



**EUROJUST**

European Union Agency for  
Criminal Justice Cooperation

# Eurojust - United States - Genocide Network Meeting on Battlefield Evidence

Outcome report  
18-19 April 2024

*Criminal justice across borders*



# **Eurojust – United States – Genocide Network Meeting on Battlefield Evidence**

*The Hague, 18-19 April 2024  
(Eurojust's premises and videoconference)*

## **OUTCOME REPORT**

The Eurojust/US/GN Meeting on Battlefield Evidence is a joint initiative of Eurojust, the United States (USA) and the Genocide Network (GN). The access to battlefield evidence and the successful use of this evidence in court were the main topics, with speakers and participants sharing best practices and challenges. The meeting gathered the national correspondents for Eurojust for terrorism matters, contact points of the Genocide Network, specialised prosecutors from both EU Member States and third countries, as well as representatives from EU institutions and agencies, and international organisations. Representatives of selected civil society organisations were invited as speakers.

### **1. Introduction**

Building on recent initiatives regarding the access to and use of battlefield evidence, the Eurojust/US/GN Meeting on Battlefield Evidence focussed on experience sharing and exchanges of best practices and lessons learned, both when it comes to accessing evidence collected by various actors in the context of an armed conflict and concerning the use of such pieces of evidence in judicial proceedings. The subject matters discussed are of great importance to the enhanced use of evidence collected in various conflict zones for the investigation and prosecution of terrorist offences and core international crimes. A practical approach to the topics was chosen, with speakers and participants sharing their own experiences and expertise.

The meeting focussed on the specific needs of prosecutors and other competent authorities in the context of investigations or trials involving terrorism related offences and core international crimes, and was divided into two parts, which mirrored the main challenges faced by prosecutors, namely: 1) how to improve access to battlefield evidence; and 2) how to ensure successful use of battlefield evidence in court. The first part covered cooperation with US authorities, international organisations and civil society organisations. The second part focussed on methods and procedures to ensure the successful use of battlefield evidence in court.

The meeting was a joint initiative of Eurojust, the USA and the Genocide Network, and a continuation of several years of cooperation with our US partners on this subject matter.

## **2. Opening remarks and updates on developments at EU level**

### **Opening remarks**

The President of Eurojust, the Chief of the Counterterrorism Section at the US Department of Justice, the Head of the Genocide Network Secretariat and the Chair of the Eurojust Counter-Terrorism Team extended a warm welcome to all participants in the meeting.

Against the backdrop of continued terrorist threats in Europe and beyond, battlefield evidence plays an important role in supporting terrorism cases, in particular against returning Foreign Terrorist Fighters (FTFs). In more recent years, it has also strongly supported EU prosecutors in obtaining convictions for core international crimes (war crimes, crimes against humanity and genocide).

The speakers noted that this meeting, which represents another milestone in the long-standing cooperation between Eurojust and the US authorities, brought together relevant stakeholders and provides an opportunity for all to meet, exchange experiences and learn from best practices. Joining forces and building strong partnerships is crucial to fight impunity and bring justice to victims, especially in light of the many challenges ahead and of the expected increase in the need for battlefield evidence in judicial proceedings.

### **Ongoing developments at EU level**

#### **Office of the EU CTC**

The Adviser to the EU Counter-Terrorism Coordinator (EU CTC) emphasised that the EU CTC has been actively engaged in raising awareness and strengthening the sharing of battlefield information and its use in criminal proceedings over the past years. Common efforts have yielded important results, including several meetings with practitioners and the two editions of the Eurojust Memorandum on Battlefield Evidence. Best practice and lessons learned from conflicts in Afghanistan, Iraq and Syria can now also be used in investigations and prosecutions of crimes committed in the context of the war in Ukraine.

Since 2018, the EU CTC has tabled several policy recommendations in four main strands:

- 1) Strengthening the sharing of battlefield information between the military and law enforcement;
- 2) Availability and use of battlefield information for external EU border security and control;
- 3) Better availability and use of battlefield information in criminal proceedings;
- 4) Cooperation with third countries and international organisations and bodies.

Significant progress has been achieved in the area of border security with the insertion of information on FTFs into the Schengen Information System (SIS). The work of Eurojust has led to the successful use of battlefield information as evidence initially in CT prosecutions and later also in cumulative prosecutions for terrorism and core international crimes. Further efforts can focus, for example, on enhancing the sharing of battlefield information collected in conflict zones, including in Africa, with national law enforcement authorities and Europol. Cooperation with MENA and Middle East countries, Türkiye, as well as with Interpol, UNITAD and IIIM is very important. The premature

end of the UNITAD mandate raises significant international concerns, as UNITAD has established itself as a key partner that provided battlefield information and innovative approaches, for instance in relation to witness interviews. To avoid the risk of a setback in the fight against impunity, it must be ensured that the data UNITAD collected is preserved and accessible so that it can be used in a court of law.

#### **Directorate-General for Justice and Consumers**

The representatives of the Directorate-General for Justice and Consumers (DG JUST) recalled recent developments which are of relevance from a policy perspective, including the set-up of CIED and the JIT Collaboration Platform, and the strengthening of digital information exchange in terrorism cases. The impetus to set up CIED arose from the Russian invasion of Ukraine but the database can be used to preserve, store and analyze evidence, including battlefield evidence, related to any armed conflict. The fact that both EU Member States and third countries can submit evidence to CIED is crucial. Eurojust also supports successful JITs related to CIC investigations, including the one concerning the war in Ukraine and the one concerning crimes against Yazidis. The exchange of evidence within JITs will be enhanced through the JIT Collaboration Platform, which is expected to become operational in 2025. Eurojust's capacity to detect links between criminal proceedings is further reinforced by the 2023 amendment to the Eurojust Regulation and the strengthening of the CTR.

The European Commission is ready to discuss the future of the database of UNITAD that has been a crucial mechanism facilitating CIC investigations, prosecutions and convictions. While the decision will be political, it is important to also consider the technical steps that need to be taken, as well as the fact that Eurojust already has a pertinent technical infrastructure in place.

The European Commission is also reflecting on the need to adopt minimum rules on admissibility of evidence within the EU. It is important to ensure the proper functioning of relevant EU instruments and guarantee procedural rights. The Commission commissioned a study on the mutual admissibility of evidence in 2021, which did not produce many findings concerning battlefield evidence (because of its more general focus); nonetheless, the Eurojust Memorandum on Battlefield Evidence is a very useful tool in that respect. The admissibility of battlefield evidence remains a topic of utmost importance to the European Commission.

#### **Directorate-General for Migration and Home Affairs**

The representative of the Directorate-General for Migration and Home Affairs (DG HOME) emphasized the paramount importance of the prosecution of FTFs to safeguard security and the rule of law. Battlefield information is crucial to identify FTFs and can be used not only to prosecute them but also to detect them before they enter the Schengen area. Since 2019, the European Commission has encouraged EU Member States to feed EU databases, including SIS, with battlefield information.

Based on the amendments to Europol's mandate in 2022, Europol may also suggest to the EU Member States to insert information in SIS based on data received from third countries and international organisations. SIS was amended to include a new alert category, 'information alert', which will be available, directly and in real time, to border, law enforcement and frontline officers. The technical implementation is ongoing and it is expected to be operational in 2025.

The European Commission will continue to support the EU Member States to use battlefield information and to identify, investigate and prosecute FTFs. Avenues for financing of relevant projects will also continue to be explored.

### 3. First session: Cooperation – How to improve access to battlefield evidence

#### Cooperation with the United States of America

**A panel consisting of representatives of the United States Department of Justice, the Terrorist Explosive Device Analytical Center (TEDAC) and Operation Gallant Phoenix (OGP)** indicated that for the last 20 years, the USA has successfully relied upon collected exploitable material (CEM), *i.e.* battlefield evidence, to support its investigations and prosecutions. Without the exchange of information among US authorities, the prosecution of many returning FTFs would have been more challenging. The USA maintains a large repository of battlefield evidence, the vast majority of evidence owned by the US military. CEM includes not just cell phones, but any material collected, such as SD cards, documents, computers, external hard drives, *etc.*

A procedure has been developed to ensure the proper documentation of the chain of custody. After collection, the exploitation center that receives the CEM, tracks it and records its chain of custody throughout the forensic/technical process. Various institutional structures assist in the process. For example, TEDAC, established in 2003, was designated as the single US Government strategic-level Improvised Explosive Device (IED) exploitation center and repository of IEDs. It is a multi-agency FBI forensic laboratory that provides investigative, analytical and intelligence support to U.S. and international partners on improvised and emerging threats; TEDAC houses experts from the law enforcement, military, intelligence, and scientific communities who work together to eliminate these threats. As a globally-focused center integrating forensic and technical collection, exploitation, and analysis capabilities, TEDAC provides actionable intelligence, supports criminal prosecutions, and enhances force protection. The FBI Laboratory's Intelligence Unit supports national and international law enforcement investigations through timely intelligence analysis of forensic laboratory evidence. Project TREAD (Terrorist Recognition through Explosives Analysis and Distribution), is a collaborative initiative led by TEDAC to share biometrics, through the issuance of Interpol Blue Notices, of identified known or suspected terrorists (KSTs) biometrically linked to IEDs and/or weaponized Unmanned Aircraft Systems (UAS) recovered from conflict zones worldwide.

Battlefield evidence shared by OGP, a US Department of Defense-led interagency and multinational organization, where the USA and partners examine and share terrorism-related information, includes digital CEM, unaltered copies of electronic devices and context statements. To ensure greater success in obtaining battlefield evidence from OGP and using it for border control or in judicial proceedings, the following factors are important:

- Evidence from conflict zones is vital to national security;
- The chain of custody is important, regardless of where the evidence was gathered;
- Frequent meetings are helpful in order to address the legal differences that can sometimes slow down the request process; it is recommended to contact the country's FBI Legal Attaché for advice;

- Allow for the exchange of information between experts;
- Sharing of classified information can be difficult, so start early to allow enough time for declassification;
- While obtaining a legal agreement in relation to sharing biometric data may be necessary and may take time, it is always better to do so as it can assist in achieving successful prosecutions.

In order to obtain this evidence, a detailed Battlefield Evidence Search Request Form should be filled out and requests repeated as necessary. This form can be obtained from the FBI Legal Attaché office or the U.S. Department of Justice Resident Legal Adviser, and national authorities are invited to provide as much information as possible to facilitate the search and increase the chances of identifying relevant evidence. The support provided by OGP and other relevant US entities can also benefit structural investigations and provide assistance to victim related requests.

### **Cooperation with International Organisations**

**The Chief of Investigations, United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/ISIL (UNITAD)**, briefly presented the mandate of the Team to support domestic efforts in holding ISIL (Da'esh) accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide. The evidentiary holdings of UNITAD contain a variety of materials collected from different sources. A significant amount of these materials are a) scanned copies of physical documents seized from ISIL (Da'esh), including original ISIL (Da'esh) documents, and b) copies of digital documents or multimedia acquired from digital devices seized from ISIL (Da'esh), collected by the Iraqi authorities and shared with the Team.

UNITAD provides assistance to jurisdictions of third countries in furtherance of their investigations and prosecutions of crimes that fall within UNITAD's mandate. Such assistance is provided both upon receipt of a request from a third country and by conducting searches against its evidentiary holdings. The Team has successfully shared copies of materials from its holdings with third country jurisdictions as a result of these searches. The speaker outlined the disclosure process, based on the consent of all concerned information providers, including the Iraqi judiciary. She indicated that UNITAD's capacity to identify relevant internal ISIL (Da'esh) documents in direct response to requests for assistance, combined with its ability to collect corroborating testimonial evidence from witnesses and produce analytical reports, has been of significant assistance in supporting international crime investigations and prosecutions by national authorities.

### **Cooperation with Civil Society Organisations**

**The Director of Investigations and Operations of the Commission for International Justice and Accountability (CIJA)** presented the contribution of this non-profit organisation, whose work initially focussed on documentation of crimes committed in Syria by the Syrian regime before expanding collection efforts to Iraq in 2014. CIJA withdrew from Iraq when UNITAD was established.



The goal of CIJA is to support efforts to end impunity, by gathering evidence of crimes that are beyond the reach of international and domestic justice institutions, with a focus on evidence that can link specific perpetrators to CIC and other crime types ('linkage evidence'). The speaker further explained that CIJA designed its operations with the specific objective of supporting law enforcement. The organisation applies international best practice in order to ensure the admissibility of evidence in court.

The speaker explained that CIJA collected over 1 million pages of documents, mostly from Syria, either when Syrian forces or ISIL (Da'esh) fighters left the battlefield. CIJA preserves and analyses the evidence it collects, sharing it with national authorities in response to individual requests or proactively if relevant for ongoing structural investigations. So far, CIJA has received 864 requests for assistance from 16 countries. Half of the work led by CIJA consists in collecting evidence and establishing a chain of custody, before working on analytical products. Such products include, *inter alia*, reports on ISIL (Da'esh) bureaucracy, and ISIL (Da'esh) recruitment pathways.

**The Executive Director of Yazda** presented the work the of this civil society organisation, dedicated to: (i) supporting Yazidi victims displaced from the conflict in Northern Iraq, (ii) documenting crimes committed by ISIL (Da'esh) against the Yazidi, and (iii) advocating for accountability. Yazda has two field offices in Duhok and Sinjar, Iraq. The speaker gave an overview of documentation activities conducted by Yazda on the ground. While Yazda initially specialised on the gathering of victims' accounts, it also acquired expertise on the documentation of crimes scenes, such as mass grave sites. Besides survivors' accounts, Yazda has data on crime scenes (mass graves, ISIL (Da'esh) Headquarters and captivity sites).

The speaker explained that UNITAD's forensic team trained Yazda staff on the methodology of crime scene documentation (i.e. preserving the site from contamination, and limiting actions to the collection of GPS data, taking of photos and videos). All information collected is transmitted to UNITAD for forensic examination, based on a Memorandum of Understanding signed between UNITAD and Yazda in 2019. This is an example of best practice for cooperation between civil society organisations (CSOs) and an international investigating body.

In addition, since December 2023, Yazda and UNITAD are working on a joint project to further develop the capacity of Yazda, and be able to engage in active case-building. The speaker invited national authorities to share as much information as possible in their requests (e.g. locations, dates, kunya), subject to restrictions imposed by their national law, in order for the organisation to be able to extract relevant statements or data.

Finally, whereas CSOs are usually considered by national authorities as information providers only, the speaker stressed that they can do more. Yazda can channel outreach efforts towards victims and witnesses, or advise on the historical, social, religious and cultural context of the community affected by the crimes. To a certain extent, Yazda will also attempt to fill some of the gap left by the closure of UNITAD, especially by continuing to act as a bridge with the Yazidi community.

#### **4. Second Session: Prosecution strategy – How to ensure successful use of battlefield evidence in court**

##### **France**

The Head of Counter-Terrorism Unit at the French Ministry of Justice shared her operational experience and best practice in relation to the judicial use of battlefield evidence. While information collected in conflict zones is crucial to establish the implication of suspects from terrorism to international war crimes, crimes against humanity, and/or genocide, the use of battlefield evidence may raise key evidentiary issues relating to its declassification, admissibility and evidentiary value.

In the French context, the use of battlefield evidence is facilitated by the principle of freedom of proof set out in the Code of Criminal Procedure. Materials gathered in conflict zones can be included in criminal proceedings, provided that they can be debated in the presence of both parties and that the rights of the defence are preserved. Their probative value remains however relative as they cannot serve as the sole basis for a conviction and need to be corroborated. Incorporating battlefield evidence in counter-terrorism cases also requires defining an information sharing protocol with national and international actors to enable its use in the courtroom. In that regard, reference has been made to the leading role played by the French General Directorate for Internal Security (DGSI) through coordinating between relevant national and international authorities, analysing the material received via international cooperation and providing contextual information.

Building on a few case examples, the speaker highlighted that battlefield evidence may take many forms (including enlistment sheets, identity documents, records of service of combatants, lists of women registered in madhafas, videos seized in conflict areas, *etc.*). It can be decisive for establishing a suspect's identity, membership of a specific terrorist group, presence and activities in a conflict area and hence for building a case, undermining a suspect's defensive lines and obtaining convictions and appropriate sentences.

##### **Portugal**

A State Prosecutor of the Central Department of Investigation and Criminal Prosecution in Portugal presented a case in which two brothers, belonging to ISIL (Da'esh), escaped from Mosul, Iraq, and travelled via Türkiye and Greece to Portugal as refugees. On a Facebook profile, the Portuguese authorities found 236 propaganda videos, which were connected to a terrorist group called 'Free men of Niniveh'. One of the brothers was identified in one of the videos.

The speaker explained the investigative steps that were taken, as well as the use of open source and geospatial intelligence in the investigation. She highlighted the international cooperation of the police and judicial authorities, including Europol, Interpol, UNITAD and OGP. The two brothers were convicted to 16 and 10 years of imprisonment, respectively, for membership in an international terrorist organisation and war crimes. Both convictions were precedent setting in Portugal.

One of the difficulties in the case was that the prosecutor and the judge interviewed, via videoconference, witnesses who were in the UNITAD office in Iraq. The speaker highlighted that the assistance of UNITAD was of great value to make these interviews happen, by establishing the contact with the Iraqi judges. For the first time in Iraqi history, the Iraqi authorities also held real time interviews with the Portuguese court during the trial phase.



## **The Netherlands**

The Dutch National Coordinating Advocate-General Counter-Terrorism and Extremism referred to best practice, as well as to a number of challenges, when it comes to accessing and using battlefield evidence. Through a case example, the speaker explained how membership cards of a terrorist organisation that had been obtained could be used in evidence. The case concerned five alleged members of the Liberation Tigers of Tamil Eelam (LTTE), a rebel group in Sri Lanka, placed on an EU list of terrorist organisations in 2006. Membership cards were obtained, which provided compelling evidence, but fair trial considerations led to questions on how to deal with these documents as evidence. The Dutch authorities reached out to Sri Lanka and the Dutch investigative judge travelled there, to be present during a hearing by the Sri Lankan authorities with military personnel on how the evidence had been obtained. A video link was set up, which allowed both the prosecution and defence to attend the hearing. The case led to a conviction for membership in a criminal and terrorist organisation, which had the intent to commit terrorist attacks, war crimes and crimes against humanity.

Another case example highlighted the challenges faced when using witness statements concerning a defendant's role in the conflict area. The case concerned a female defendant who had travelled to Syria in 2013. The prosecution wished to use a statement by the husband of the defendant, which could have established the active role of the defendant in combat training. However, the court decided not to use this evidence, due to the fact that there were no possibilities to test the reliability of that statement, for instance by hearing the husband. In addition, this statement was not supported by other evidence. Also the appeal court decided not to make use of the statement, despite the fact that an FBI agent, who was present during the interview with the husband, was heard by the appeal court. The defendant was convicted for membership in a terrorist organisation and acts of preparation and facilitation of the commission of terrorist offences, but was acquitted on the charge of participation in ideological and combat training and the armed jihad struggle (48 months imprisonment, of which 12 were suspended).

## **North Macedonia**

The North Macedonian Basic Public Prosecutor for Prosecuting Organised Crime and Corruption highlighted that successful prosecutions in terrorist cases require an appropriate legal framework, access to evidence and a reliable process that protect the rights of the accused.

Focusing in particular on FTF cases, the speaker explained that the North Macedonian Criminal Code, as amended in 2014, allows for the prosecution of various criminal activities, be it the direct participation in the fighting in Syria in the ranks of a terrorist organisation, propaganda activities carried out through social media for the purpose of recruiting terrorist fighters or the provision of financial or logistical support to facilitate the departure of fighters to Syria. International cooperation is another key feature in FTF cases as evidence is largely secured through international legal assistance. The speaker referred in particular to battlefield evidence provided by the US authorities in relation to the direct participation of Macedonian citizens in ISIL (Da'esh) activities in Syria as well as other types of evidence – including social media material - provided by various partners in relation to propaganda and logistical activities. In this regard, the speaker clarified that the use of evidence obtained through international cooperation does not raise major issue in North Macedonia. It is

admissible in domestic proceedings as long as it has been collected in accordance with the rules of the requested country.

To conclude, the speaker stressed that the treatment of FTFs and members of their families who have been repatriated is a comprehensive process, which goes beyond the criminal processing. A working group has thus been set up in North Macedonia to facilitate the resocialisation and reintegration of FTFs through the implementation of a multidisciplinary action plan which includes psychological support, health care, education and security components.

### **Sweden**

A Senior Public Prosecutor from the Prosecution Authority in Sweden explained that Sweden has around 300 citizens who travelled to Syria to join ISIL (Da'esh) or other terrorist groups, but that at the same time Sweden lacks the legal framework to prosecute for membership in a terrorist organisation.

To ensure accountability, Sweden has had to follow a broad approach and charge these crimes as war crimes and crimes against humanity. In addition, Swedish authorities either have to find the evidence on their own territory or with the help of partners in the field, as they are not travelling into the conflict zones themselves. They received assistance from UNITAD to work through victims' accounts and to see if further victims and witnesses could be identified. The speaker emphasized that to minimize trauma, it is important to avoid re-interviewing witnesses. Setting up a Joint Investigation Team JIT in such cases facilitates witness interviews coordination and allows other countries to add their questions to those prepared by the country that will interview the witness.

The speaker described a case, in which by using battlefield evidence (such as hospital records, martyr lists and food stamps), the prosecution could establish that a boy was a child soldier for several years and that his mother did not actively prevent this. In a human trafficking case, the Swedish prosecutor could prove that the suspect knowingly and willingly entered ISIL (Da'esh) controlled areas with the intent to subject her daughters as future wives (child brides) to its order. The battlefield evidence provided linkage, but also contained more structural evidence.

The speaker emphasized the importance to see battlefield evidence as part of the chain of evidence, and can be used if it is corroborated by other independent facts. Battlefield evidence can be more valuable than originally expected and the threshold should not be too high for using it in court. The speaker reminded the participants to reach out to inquire what other stakeholders may possess and what is required for the respective case.

### **Germany**

A Federal Prosecutor of Germany elaborated on the successes and challenges of working with battlefield evidence in her practice as counter-terrorism prosecutor. Germany currently uses battlefield evidence in several cases related to counter-terrorism and war crimes, mainly as leads to start investigations. Germany has many female returnees, *i.e.* women returning from conflict zones, and in these cases battlefield evidence is of great use. The speaker commended the USA for being a great source of battlefield evidence documents.

The most relevant challenge when building up a case is the question of availability of battlefield evidence rather than its authenticity or admissibility. This includes whether battlefield evidence for the respective case exists and if so, where to find it. The speaker called for endurance when working with battlefield evidence, as the amount of battlefield evidence is continuously developing, and in due course, even years later, relevant evidence can be found. As to the authenticity, the speaker explained that what is the most important is not the chain of custody, but rather to have complementary evidence or, in some cases, to have somebody testifying in court about the authenticity. Most importantly, the prosecution needs to demonstrate where, when and under which circumstances evidence was found and the hash value, to show that electronic evidence has not been altered. The speaker emphasized the necessity of the judiciary to also communicate with the military the urgent need of battlefield evidence, so that they understand how important it can be. With respect to admissibility, the German law is similar to the French law: courts can use all types of evidence as long as it is not forbidden.

## 5. MAIN FINDINGS OF THE EUROJUST/US/GN MEETING ON BATTLEFIELD EVIDENCE

### Accessing battlefield evidence

- International cooperation with other countries, international organisations and CSOs is a key feature both in accessing and successfully using battlefield evidence.
- Cooperation with the USA, through the established processes, is crucial for partners to obtain battlefield evidence, including in cases in which national authorities have opened a structural investigation. Requests from partners are transferred to OGP/TEDAC for searching and identification of available evidence.
- The US battlefield evidence holdings contain various types of CEM, *i.e.* battlefield evidence, which has been used successfully by US authorities and robustly by international partners since the early 2000s.
- International organisations with an investigative mandate may support national authorities in the process of authentication of battlefield evidence (*e.g.* looking into chain of custody issues, forensic analysis).
- Based on the case at hand, national authorities should seek to identify the various international stakeholders (and their respective mandates) that may be able to contribute to ongoing investigations by sharing information, evidence, and expertise.
- The 17 September 2024 end of the UNITAD mandate raises concerns when it comes to accessing battlefield evidence, as UNITAD is a key partner in providing battlefield information and innovative approaches, for instance to witness interviews.
- Establishing clear cooperation processes between investigating/prosecuting authorities and CSOs (*e.g.* Memorandum of Understanding, or other form of formal cooperation agreement) is a good practice.
- Some local CSOs may have access to the ground in armed conflict situations before national or international authorities are able to access the location, and can therefore play a critical role in collecting and securing battlefield evidence (especially in the early stages of the conflict, as was the case in Syria and Iraq).
- In the context of CIC cases, beyond their role as information providers, CSOs may assist national authorities in other ways (*e.g.* outreach, identification and access to witnesses, understanding of contextual elements, support in dealing with historical, cultural, social and religious sensitivities).

### Ensuring successful use of battlefield evidence

- While information collected in conflict zones is crucial to establish the implication of suspects from terrorism to international war crimes, crimes against humanity and/or genocide, the use of battlefield evidence may raise key evidentiary issues relating to its declassification, admissibility and evidentiary value.
- The initial challenge when building a case is often the question of availability of battlefield evidence rather than its authenticity or admissibility. This includes whether battlefield evidence for the respective case exists and if so, where to find it.
- Battlefield evidence may take many forms and provide not only linkage, but also more structural evidence.

- It can be decisive for establishing a suspect's identity, membership in a specific terrorist group, presence and activities in a conflict area and hence for building a case, undermining a suspect's defensive lines and obtaining convictions and appropriate sentences.
- The probative value of battlefield evidence remains, however, relative. It should be seen as part of the chain of evidence and, while it has been used as the sole evidence against FTFs in certain cases, in the vast majority of cases it can often only be used if it is corroborated by other independent facts or evidence.
- With regard to witness interviews, cooperation with relevant international organisations and national authorities enabled remote interviews of witnesses living in conflict zones. Setting up a JIT also facilitated the coordination of witness interviews and prevention of secondary victimisation in other cases.
- The use of witness statements collected in the context of conflict situations can be challenging, due to the difficulty in testing the reliability of the evidence. In the Netherlands, for instance, a statement taken in the conflict area was not considered, despite the testimony in court of a law enforcement officer present during the witness interview.
- In most countries, the use of battlefield evidence is facilitated by the principle of freedom of evidence. For instance, in France and Germany, materials gathered in conflict zones can be included in criminal proceedings, provided that fair trial guarantees are respected. In North Macedonia, battlefield evidence obtained through international cooperation is admissible in domestic proceedings as long as it has been collected in accordance with the rules of the requested country.
- National cases where battlefield evidence has been used successfully include cases against FTFs, members of a terrorist organisation having committed war crimes and who then fled to Europe, child soldiers and female returnees, as well as human trafficking related cases.



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