



CYPRUS PRESIDENCY
OF THE COUNCIL
OF THE EUROPEAN UNION

**Statement on behalf of the European Union and its Member States
delivered by H.E. Mr. Andreas D. Mavroyiannis,
Deputy Minister for European Affairs
to the President of the Republic of Cyprus
at the Eleventh Session of the Assembly of State Parties of the
International Criminal Court**

The Hague, 14-22 November 2012

-- CHECK AGAINST DELIVERY --

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Madame President,
Members of the Assembly,
Distinguished delegates,

I am honoured to address the Assembly of States Parties on behalf of the European Union and its Member States,

The acceding country Croatia*, the candidate countries former Yugoslav Republic of Macedonia*, Montenegro*, and Serbia*, the countries of the Stabilisation and Association Process and potential candidates Albania and Bosnia and Herzegovina and the EFTA country Norway, member of the European Economic Area, as well as Andorra, the Republic of Moldova, San Marino and Ukraine align themselves with this statement.

In this capacity, I extend our congratulations to you, Madame President, for the energetic leadership and the valuable outreach you have provided throughout the first year of your term. We also warmly congratulate Judge Song for his reelection as President of the Court. We look forward to continuing to work with you. We also warmly congratulate Ms. Fatou Bensouda for taking over the office of the Prosecutor of the Court earlier this year and welcome your readiness to build on recent experiences to further improve the Office's efficiency. We also warmly thank Ms. Silvana Arbia for all her dedication and work in performing her duties as Registrar of the ICC. Further, we would like to express our appreciation to the Bureau, facilitators, Secretariat of the Assembly, representatives of the Court, the Committee on Budget and Finance, the Oversight Committee on Permanent Premises, representatives of the Trust Fund for Victims and the working groups in The Hague and New York for their careful preparation of this session.

Madame President,

This year, we celebrate the tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court. We want to thank the organisers of the commemorative event yesterday, especially the government of the host state, The Netherlands, and all other countries that have contributed financially for putting together such a fitting event.

The International Criminal Court is the improbable realisation of an old idea. The Rome Statute constitutes a promise to victims of the worst atrocities around the world: that they will be assured justice and that accountability will help communities emerge from violence towards peace, from lawlessness towards respect for the rule of law. Ten years ago few among us could foresee that the Court would become the centerpiece of all discussions on fighting impunity. Ten years ago few among us foresaw a Court that would be engaged in 15 countries spanning over three continents.

**Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia continue to be part of the Stabilisation and Association Process.*

Notwithstanding ongoing discussions on what can be done better, one thing is clear: the Court is an unprecedented success. We thank those who have worked to make this possible. We thank the ICC staff and express our gratitude for their dedication and commitment. We also thank the representatives from civil society for their continuing and highly valuable support to the Court and the fight against impunity.

Madame President,

Earlier this year, the Court issued its first verdict and sentence in the case of Mr. Thomas Lubanga Dyilo. This judgment is a true milestone for international criminal justice and constitutes a significant achievement for the Court. Most importantly, it demonstrated that perpetrators cannot act with impunity. It resonated far beyond the specific case as it has raised awareness about the plight of child soldiers and the fact that recruiting and using children under 15 in combat is a war crime. This case also marked the first occasion for the Court to pronounce itself on principles and procedures to be applied to reparations. The judgment has been appealed so we will make no further comment at this stage on that matter.

Madame President,

Indeed, the 10th anniversary of the Rome Statute as well as the Lubanga case provide us all with the opportunity to reflect on main challenges of the Court today and on what each of us can do to address them successfully.

One main challenge continues to be the universality of the Rome Statute. The desire to hold the perpetrators of the most serious crimes accountable for their actions is one which knows no bounds; it is a vision shared by all and one which the ICC helps bring to life. The speed with which the number of States Parties increased since its adoption in 1998 has been impressive. Today's 121 States Parties make it clear: the ICC is here to stay and enjoys support in many parts of the world. However, we need to continue to work very hard to make the Rome Statute truly universal as well as the Agreement on Privileges and Immunities of the ICC. In terms of population, at this point in time, and leaving aside Security Council referrals, a majority of mankind lives outside the scope of the Rome Statute. This needs to change, as the worst crimes should not go unpunished, no matter where or by whom they are committed.

A further fundamental challenge remains the necessity to ensure co-operation with the Court and in particular how to react to instances of non-co-operation of States that are in violation of their obligations with regard to the ICC. Without State co-operation, the ICC cannot fulfil its mandate and the Rome Statute system risks collapse. This applies to all States Parties as well as when the UN Security Council has referred a situation to the Court in accordance with Chapter VII of the UN Charter.

Out of 23 individuals against whom the ICC currently has open cases, 12 are currently absconding justice and some have done so for several years. This stifles the ICC's capacity to deliver justice and undermines the court's credibility and deterrent effect. Non-co-operation with the Court in regard to the execution of arrest warrants constitutes a violation of international obligations. In particular visits of ICC fugitives to States Parties of the Rome Statute, are unacceptable, as in

addition to being a wilful failure to comply with obligations under the Rome Statute, they undermine the integrity of the Court. The EU and its Member States underline the importance of consistent action to encourage and improve full co-operation of States with the ICC, including the prompt execution of arrest warrants. States need to explore further ways for better co-operation with ICC for instance by generalising the practice of designating a national focal point for cooperation.

Another key challenge is – and has been from the very beginning – how to best protect the independence of the Court and support its effective and efficient functioning. This means also both that the Court is sufficiently funded and that existing funds are wisely spent. Since the creation of the ICC, EU Member States have been among its major contributors and the EU has provided additional direct and indirect financial support to the Court. In the current dire international economic and financial conditions, the Court's activities have to be based on careful financial assessments, taking into account what the States can provide. Also, let us not forget: funds alone are not enough to guarantee the effectiveness and efficiency of the Court. With the number of situations and cases increasing, we see a need for additional efforts from the Court to further prioritise its work and improve its procedures, so that it can continue to perform successfully its judicial mandate as set out in the Rome Statute. In this regard, we commend the Court in working with States to commence a review of the ICC criminal procedures.

Finally, we should not forget that primary responsibility for bringing offenders to justice lies with States themselves in conformity with the relevant provisions of the Rome Statute. Complementarity is not only a core principle in the Rome Statute, but also makes perfect sense in terms of the limited resources and capacity of the Court. In order to make the principle of complementarity operational, all States Parties need to prepare and adopt effective national legislation to implement the Rome Statute in national systems. Beyond that, the EU and its Member States are committed to continuing to give high priority to the fight against impunity in development cooperation and technical assistance to partner countries within the broader framework of strengthening the rule of law and advancing legal and institutional reforms, not least in post-conflict peace building processes.

Madame President,

Our common goal is clear: to further strengthen the Court to fulfill its mandate. The European Union and its Member States will continue to encourage the widest possible participation in the Rome Statute, and are dedicated to preserving the integrity of the Rome Statute, to supporting the independence of the Court, and championing cooperation with the Court. The European Union and its Member States are also committed to fully implementing the principle of complementarity enshrined in the Rome Statute by facilitating the effective and efficient interplay between national justice systems and the International Criminal Court in the fight against impunity.

Thank you.
