes against humanity on grounds of non-retroactivity of

the applicable statute, but upheld the war crimes conviction as well as the sentence.) The reason is that the law provides for State compensation only for crimes committed in Switzerland; for crimes committed abroad, it can only offer support services to those victims residing in Switzerland at the time of the offence. As all the plaintiffs were Liberians living in Liberia at the time of the crimes, there is therefore no mechanism through which they can ask Switzerland to pay in place of Kosiah, and as he has no assets, the damages awarded to them cannot be enforced.

She explained that it had been very difficult to tell the victims why they would not receive an amount that the judgment had awarded them on paper. As a lesson learned, in a case brought in France, where similar rules apply, Civitas Maxima requested only one euro in symbolic compensation in order to manage expectations. She also highlighted a related risk: although entirely legitimate, the parallel civil claims were used by the defence to attack the witnesses' credibility, suggesting that they were testifying because they expected to receive money. She therefore called for States to adopt a more consistent approach to civil compensation in criminal proceedings, particularly those involving universal jurisdiction, in order to avoid raising unjustified expectations and exposing victims to unwarranted attacks on their credibility.

The second shortcoming concerned gaps in sentencing and the measures taken after release. Kosiah was sentenced to 20 years in prison, the maximum permitted under Swiss law in force at the time the crimes were committed, in the early 1990s. Because of delays in the proceedings—caused first by Ebola in Liberia and subsequently by COVID-19—he spent more than six years in pre-trial detention, which is deducted from the sentence. Since standard Swiss policy allows parole after two-thirds of a sentence has been served, he will become eligible for release in approximately four years, after which he would be deported to Liberia. The problem is that all the witnesses are in Liberia and, having testified openly, Kosiah knows their identities. He has already made several threatening statements, and risks of retaliation upon his return remain high. Under Swiss law, there are no protective measures available for safeguarding plaintiffs and witnesses living in a foreign country. Its domestic protection rules are very strict, with a high threshold for preserving anonymity, which is why the witnesses testified openly.

Within Liberia, criminal accountability has been slow to arrive as well, making protection concerns more difficult to address. She explained that the organisation would do everything possible to protect the witnesses, but that it faced the limitations inherent to civil society, particularly in terms of resources. This led to the paradox she raised: the accountability process had "worked"—there had been a conviction—but what happens afterwards?

For her part, **Rebeca Huete Salazar**, also from Civitas Maxima, presented a second case illustrating the practical difficulties of investigating these crimes: the case of Martina Johnson in Belgium, concerning acts allegedly committed during Liberia's first civil war (1989–1996). In 2012, three victims, with the support of Civitas Maxima and the Global Justice and Research Project, filed a complaint against Johnson, a former commander of Charles Taylor's forces, for her alleged role in Operation Octopus, an offensive launched against Monrovia in 1992 that lasted four weeks and was marked by widespread killings and rape of civilians, as well as looting.

Johnson was arrested in Belgium in 2014, but the investigation continued for a decade: it was not formally closed until October 2025, and the case was referred for trial in March 2026. She noted that this timeline was significant when discussing the gap between theory and practice, and that what happened during those ten years illustrated the operational obstacles involved. The crimes had been committed abroad more than twenty years earlier, meaning that evidence had to be gathered across different jurisdictions, archives, experts, witnesses and survivors. Field investigations in Liberia were essential, but the Belgian authorities could not simply travel there: each request had to be formally submitted to and accepted by the Liberian authorities. Belgium's first request was submitted shortly after the arrest, in 2015, but the procedure proved time-consuming and required sustained follow-up. It was further complicated by the absence of a Belgian diplomatic presence in Liberia, which slowed the proceedings and required considerable institutional and diplomatic effort. Three further requests were submitted in 2019 and, in 2022, eight years after the arrest, the civil party's lawyer filed several applications asking the investigating judge to make progress. With the support of the prosecutor at the time, the Court of Appeal ordered the investigation to continue, exercising oversight over the investigating judge's work. Only then was a field investigation mission carried out in Liberia, the first and only one throughout the entire proceedings.

The Civitas Maxima team identified structural limitations and lack of specialisation as factors contributing to the delay. She stressed that the consequences were not abstract: during those ten years, one of the victims died without seeing the case progress to trial; others have longstanding security concerns and fears of possible retaliation in Liberia; the uncertainty and psychological strain of such prolonged proceedings affect individuals and their trust in justice; and witnesses are becoming increasingly difficult to locate, which could have an impact on the trial itself.

Looking towards the next decade, she proposed focusing on two issues. First, she emphasised the need for specialised units: it is not enough to formally designate a prosecution service or a unit responsible for

investigating international crimes. Operational capacity requires investigators and prosecutors with genuine expertise and knowledge of these crimes; budgets and resources to conduct investigations abroad and sustain them over time; linguistic and contextual competence—since it is necessary to understand not only the facts but also the history and circumstances in which the crimes were committed—and sufficient resources to keep cases active for years.

Second, she highlighted the need to strengthen victims' rights. Although the importance of ensuring their participation, access to information, safety and well-being is recognised, much of this work is still undertaken by civil society organisations rather than guaranteed by the justice system as an institutional responsibility. She cited data indicating that, according to the Universal Jurisdiction Annual Review (UJAR), at least 70 of the more than 150 open cases in 2025 involved civil society organisations supporting victims, gathering evidence and working with prosecution services, despite this reliance not corresponding to a consistently recognised status or legal standing across jurisdictions. In some cases, moreover, the organisations themselves are becoming subject to defence challenges concerning their role. She therefore concluded that, since universal jurisdiction is inherently transnational, these principles cannot be treated as ancillary provisions: they are part of what makes universal jurisdiction possible in practice.

At the close of the two presentations, the **moderator** thanked the speakers for bringing victims' rights to the forefront, as both cases highlighted the risk of victimisation arising from inadequate protection, legislative gaps, a lack of operational capacity and delays. She warned of the danger of turning victims into victims of the justice system itself for a second time. She noted that Principles 19 and 20 were precisely those that had received the most comments over the previous month and had attracted the attention of experts, particularly with regard to specialised units. If the Madrid–Buenos Aires Principles were pioneering, almost revolutionary, when they were drafted in 2014 and 2015, ten years later there was a need to provide additional guidance based on experience, such as the lessons presented from the German case.

During the **subsequent discussion**, Chloé Faucourt addressed the issue of obtaining evidence when it is not possible to send investigators to the territory concerned. Each case requires an assessment of where and how evidence can be accessed and, when one avenue closes in Syria, another sometimes opens. She referred to the numerous cases linked to crimes committed by the Islamic State in Iraq and Syria, in which European authorities relied heavily on UNITAD, the UN mechanism based in Iraq. Its mandate ended at the request of the Iraqi Government to the Security Council, causing considerable concern among practitioners. Since then,

Iraq has established an International Cooperation Centre, which has taken over the Iraqi portion of UNITAD's database and was invited to a Eurojust meeting, leading to an informal working arrangement. A few days before the meeting, Eurojust announced the first conviction resulting from this channel: in a terrorism case, Slovenia obtained evidence from Iraq that enabled the conviction of a suspect. She clarified, however, that access to the portion of the database held at the UN headquarters in New York had now been lost, and its future remained under discussion. As for Syria, this work is ongoing, with the IIIM fully involved.

The importance of raising the profile of the IIIM's work was also highlighted. Although it is a relatively small component, it does a great deal and is largely overlooked by the wider human rights community. The Mechanism itself had contacted the Network to raise awareness of its challenges and workload. Along these lines, the possibility of replicating this experience with the mechanism established for Afghanistan, which is awaiting funding, and in other difficult contexts was raised.

John Stauffer, who was due to speak later in the second panel, suggested linking the discussion to victims' rights. He noted that the revision of the European Union Victims' Rights Directive was an important step that Member States must transpose, and invited Chloé Faucourt to comment on its significance in light of her work at the European level. She explained that, before the revision, the Directive did not take into account the situation of foreign nationals who were victims of crimes committed abroad, outside the European Union, who did not enjoy the same rights. She noted that the EU has a Coordinator for Victims' Rights, with whom the Network had met the previous day as part of the development of a European strategy on victims that would accompany the Directive and its transposition, in which the Network would participate. She also mentioned a report published several years ago by non-governmental organisations on the barriers faced by victims during trials, noting that the challenges it identified remained fully relevant.

She also recalled lessons learned by prosecutors from Koblenz and other cases in which victims had expressed disappointment with certain aspects of the proceedings. In Koblenz, Arabic interpretation was available in the courtroom but not in the public gallery, so civil society organisations provided daily updates on what was said during the trial to make it accessible. The judges also refused to film the proceedings because this was prohibited in Germany, although the prosecution would not have objected. Victims regarded this as a failure to recognise the historical significance of the case. These messages are conveyed at the Network's biennial meetings and taken on board by practitioners, and evolving

practices have been observed, although not in every case, as in the Netherlands in some cases involving Yazidi people.

PANEL II: BUILDING ACCOUNTABILITY: COOPERATION, CIVIL SOCIETY, AND THE WAY FORWARD

Speakers: Chantal Meloni, Senior Legal Advisor – ECCHR; John Stauffer, Legal Director / Deputy Executive Director – Civil Rights Defenders; Hope Rikkelman, Executive Director – Nuhanovic Foundation

Moderator: Alessia Schiavon – Lawyer and Director of FIBGAR –.

The second panel opened with an invitation to move from diagnosis to proposals: to "build something concrete" and consider what can be done by civil society.

Chantal Meloni began the discussion by explaining that ECCHR, based in Berlin, uses strategic litigation to bring about changes that go beyond individual cases. Its work on international crimes originated in an effort to bring those responsible for the post-9/11 torture programme before courts outside the United States, at a time when Germany had already adopted legislation in 2002 establishing a very broad principle of universal jurisdiction.

She focused her contribution on Syria, the most successful example of the prosecution of crimes committed abroad before German courts. Given the individuals tried—members of the Al-Assad regime, although not senior officials—the Koblenz proceedings constituted the first case of state-sponsored torture linked to that regime to be heard before a European court, in a context where avenues for justice were blocked. There were challenges involving interpretation, translation and a lack of publicity, as the courts treated a historic trial as an ordinary matter. Civil society helped address these shortcomings, particularly the ECCHR team representing the victims and Syrian lawyers who were building these cases from Germany.

She observed that, following a decline in universal jurisdiction—when even Antonio Cassese had declared its demise in response to legislative restrictions in Spain and other countries—the past decade had brought renewed enthusiasm, to which Germany had contributed. However, she warned of the "elephant in the room": double standards. In contrast to the success of the Syria cases, she cited Palestine, where ECCHR is working to bring cases before German courts, among others, and where prosecution services are not even willing to speak with them. In most countries, even where the principle is broad on paper—Germany theoretically has the

broadest form of pure universal jurisdiction—mechanisms of political control remain in place.

The panel continued with **Hope Rikkelman**, who introduced the Nuhanovic Foundation. Established in 2012 to support the case concerning Srebrenica before the Dutch courts, the Foundation adopted a comprehensive and proactive approach in 2016–2017 to what justice and accountability mean for survivors. She explained that the Foundation is involved in all universal jurisdiction cases in the Netherlands, conducting its own investigations and submitting case files to the Dutch War Crimes Unit, providing support during the preliminary phase and trial, and supporting a referral pathway to mental health support, ensuring that it is included in all phases of the trial. In 2024, it was included as a referral pathway in the Unit's victim support protocol, which it had helped rewrite, particularly regarding gender-related issues. She identified outstanding gaps: direct victims are entitled to free legal assistance, but witnesses and those who have not yet been recognised as victims are not. She also emphasised the importance of preserving independence despite this almost formal relationship.

She also described the legal networks—Yazidi, Syrian and Ukrainian—through which the Foundation connects with communities, the live streaming of trials, including screenings at three universities with Yazidi populations, and research conducted with Amnesty International on victims' rights in all international crimes cases in the Netherlands.

She also stressed that justice means different things to different people. In a Rwandan case, for example, one survivor valued the opportunity to speak, but above all wanted compensation and prospects for her children's education.

Finally, she argued that the exchange of information should complement prosecutions in the country of origin. To illustrate this need, she gave the example of the case concerning the 1982 murder of Dutch journalists in El Salvador. After the case file was returned, an appellate judgment delivered just days before the meeting had provided some measure of justice for their families, forty-four years later.

Finally, **John Stauffer** introduced Civil Rights Defenders (CRD), which has partners in more than 50 countries and conducts monitoring work in Sweden, one of the countries with the highest number of universal jurisdiction cases. He explained that CRD adapts evidence gathered by its partners to Swedish law and files police reports, supports human rights defenders on the ground, conducts advocacy and outreach, and monitors trials.

He highlighted several strengths of the Swedish model: cross-party political commitment, which translates into prioritising resources for a war crimes unit within the police, a specialised prosecution unit and support for civil society; the existence of four structural investigations—Syria, since 2015; foreign fighters in Iraq and Syria; Ukraine; and Gaza, whose scope remains unknown—which make it possible to broadly gather information and build expertise; focal points that serve as entry points for civil society; an obligation on the Migration Agency to report information concerning possible international crimes; and courts that cooperate effectively, although psychosocial support remains insufficient and there are substantial differences between the experienced Stockholm court and other courts in the country. He therefore advocated concentrating cases in a single court.

He identified reaching survivors and witnesses as the main challenge. A lack of trust, the vulnerability of migrants and asylum seekers, fear of reprisals, stigmatisation and deportation—exacerbated by uncertainty surrounding migration policy—and the lack of capacity to guarantee the safety of witnesses and their families all make this difficult. In response, he highlighted the trust built with the police and prosecution services, with which several organisations working on international crimes hold regular meetings where information is shared and issues discussed in an open way, and the role of civil society as a bridge to communities, while maintaining its independence.

Then, Chantal Meloni highlighted the close link between migration policies, international crimes and the way they are investigated. She questioned why, given the existence of structural investigations in Sweden, Germany and probably the Netherlands, there was no such investigation concerning Palestine.

The debate highlighted Libya as an illustrative case of the limits of cooperation and selectivity in prosecution. It was observed that investigations tend to focus on crimes committed by smugglers and traffickers, whereas the widespread or systematic attack against the migrant population in Libya could give rise to responsibilities that extend beyond Libyan territory. It was also noted that the ICC could begin examining these broader chains of responsibility.

Hope Rikkelman agreed and added that civil society can exert pressure on governments, thereby reinforcing its independence. She also extended an invitation to those present: if there is anything they can help with, they should do so.

John Stauffer referred to the meeting on Afghanistan and to agreements negotiated with third countries for the return of convicted individuals in

Sweden, such as the agreement reached with the Somali regime. Together with the EU Pact on Migration and Asylum, these arrangements will affect communities' willingness to come forward, at a time when the police are at the centre of increasingly restrictive policies. He said he had no solution, but civil society could serve as a link between people and the authorities: "we can build that trust".

A member of the audience objected that the joint investigation teams concerning Libya, which the ICC cites as good practice, include States whose conduct towards migrants intercepted at sea and returned to Libya could itself be subject to investigation. The participant questioned whether this could be considered good practice if information was not shared reciprocally.

Chantal Meloni clarified that this was not a joint investigation team but a coordination mechanism between national prosecution services—Italy, Germany, the Netherlands, the United Kingdom and Spain—to facilitate the provision of information to the ICC. The Office of the Prosecutor has maintained a specific line of investigation into crimes against migrants since the tenure of Fatou Bensouda, which is considered separate from the line of investigation giving rise to the cases against Al-Hishri and Al-Masri, the latter of whom was not surrendered to the Court. She warned that these two lines of investigation could not be sharply separated: the Al-Hishri case, which is approaching trial, concerns migrants detained in Mitiga prison and handed back to Libyan authorities as a result of active conduct by European countries such as Italy, although those countries' responsibilities are not included in the case, as the only accused is the Libyan prison commander. A future case might address those responsibilities.

Another contribution recalled the debate over concentrating cases in a specialised court. In Germany, several people had opposed this idea because a designated court lacking the right personnel could bring progress to a halt, whereas decentralisation encourages diversity.

Hope Rikkelman explained that, in the Netherlands, the court in The Hague hears all international criminal law cases and that judges rotate. In her view, the court has a fairly good understanding of the context of each conflict.

Finally, John Stauffer returned to the issue of reparations, referring to the Lundin trial, which concerned a private oil company and its alleged complicity in international crimes. During the proceedings, the company underwent restructuring and its assets were transferred to a Norwegian company, which the authorities have been reluctant to pursue. As a result, there is no avenue for compensating the victims. He asked how this aspect, which forms part of the Principles, could be strengthened.

SUMMARY AND RECOMMENDATIONS

Throughout the day, several sets of recommendations were formulated.

The first of these focused on the need to invest in specialized and sustained capacity: the experiences of Germany, Sweden, and the Netherlands—dedicated units, structural investigations, focal points, stable resources—show that political will, when translated into resources, makes all the difference, while the Belgian case demonstrated how a lack of specialization and resources for investigating abroad can drag out a preliminary investigation for a decade. It was proposed that genuine operational capacity be required, and the advisability of concentrating cases in a specialized court was debated, though no consensus was reached.

Second, the need to strengthen cooperation and the exchange of knowledge between jurisdictions and with international mechanisms—joint teams, the Genocide Prosecution Network, or the IIIM—was emphasized, subjecting such cooperation to critical scrutiny when the states involved in the events participate in it.

Third, the critical need to place victims and witnesses at the center was raised: coherent civil reparations; protection that extends beyond the borders of the state conducting the trial; interpretation and public access to trials; psychosocial support and legal assistance beginning with the investigation; and institutional assumption of tasks that currently fall to civil society.

Furthermore, the importance of recognizing civil society as part of the ecosystem and as an independent actor that litigates, documents, monitors, and builds trust with communities was also raised.

Finally, the need was emphasized to call attention to the double standards and political control that influence case selection, as well as to look beyond Europe and focus on new jurisdictions in other regions that are taking their first steps toward developing universal jurisdiction processes.

CONCLUSIONS

The workshop helped identify a central idea: in Europe, there is, generally speaking, a regulatory framework that enables the exercise of universal jurisdiction, but its application remains limited and selective. The gap between principle and practice is explained not so much by a lack of rules as by the absence of specialized operational capacity, resources, and

sustained political will, as well as by difficulties in accessing evidence and insufficient protection for victims and witnesses. Koblenz demonstrated what happens when favorable conditions converge; the Kosiah and Martina Johnson cases illustrate the obstacles that arise when any of these conditions fails.

The second panel added the political dimension: political commitment translated into resources, dedicated units, and dialogue with civil society yields results, but double standards and mechanisms of political control determine which situations are investigated and which are not—as illustrated by Palestine and Libya, and their relationship to migration policies—and certain crimes may be better addressed before the International Criminal Court than before national courts. In this context, civil society emerges as a partner to institutions and, at the same time, as an independent actor capable of litigating, documenting, exerting pressure, and building bridges of trust with communities.

The workshop thus reaffirmed that universal jurisdiction still presents challenges, but it is not an empty promise: when a legal framework, expertise, cooperation, and civil society participation are combined, it is possible to achieve concrete results and set precedents.

Thank you!

Thank you for taking the time to read this workshop report. If you have any questions or would like to discuss our findings further, please do not hesitate to get in touch.

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