

**Statement by Romania
for the plenary session at the 20th Assembly of States Parties (ASP) to the Rome
Statute**

- *The Hague, December 2021* –

Romania will relentlessly point out that the adoption of the Rome Statute was a groundbreaking achievement, which strengthened the system of international justice and contributed to the promotion of the rule of law globally. By its existence, the Court had a decisive influence on peace and guaranteed the access to justice for victims of the most serious crimes. It is because of the Court that investigating mass crimes is now the expected norm at the global level.

Despite navigating tensed political waters and a difficult institution-building process, the ICC has registered concrete achievements, as shown by its geographically diverse prosecutorial activity and its large body of jurisprudence on many fundamental legal issues. However, the growing impact of the Court's work has amped up the voice of its critics to unprecedented levels and has shown the need to address existing problems with the view to strengthening the Court's performance and defending its legitimacy.

Therefore, Romania has welcomed *the comprehensive review of the ICC and the Rome Statute system* and expresses hope that the outcome will serve to make the Court more efficient while preserving the integrity of its founding treaty. Our task ahead requires wise decisions about the governance and oversight of this complex institution, which should take into account the principle of judicial and prosecutorial independence, as well as the role of the ASP as the Court's legislative and management oversight body. The Comprehensive Plan of Action remains the road map for the assessment of all recommendations of the independent experts. While committing ourselves to this process, we plea that the level of ambition in setting the assessment timetable should be matched by a certain degree of flexibility to allow States Parties to properly deal with this high workload. At the same time, we should avoid getting enmeshed in procedural issues to the detriment of reaching progress on substance. The Review exercise is an instrument to the goal of fostering performance and not an end in itself. Therefore, we call for careful organization and coordination, teamwork and genuine dialogue among all stakeholders involved, including with the civil society.

In the context of the ongoing review process, we also underscore the need to *raise awareness about the ICC's mandate*. This would mean explaining what the Court can do within its limited, treaty-based competence and, thus, better countering the attacks on this institution. Along these lines, we encourage the ICC to further improve its *communication and outreach strategy* to efficiently promote its work and address misinformation.

While we support the important mandate of the ICC, as well as the efforts to increase its effectiveness, we should not make the Court the prisoner of idealistic expectations about its ability of delivering justice.

Consequently, we should not ignore that the ICC relies entirely on the *cooperation* of States in the absence of any law enforcement capabilities of its own. From this perspective, States must be aware of their significant role in the materialization of international justice and, hence, they must adopt measures to ensure full and prompt cooperation with the Court in accordance with the legal obligations stemming from the Rome Statute and/or the UN Security Council resolutions.

We should also not forget that the ICC is a court of last resort as States Parties have the primary duty to investigate and prosecute those responsible for the most serious crimes of international concern, in accordance with the *principle of complementarity*. Moreover, the ICC cannot be everywhere and doing everything, as it risks becoming overstretched.

As the States Parties implement the Rome Statute by enacting domestic legislation, the latter provides them, among others, with the opportunity to exercise domestic jurisdiction over core international crimes. In addition, the Court's interaction with domestic legal institutions can have a great impact with respect to prevention and strengthening the rule of law in countries suffering from instability and violence.

In this context, Romania would like to announce that the relevant national authorities have initiated the formal approval procedure of a draft law on cooperating with the ICC that is currently under examination by the Parliament.

Romania also believes that the reputation and well-functioning of the Court depend on the *election of persons of high qualification and high moral character as judges and prosecutors*. States are responsible for putting in place fair, transparent, and merit-based national-level nomination processes, in accordance with international standards, to identify the best candidates for these posts. We will closely follow the continuation of the discussion on the review of the procedure for the nomination and election of judges, as well as the lessons learnt exercise following the recent election of the prosecutor. Furthermore, we salute the due diligence process established in the context of electing two Deputy Prosecutors at this ASP as a welcoming step and encourage the development of a permanent vetting process for the ICC elected officials. We hope that such a permanent mechanism could already benefit the election of the Court's next Register in 2023.

Romania will continue to promote the *universality and full implementation of the Rome Statute* as part of the collective mission to put an end to impunity for mass atrocities.

Our national authorities have taken the necessary steps to accept all amendments to Article 8 of the Rome Statute adopted in Kampala, New York and The Hague, the corresponding draft law being under examination by the Parliament.

The so-called "new deal" between the Court and the States in the context of the review process implies that the Court is undergoing organizational change, while states should offer the necessary support and *resources* for the realization of its mandate. Romania joins the call for a more efficient internal housekeeping, continuous budgetary discipline, and a healthier work culture, as it remains ready to extend its political and financial support to the Court, in accordance with its capacities. We express our concern about the situation of arrears to the ICC annual budget and acknowledge the need for strategic and non-politicized solutions to tackle this problem on a permanent basis.

To conclude, we should not forget that the International Criminal Court is the outcome of the lessons learned from the past World Wars and other conflicts that followed. In a time when multilateralism, human rights and international law appear to be under threat in so many parts of the world, we cannot afford to grow new doubts about the utility of this judicial institution. We must stand up for an efficient and judicially independent ICC working to the benefit of victims of heinous crimes worldwide.

Romania aligns itself with the statement delivered on behalf of the European Union and its Member States.