



Security Council

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Letter dated 14 January 2019 from the Permanent Representative of Poland to the United Nations addressed to the President of the Security Council

I have the honour to submit herewith the outcome document of the Arria-formula meeting of the Security Council on raising the effectiveness of atrocity crimes prevention: the role of the Security Council and its members, held on 10 December 2018 (see annex I), along with the concept note for that meeting (see annex II).

I should be grateful if you would have the present letter and its annexes circulated as a document of the Security Council.

(Signed) Joanna **Wronecka**
Ambassador



Annex I to the letter dated 14 January 2019 from the Permanent Representative of Poland to the United Nations addressed to the President of the Security Council

Takeaways of the Arria-formula meeting of the Security Council on raising the effectiveness of atrocity crimes prevention: the role of the Security Council and its members, held on 10 December 2018

Introduction

On 10 December 2018, a date that marks the seventieth anniversaries of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide and the Universal Declaration of Human Rights, an Arria-formula meeting was held on the topic of raising the effectiveness of atrocity crimes prevention: the role of the Security Council and its members. The meeting was co-hosted by Belgium, Côte d'Ivoire, Germany, Kuwait, Peru and Poland, in close cooperation with the United Nations Office for Genocide Prevention and the Responsibility to Protect and the Office of Legal Affairs.

Briefings were provided by the Assistant Secretary-General for Legal Affairs, Stephen Mathias, and the Director of Policy and Planning of the Auschwitz Institute for Peace and Reconciliation and Programme Director of the Global Edition of the Raphael Lemkin Seminar for Genocide Prevention, Samantha Capicotto. Representatives of the Council members, the incoming Council members, groups of and individual Member States and Observer States, as well as non-governmental organizations present in the room, also took the floor.

The meeting, chaired by the Permanent Representative of Poland to the United Nations, Joanna Wronecka, provided an opportunity to highlight the importance of atrocity crimes prevention, and to conduct a discussion focused on raising its effectiveness, in particular on the role of the States Members of the United Nations, the members of the Security Council and other entities of the United Nations system.

The present document attempts to compile the practically oriented ideas that emerged during the meeting. It does not necessarily represent an endorsement of certain views and proposals, although many of them merit careful consideration and follow-up in order to raise the effectiveness of atrocity crimes prevention.

States Members of the United Nations, including members of the Security Council

- Sign, ratify or accept, pass into domestic law and implement the Convention on the Prevention and Punishment of the Crime of Genocide and other conventions and protocols on the prevention and punishment of genocide and war crimes, and promote the work on a convention on crimes against humanity; ensure that the law and human rights are upheld at all times; and report on genuine, measurable change at the domestic level to prevent atrocity crimes;
- Address the root causes of atrocity crimes; and design policies to tackle vulnerabilities, including by endorsing, widely disseminating and using the Framework of Analysis for Atrocity Crimes, supporting education and training on and building resilience to atrocity crimes and supporting local capacities for the mitigation of such crimes;
- Include an atrocity prevention perspective within the Sustainable Development Goals, particularly for goal 16, on the promotion of peaceful and inclusive societies; and push back against any attempts to suppress the rights and dignity

of, deny the equality of, discriminate against, attack or target any group of persons on the basis of their nationality, ethnicity, religion, race, gender, language spoken, social status or any other element of their identity;

- Do not mislabel crisis management measures as atrocity prevention efforts, but instead further integrate and coordinate the latter; introduce early responses to risks of atrocity crimes, crises and conflicts through peaceful means; endorse the Kigali Principles on the Protection of Civilians and other relevant declarations; and promote tools aimed at the protection of civilians, including in the context of peacekeeping;
- Support the Secretary-General's prevention agenda and the ongoing efforts to improve the system-wide capacity of the United Nations to prevent and respond to serious and systemic violations of human rights and international humanitarian law; and exert pressure to reverse the current trend of reducing human rights visibility within the United Nations system, as exemplified by the dwindling support from some Member States for the Human Rights Up Front initiative and budgetary pressure to eliminate funding for human rights experts in some peacekeeping missions;
- Cooperate with the United Nations system bodies, including the Special Advisers to the Secretary-General on Genocide Prevention and on the Responsibility to Protect, as well as the Security Council; and partner with governmental, cross-regional, regional and subregional as well as civil society organizations and other stakeholders, including women, young people, religious leaders and faith-based actors, academia, media and business, to benefit from their assessments, good practices, lessons learned and capacity-building programmes;
- Support the initiative of France and Mexico regarding the Security Council veto restraint in cases of mass atrocities; endorse the Accountability, Coherence and Transparency Group's code of conduct regarding Security Council action against genocide, crimes against humanity and war crimes; voice disagreement with Council paralysis; and take action in the General Assembly when necessary;
- Support efforts towards effective accountability for atrocity crimes, which can help deter their recurrence, and towards delivering justice by States – which bear the primary responsibility to protect their populations – as well as through cooperation with international mechanisms, including hybrid or regional courts and tribunals; foster capacities for accountability and reconciliation and ratify or accept the Rome Statute of the International Criminal Court and cooperate with the Court; and pursue accountability through and alongside prosecutions, truth-seeking, reparations and institutional reform and guarantees of non-recurrence.

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- Bolster and utilize existing United Nations and international frameworks for prevention in current security crises; and work to break the deadlock on them, including by crafting resolutions on current crises;
- Further institutionalize the atrocity crimes prevention agenda; introduce expressly its elements into the discussions; organize open, high-level thematic debates and Arria-formula meetings; and establish an expert-level committee to review its work on atrocity prevention;
- Support further development and utilization of United Nations early warning capacities and mechanisms; and allow information about emerging situations to

be heard, including through reporting, regular informal updates, horizon-scanning and other briefings of the Secretary-General's Special Advisers, Special Rapporteurs, the United Nations High Commissioner for Human Rights, the Department of Political Affairs and other officials and entities, including observer missions;

- Develop closer cooperation also with other bodies, including the Human Rights Council and the Peacebuilding Commission, as well as a more structured dialogue with regional organizations on country-specific prevention issues;
- Take efforts towards building consensus on what constitute the major early warning signs that should be acted upon, starting from the Framework of Analysis for Atrocity Crimes;
- Respond to early warning signs in case of emerging threats of atrocity crimes; consider, inter alia, earlier, focused discussions in consultations rooms, country visits or open debates on country-specific situations before crises break out, press statements, presidential statements and resolutions providing for better use of peaceful means, including mediations and others laid down in Chapter VI of the Charter of the United Nations, as well as cooperative and coercive means, including where needed sanctions, referrals of situations to the International Criminal Court and follow-up;
- Consider ways of developing a more rapid operational and preventive deployment capacity; and provide United Nations missions with appropriate mandates, training and resources to help prevent atrocity crimes where needed and protect civilians;
- Accompany deployments with appropriate communication with the countries concerned; and learn from the peacekeeping experience of and cooperate with the European Union, the African Union and other international and regional organizations in that respect;
- Link its work to local, national and regional upstream atrocity prevention efforts to build States' and populations' resilience, strengthen institutions through capacity-building and encourage the passing into domestic law of the atrocity prevention agenda.

Other entities of the United Nations system

- Make greater use of the Secretary-General's prerogative to bring to the attention of the Security Council any matter that in his opinion threatens the maintenance of international peace and security, including the occurrence of or the risk of atrocity crimes;
- Support the further mobilization of the General Assembly, the Human Rights Council and human rights treaty bodies to prevent such crimes;
- Provide further guidance, coordination and support where needed for the development of local, national and regional ownership, capacities and frameworks for atrocity crimes prevention, as well as resilience, mitigation of atrocity risks and transitional justice processes to strengthen the rule-of-law architecture;
- Draw on United Nations expertise regarding the collection, verification and analysis of information in developing a set of preventive steps to be followed when early warning systems are triggered, before atrocity crimes occur, and in promoting tolerance and respect among peoples;

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- Prioritize prevention in United Nations peacekeeping operations to increase the effectiveness of their contribution and performance in that respect, including by:
 - Introducing a whole-of-system approach, cooperating closely with the peace operations mandated by regional organizations and forging relationships with local populations and relevant State authorities responsible for criminal investigation and prosecution;
 - Strengthening and streamlining pre-deployment training modules, inter alia, by making the Framework of Analysis for Atrocity Crimes an intrinsic part of such training modules in order to strengthen and improve preparedness and response of missions to risk situations;
 - Consolidating mandates in the areas of police, justice and corrections and further efforts towards operational clarity on the formulation and implementation of mandates, inter alia, on protection of civilians, and linking the latter to a comprehensive political strategy for durable and sustained peace;
 - Developing a procedure of feeding reports by United Nations missions to an early warning focal point at the headquarters;
 - Implement other relevant recommendations of the report of the High-Level Independent Panel on Peace Operations on uniting our strengths for peace: politics, partnership and people ([A/70/95-S/2015/446](#)) as well as the report of the Secretary-General on the Responsibility to protect: from early warning to early action ([A/72/884-S/2018/525](#)), including on the use of non-military protection tools and expanding the civilian contribution to the prevention of atrocity crimes, de-escalating tensions and building peace in communities.

Annex II to the letter dated 14 January 2019 from the Permanent Representative of Poland to the United Nations addressed to the President of the Security Council

Concept note

Arria-formula meeting on raising effectiveness of atrocity crimes prevention: role of the Security Council and its members

10 December 2018, 3 p.m., Headquarters room CR 6

Introduction

The prevention of genocide has been one of the focuses of the United Nations from its very beginning. At its inaugural session in 1946, the General Assembly condemned genocide, invited Member States to enact domestic legislation for its prevention and punishment, recommended that international cooperation be organized between States for that purpose, and requested that a convention on that crime be drafted. The Convention on the Prevention and Punishment of the Crime of Genocide was adopted on 9 December 1948, not without the tireless efforts of Raphael Lemkin, a Polish lawyer and linguist who coined the word “genocide” and who proposed and consistently supported the idea of an international convention. While widely accepted, it is not yet universally ratified or acceded to, hence the appeal of the Secretary-General for universal participation in the said Convention.

The prohibition of egregious behaviour in the conduct of armed conflict, i.e., war crimes, which are another form of atrocity crime, has also been developed and codified, in particular in the Hague Conventions of 1899 and 1907, and the Geneva Conventions of 1949 and the two Additional Protocols thereto of 1977, which enjoy high levels of acceptance.

Although no comprehensive international treaty has yet been dedicated exclusively to crimes against humanity, their notion has been steadily developed in the statutes and through jurisprudence of international, hybrid and domestic criminal courts and tribunals with jurisdiction over the said types of atrocity crimes. Moreover, the International Law Commission is currently developing a set of draft articles on crimes against humanity.

The development of that international legal framework is undoubtedly a major achievement. Also commendable is the commitment and activity aimed at preventing atrocity crimes on the part of many States Members of the United Nations, the United Nations system and other stakeholders, including regional organizations and civil society. It should also be recognized that, in certain circumstances, the means of international criminal justice can contribute to the deterrence of further crimes and assist in the effort to prevent them.

Despite the above, atrocity crimes continue to be committed, with the most grave and tragic consequences first and foremost for the affected populations. Moreover, the commission of atrocity crimes further impacts adversely the maintenance of international peace and security – the primary responsibility of the Security Council. Against that background, and in line with the need for a continued commitment to ensuring accountability, the means for supporting early prevention of atrocity crimes merit the careful consideration of the Security Council members.

Purpose and scope of the meeting

The meeting, organized on the seventieth anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide as well as the Universal Declaration of Human Rights, will provide an opportunity to highlight the importance of atrocity crimes prevention, and to identify and discuss the relevant challenges and good practices in the context of raising their effectiveness. Moreover, it will serve as a platform for the consideration of, inter alia, the role of the Council and its members and their possible contribution to the early prevention of atrocity crimes.

Participants are invited to focus their interventions on practical steps to make atrocity crimes prevention more effective at the early stages, including through the following measures by the Council and its members:

- Possible contribution in appropriate ways towards the mobilization of assistance for building local ownership and capacities that contribute sustainably and effectively to strengthening national resilience and mitigating the risk of commission of atrocity crimes, in order to promote the establishment and maintenance of international peace and security and avoid their endangerment, as provided by relevant Articles of the Charter of the United Nations;
- Endorsement of the development of an ever more systematic, structured and coordinated approach to the gathering, verification, analysis and dissemination of information to allow for a more integrated and comprehensive atrocity crimes commission risk assessment and effective early warning in order to facilitate, inter alia, the determination of a possible existence of any threat to peace;
- Support for the enhancement of capabilities to manage situations of concern, the development of strategies, institutional preparedness and responsiveness, as well as flexible reaction options in order to prevent the aggravation of such situations;
- Leadership on the development of an adequate, coordinated and consistent deterrent communication system, demonstrating unity and resolve as well as diplomatic, humanitarian and other peaceful means as needed, in accordance with the Charter of the United Nations, to help prevent atrocity crimes and maintain international peace and security;
- Firm support for the international criminal justice system and its institutions as a means of deterrence;
- Demonstrated readiness to take collective action in a timely and decisive manner, with a clear objective and a coherent strategy in accordance with the Charter of the United Nations to prevent atrocity crimes, bearing in mind the impact of such crimes on the maintenance of international peace and security.

Format, participants and outcome

The Arria-formula meeting will be organized by the Permanent Mission of Poland to the United Nations, in partnership with the Permanent Missions to the United Nations of Belgium, Côte D'Ivoire, Germany, Kuwait and Peru, as well as in close cooperation with the Office on Genocide Prevention and the Responsibility to Protect and the Office of Legal Affairs. The Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Miguel de Serpa Soares, is to deliver remarks. The Director of Policy and Planning of the Auschwitz Institute for Peace and Reconciliation and Programme Director of the Global Edition of the Raphael Lemkin Seminar for Genocide Prevention, Samantha Capicotto, will also give a briefing.

Representatives of all current and incoming Security Council members are invited to deliver their remarks, lasting no longer than three minutes, and focused on practical proposals for action aimed at increasing the effectiveness of atrocity crimes prevention. Possible other participants of the open meeting may be offered an opportunity to deliver brief, focused remarks, time permitting. The Chair will prepare takeaways from the discussion.

Indicative questions for consideration

Participants may wish to consider the following questions in their statements:

- How can the Security Council and its members contribute to enhancing early atrocity crimes prevention, in particular in situations and regions in danger of gross violence, given its significance for the maintenance of international peace and security, including through conflict prevention? Could it, for instance, endorse the wider dissemination and use of the Framework of Analysis for Atrocity Crimes, developed by the Special Advisers to the Secretary-General on the Prevention of Genocide and on the Responsibility to Protect?
- Given its importance for enabling the Security Council to discharge its duties effectively and in a timely manner, in what ways could the Council and its members make more effective the gathering and dissemination of information, including atrocity threat research, analysis and assessment, as well as early warning mechanisms? What partnerships could be established or developed in that respect? In particular, should the reporting of information to the Council aimed at the early identification of the risks of atrocity crimes, ascertaining situations and guiding decision-making be enhanced? If so, how could this be achieved? What roles could be played by the United Nations system as well as by regional arrangements, such as the European Union Conflict Early Warning System, the African Union Continental Early Warning System, and civil society?
- How can the deterrent effect of the international criminal justice system be strengthened?
- In what ways can the Security Council and its members contribute to the strengthening of operational atrocity crime prevention? Which response capabilities should be examined in particular?
- What is needed to increase the effectiveness of the United Nations field presence in the prevention of mass atrocity crimes? What can the Security Council do to strengthen and better tailor that presence for the said purpose? Could other stakeholders, including civil society organizations, also contribute towards that goal?