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Cooperation and Strategic Goal 9 of the Office of the Prosecutor: a coordinated investigative and prosecutorial strategy to close the impunity gap

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Thank you, Ambassador Wilke and Mr IJzerman, for your kind introductions, and for giving me the floor.

Excellencies,
Ladies and Gentlemen,

Over the years, States Parties and the International Criminal Court (“ICC” or the “Court”) have discussed and recognized cooperation as a central pillar both in the daily functioning of the Court, including notably my Office, as well as more generally for our joint commitment to end impunity for the world’s gravest crimes.

The often cited 66 recommendations, adopted by States Parties on how cooperation with the Court may be enhanced, remain as relevant today as they were when they were formulated in 2007. The full implementation of these recommendations is critical for the effective and efficient exercise of the Court’s mandate.

It is worth recalling that the Rome Statute created more than just a Court of law: it created a *system* of international criminal justice based firmly on state cooperation and complementarity.

The strength of this system to a large extent lies with national jurisdictions and is rooted on the close relationship between national judicial systems and the Court.

Unless these two central pillars work together in the discharge of their *shared* responsibility to bring justice to victims of serious crimes, the system will underperform and insufficiently deliver on the promise it holds for the victims of atrocity crimes.

As highlighted in my Office’s Strategic Plan for 2016-2018, cooperation, more than ever, has become a critical success factor for my Office and the Court as a whole.

In order for it to be meaningful, such cooperation has to be concrete, consistent and timely.

Allow me to also benefit from this occasion to express my appreciation to the overwhelming majority of States for the helpful cooperation extended to my Office throughout the years and call upon others who have not done so, to favourably respond to the requests submitted to them by my Office.

Excellencies,
Ladies and Gentlemen,

The Rome Statute mandates my Office to focus its investigations and prosecutions on the most serious crimes of concern to the international community as a whole.

Realistically, the Office can only address a handful of cases per situation. Short of complementary proceedings at the national level, the large number of Rome Statute crimes committed in situation countries, as well as other related crimes, say, organised-, transnational-, financial crimes, or terrorism, continue to pose major challenges for the international community's efforts to close the impunity gap.

The investigation and prosecution of the few cannot be allowed to create impunity for the many.

The ICC alone is not a panacea and is neither able nor designed to be omnipresent to close the impunity gap acting solo.

Situation countries, States that see criminal connections to the situation countries through for example migration of persons, and the ICC itself, as a Court of last resort, need to work in cohesion to address Rome Statute crimes, reinforcing each other's efforts within the limits of our respective mandates and roles. The key question is: *how?*

Beyond Rome Statute crimes, *other forms* of criminality fuel conflict or post-conflict instability, as seen, for example, in Libya or in the Democratic Republic of Congo. These crimes, while often connected, fall outside the mandate of my Office.

Nonetheless, through exchange of information that the Office comes across through its regular investigative activities, and through a measure of coordination of investigations and prosecutions, where appropriate, we can work closely to have a more pronounced impact to address criminality more holistically.

The development with partners of a coordinated investigative and prosecutorial strategy to close the impunity gap is a key strategic goal identified by my Office in its Strategic Plan for 2016-2018.

This strategic goal invites further discussion on the need for coordination and collaboration where possible, as well as concrete initiatives to turn this idea into reality.

We have already advanced on the implementation of this strategic priority.

Initial steps have been taken to identify and bring together national and regional authorities in charge of law enforcement. The idea of better coordination is generating enthusiasm amongst the various interlocutors and bodies, and we need to keep and build on this momentum, to develop further promising prospects for the way forward in our joint efforts to address impunity.

We see more States reaching out to my Office; we are receiving an increasing number of requests from States and other entities, including situation countries, for information concerning individuals and/or incidents with links to on-going ICC investigations and proceedings.

We are sharing more information and evidence, again where appropriate, to put such partners in a position to effectively start and conduct an investigation or prosecution, provided that standards of due process and fair trial are in place, that there are no risks for witnesses, and that any confidentiality agreements are respected. We can further strengthen this sharing of information.

My Office is also exploring with a number of States and partners a first concrete pilot project where we could combine our various efforts concerning ongoing crimes in a situation country. In this context, I'm most pleased to see General Prosecutor Mr Al-Sour on this panel today to elaborate on the on-going work in Libya. I also benefit from this occasion to once again publicly thank the Prosecutor General for the notable support extended to my Office by him and his team.

Of course, I duly recognize the risk of overlap between initiatives. Different coordination platforms are being created, parallel training programs are being developed, and different initiatives in relation to databases are emerging. We should take practical steps to avoid duplication of efforts and work towards greater harmonisation.

To be sure, my Office will take in this only a complementary, contributing role, within its mandate and with the value it can add from its mandated activities of preliminary examinations, investigations and prosecutions.

I consider this role as follows:

Firstly, the Office will continue to perform its core functions with the highest standards of quality and efficiency.

Secondly, we contribute to existing coordination platforms such as Eurojust – I recognise Ms Coninx's presence here today.

Thirdly, we aim to share with partners the *spin-offs* of our work, so they may reap the fruits of our labour too.

In this regard, I mentioned already the sharing of information where appropriate.

We additionally share – and in fact we are often *asked* to provide advice on – our standards of investigation and prosecution so that, through partners, others may benefit from our experience such as following initiatives by OSJI, and Berkeley, and in the context of the review of the UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

My Office is indeed willing to share expertise and best practices, when possible and at zero cost, concerning for instance the conduct of investigations, witness protection and evidence handling.

The idea of promoting standards and good practices is also an important feature of my Office's policy papers, notably the *Policy Paper on Sexual and Gender-based Crimes*, issued two years ago, and the *Policy Paper on Children* launched earlier this week.

In addition to providing clarity on the Office's own application of the Rome Statute, it is my hope that the Office's Policy Papers can serve as reference documents for national jurisdictions in their efforts to adopt, formulate or amend domestic legislation and refine their practices, where deemed necessary, to better equip themselves to confront serious crimes under the Rome Statute.

Finally, when feasible and without any added financial burden, we extend to partners access to our security and logistics capabilities when their representatives

deploy to a country where we are already active. In this way, States gain further benefit from their investment in the Court.

Excellencies,
Ladies and Gentlemen,

Allow me to conclude by reiterating that providing justice to victims of ICC crimes and closing the impunity gap requires the development of a coordinated strategy that strengthens the investigative and prosecutorial possibilities of the Rome Statute system.

My Office will limit its contribution to what falls within its mandate.

Where appropriate and feasible, through sharing more information, building on existing coordination platforms, and gaining experience through concrete projects, we can move forward jointly and pragmatically.

Ending impunity for atrocity crimes is not the preserve of any one institution; it is a common goal and aspiration that ties us all together in our shared quest for justice, peace and stability in all four corners of the globe.

The Rome Statute has created not only positive treaty obligations of cooperation but also opportunities – all with the aim of making our world more just and secure.

To this end, my Office is ready to work with States and other partners.

Thank you. | oTP