

## Resolution ICC-ASP/12/Res.3

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### ICC-ASP/12/Res.3 Cooperation

*The Assembly of States Parties,*

*Recalling* the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, ICC-ASP/11/Res.5 and the sixty-six recommendations annexed to ICC-ASP/6/Res.2,

*Determined* to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious prosecution of such crimes must be strengthened, inter alia by enhancing international cooperation,

*Stressing* the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute and that States Parties have a general obligation to cooperate with the Court in its investigation and prosecution of crimes within its jurisdiction, and are obliged to cooperate fully with the execution of arrest warrants and surrender requests, as well as provide other forms of cooperation set out in article 93 of the Rome Statute,

*Welcoming* the report of the Court on cooperation, submitted pursuant to resolution ICC-ASP/10/Res.2 as well as resolution ICC-ASP/11/Res.5,<sup>1</sup>

*Noting* that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

*Further noting* the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including inter alia the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

*Noting* the redrafted and redistributed guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

*Recognizing* that requests for cooperation and the implementation thereof should take into account the rights of the accused,

*Recalling* the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

1. *Welcomes* the report of the Court on cooperation, submitted pursuant to resolution ICC-ASP/10/Res.2 as well as resolution ICC-ASP/11/Res.5;
2. *Expresses* serious concerns that arrest warrants or surrender requests against 14 persons remain outstanding,<sup>2</sup> and *calls on* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

<sup>1</sup> ICC-ASP/12/35.

<sup>2</sup> As at 2 October 2013.

3. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court, and *stresses* that protracted non-execution of Court requests has a negative impact on the ability to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;
4. *Acknowledges* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court;
5. *Adopts* the annex concerning a roadmap for achieving an operational tool to enhance the prospect that requests of the Court for arrest and surrender are expeditiously executed,<sup>3</sup> *endorses* the appended concept document prepared by The Hague Working Group, and *requests* the Bureau to report thereon to the Assembly at its thirteenth session;
6. *Emphasizes* also the on-going efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, and *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance;
7. *Requests* the Bureau, through its Working Groups, to continue the discussions on the issue of non-essential contacts, and to report thereon to the Assembly well in advance of its thirteenth session;
8. *Welcomes* the continued efforts of the President of the Assembly in implementing the non-cooperation procedures adopted by the Assembly in ICC-ASP/10/Res.5, and *encourages* the Assembly to keep said procedures and their implementation under review in order to secure their effectiveness, including with regard to ensuring early notification to States Parties of opportunities to work together to avoid non-cooperation;
9. *Reiterates* the serious concerns regarding the detention of four officials of the Court from 7 June to 2 July 2012 and *continues to stress* the importance of respect for the privileges and immunities of the Court's staff and officials in accordance with article 48 of the Rome Statute, and the necessity of securing the respect for such privileges and immunities in all situations, inter alia by adopting relevant national legislation;
10. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority, and to incorporate it in their national legislation, as appropriate;
11. *Welcomes* the increased cooperation between the Court and the United Nations, and other international and regional organizations, and other inter-governmental institutions;
12. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of, the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;
13. *Urges* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;
14. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court;
15. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing

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<sup>3</sup> ICC-ASP/12/36, annex IV.

legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and other measures so as to ensure that they can fully meet their obligations under the Rome Statute;

16. *Acknowledges* efforts by States and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation;

17. *Encourages* States to establish a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court-related issues, including requests for assistance, within and across government institutions;

18. *Requests* the Bureau to report to the thirteenth session of the Assembly on the feasibility of establishing a coordinating mechanism of national authorities dealing with cooperation with the Court, for sharing knowledge and know-how, on a voluntary basis;

19. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, and while welcoming the relocation agreements concluded with the Court in 2013, *stresses* its serious concern that thus far only a small number of States Parties have entered into agreements or established sufficient arrangements with the Court for the expeditious relocation of victims and witnesses;

20. *Calls upon* all States Parties and other States to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court, or any other means concerning, inter alia, protective measures for victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;

21. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for relocations;

22. *Commends* and *further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release, and sentence enforcement which may be essential to ensuring the rights of the accused in article 67 of the Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

23. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes is crucial to the provision of reparation to victims and for potentially mitigating the costs of legal aid;

24. *Underlines* the importance of further improving communication through established, and possibly new, channels, with a view to facilitating cooperation between the Court, States Parties, other States and international organizations on the identification, tracing and freezing or seizure of proceeds, property and assets, and the corresponding obligation of States Parties, and other States under an obligation to cooperate with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, to comply with such requests by the Court, as envisaged in article 93, paragraph 1(k), of the Rome Statute;

25. *Calls on* all States Parties to put in place effective procedures and mechanisms that further enable them to cooperate with the Court in relation to the identification, tracking, freezing or seizure of proceeds, property and assets as expeditiously as possible;

26. *Welcomes* the enhanced dialogue between States Parties, the Court and civil society offered by the plenary discussion on cooperation held during the twelfth session of the Assembly, with a special focus on the protection of witnesses and, *mindful* of the importance of full and effective cooperation with the Court in accordance with the Rome Statute, *notes with appreciation* the fruitful exchange of views on, inter alia, the challenges faced by States and the Court in ensuring the protection of witnesses, the importance of relocation agreements and the Special Fund for relocations, as well as the complementary role of national systems of protection, and the need to include cooperation as a standing agenda item for future sessions of the Assembly;

27. *Requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court and non-governmental organizations as well as other interested States and relevant organizations in order to further strengthen cooperation with the Court;

28. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *requests* the Court to submit an updated report on cooperation to the Assembly at its thirteenth session and annually thereafter;

29. *Requests* the Bureau to report to the Assembly at its thirteenth session on the progress made by States Parties on the implementation of pledges made at the Review Conference in Kampala.