

**Assembly of States Parties to the Rome Statute  
XII<sup>th</sup> session  
20-28 November 2013**

**Joint statement by**

**Republic of Albania, Principality of Andorra, Argentine Republic, Republic of Austria, Kingdom of Belgium, Bosnia and Herzegovina, Republic of Bulgaria, Republic of Chile, Republic of Costa Rica, Republic of Cyprus, Czech Republic, Republic of Finland Republic of Georgia, Hellenic Republic, Hungary, Ireland, Principality of Liechtenstein, Republic of Lithuania, Grand-Duchy of Luxemburg, Kingdom of the Netherlands, Republic of Malawi, Former Yugoslav Republic of Macedonia, Republic of Moldova, Mongolia, Kingdom of Norway, Republic of Panama, Republic of Paraguay, Republic of Peru, Independent State of Samoa, Republic of Senegal, Republic of Serbia, Republic of Seychelles, Republic of Slovenia, Slovak Republic, Republic of South Africa, Republic of Suriname, Kingdom of Sweden, Republic of Trinidad and Tobago, Oriental Republic of Uruguay.**

**International Initiative for Opening Negotiations on a Multilateral Treaty for Mutual Legal Assistance and Extradition in Domestic Prosecution of Atrocity Crimes (crimes of genocide, crimes against humanity and war crimes)**

- We acknowledge the crucial place held by the principle of complementarity for the effective functioning of the Rome Statute system. As you know, this system is based on effective and efficient investigations and prosecutions of international crimes at the national level.
- It is first and foremost States' responsibility to uphold and implement the conventions criminalising the crime of genocide, crimes against humanity and war crimes.

- The heart of criminal cases is evidence: witnesses, material evidence, forensic evidence. Without evidence, there can be no trial.
- However, suspects, witnesses, evidence or assets in international criminal cases like those relating to war crimes, crimes against humanity and crimes of genocide are by their very nature usually not limited to national borders.
- Therefore, in order to be truly effective, it is essential that States are able to cooperate practically, in providing judicial assistance and -if the need arises – extradition of the accused.
- For this, an effective international legal framework for judicial assistance between States is crucial.
- However, the existing legal framework for international judicial assistance in the domestic investigation and prosecution of these international crimes is outdated and insufficient. The conventions covering these international crimes, where they exist, do not address judicial assistance and extradition in modern terms and norms.
- The Rome Statute allows for the Court to take over the duties of national states to investigate and prosecute

international crimes, when states are either unwilling or unable to carry out these duties themselves.

- If we want to enable states to effectively carry out these duties, we have a responsibility to address this outdated and insufficient international procedural legal framework.
- We, the supporters of the initiative, suggest that the international community of States open negotiations on a procedural multilateral treaty on mutual legal assistance and extradition to cover this gap.
- Such an instrument could be similar in set up to other recent treaties in the field of mutual legal assistance and extradition - such as the UN Transnational Organised Crime Treaty, the UN Convention against Corruption and the Convention on Enforced Disappearance.
- Such a treaty would be open to all States interested in enhancing their capacity to nationally prosecute these international crimes, as is their duty under the relevant conventions.
- As a first step to discuss this issue in a global context, we have introduced the issue in the UN Commission on Crime Prevention and Criminal Justice. This body has experience with drafting procedural treaties on mutual legal

assistance and extradition. We will continue to raise the issue in this UN forum, to involve all states concerned.

- More importantly, we will also continue direct consultations with all States and other interested parties in the future. This is an open and inclusive process, in which all States can participate, and is not limited to States Parties to the ICC.
  - The supporting states therefore call on all other States, and Rome Statute States Parties in particular, to join in the discussion on the legal obstacles to practical interstate cooperation in national investigation and prosecution of the most serious crimes of international concern. Either here, or in the CCPCJ.
  - We encourage all states present here, who have adopted the principle of complementarity, to join the initiative, in order to bring this further in the international arena and improve interstate cooperation in fighting these crimes and ensuring accountability.
  - This initiative can only work if it becomes a project supported by all States.
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