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Plenary Session on Cooperation

**Court's priorities and challenges in terms of cooperation: focus on
arrest and voluntary cooperation agreements**

5 December 2019, 10:00-12:00
World Forum, The Hague

Mr. President,
Madam Prosecutor,
Excellencies,
Ladies and Gentlemen,

Allow me to start by first thanking the co-facilitators of the Hague Working Group on cooperation, the Ambassadors of France and Senegal, for organising this plenary session and for their efforts throughout the year. Progress was made on concrete topics regarding cooperation thanks to those efforts, and in difficult circumstances.

First and briefly on arrests, let me touch upon a very practical issue that we will be approaching States with next year: should we be fortunate enough to have arrest warrants executed, we will need help for transportation for the suspect's surrender to The Hague, which can be extremely expensive for us when we use commercial aircrafts. We are preparing a model agreement for the consideration of States that have aircraft facilities and that would be willing to support us in this area.

Turning to voluntary cooperation:

For many of the essential issues that the Court needs to deal with, we are reliant on States Parties' voluntary cooperation, which was the model chosen by States when they negotiated the Rome Statute. What I am talking about with regards to cooperation agreements is to provide options and services that are completely normal in a domestic setting: making sure that witnesses appear in Court and that they can be protected, having a prison facility to go to for the execution of sentences, being able to temporarily or permanently release an individual, and so on. We do not have many of the facilities that States have at the domestic level over here in The Hague, therefore we absolutely need States' help.

A very good example, without which there would literally be no trials at the Court, is witness relocation, which actually works, thanks to States' cooperation. The Court managed to establish a framework of 21 cooperation agreements. States also support witness relocation voluntarily by providing donations to our Trust Fund for Relocations, which allows us to have funds available for States wishing to help us but lacking the resources. Hence, we know voluntary cooperation can work.

There are however other examples where voluntary cooperation does not work; one of them is the issue of interim release, with which we have particularly struggled this year. Only two States have signed agreements in that regard (Argentina and Belgium). Without their cooperation, we would have had even bigger problems, but the difficulties were already extremely difficult within the past 12 months. Thankfully, with the cooperation and flexibility of the Netherlands, we have found a temporary solution, but many of you know how difficult this has been. The reason is simple: there are simply not enough cooperation agreements in place. What we have also learned from this experience is that seeking to conclude ad hoc arrangements with States once the situation is already upon us is often too late. We simply need to create a network of countries willing to help. Let me stress that if you sign a voluntary cooperation agreement with us, your cooperation remains completely voluntary, and we will not force you to host anyone you do not want to host. It only provides us with a network in which we can efficiently operate.

The second issue where we encounter difficulties regarding voluntary cooperation concerns the subject of finding the funds to allow family visits for indigent detainees. You, the Assembly of States Parties, have decided that detainees must have the benefit of family visits through voluntary donations. A Trust Fund for such visits has been set up. We need it because our detention centre is thousands of miles away from the detainees' families, but this year we simply ran out of funds and were not able to arrange family visits.

There is of course a very compelling humanitarian reason why detainees should be granted family visits; but there is also a very practical one, which has to do with how they behave in detention when they are denied such visits. Let me give you some numbers to illustrate the potential impact of such situations. The cost for a partner and two children coming to The Hague for a week for a family visit is between 8.000 and 10.000€. We have learned from experience that in the case of a hunger strike by a detainee who cannot see his family, a month's delay in trial costs, in terms legal aid for the Defence and Legal Representatives for Victims' teams and other fees, would mean about 100.000€, which represents a huge financial waste.

We therefore call upon your help. You can do so by signing voluntary cooperation agreements and by making donations to the Trust Fund for Family Visits. As I have said previously, a very small donation would make a huge difference to

what we do. And once again, what we are asking you to do with this voluntary cooperation is not something extraordinary, but simply what you do very normally in your domestic systems.

Thank you