

International Criminal Court
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Statement on behalf of

Germany

by
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Mr President, Ladies and Gentlemen,

It gives me great pleasure to convey to you, Mr President, our sincerest congratulations for assuming the high office of the President of this distinguished Assembly. The German delegation shall be happy to follow your advice and guidance. You may count on our loyalty and commitment. At the same time we would like to extend our gratitude to the Foreign Minister of Costa Rica, Mr Bruno Stagno Ugarte, for his outstanding leadership over the last three years. As President of the Assembly of States Parties he contributed enormously to the visibility of the Court and gave it a strong voice in other fora – not only in legal but also in moral terms. We owe him a great deal.

Mr President, Ladies and Gentlemen,

In the course of the year since I last had the honour to address the Assembly the International Criminal Court has seen numerous events and developments. They merit a moment of reflection. Where do we stand ? Where are we going ? This year we celebrated the tenth anniversary of the adoption of the Rome Statute. I wonder whether 10 years ago in Rome anyone expected that the Court would become a reality so quickly. Today the International Criminal Court is a well established and operational international judicial institution. Investigations are being carried out in four situations, arrest warrants have been issued, alleged perpetrators have been arrested, trials are about to start. The Security Council has used its powers to entrust the Court with a mandate to investigate serious crimes committed in a non State Party. Ten years after Rome the Court is widely accepted as a major factor in international relations. The International Criminal Court has proven its relevance and has brought more rule of law to international relations ! It is in this spirit that I reaffirm Germany's strong commitment to the Rome Statute and the International Criminal Court.

However, the International Criminal Court is not free from dispute or controversy. Some argue that peace has priority over justice. Others go so far as to portray the Court as an obstacle to bringing about peace. At our last session I informed you about an international conference on peace and justice held in Nuremberg in June 2007, in cooperation with our friends from Finland, Jordan and from civil society. Today I would like to draw your attention to the "*Nuremberg Declaration on Peace and Justice*" which was issued one year later by a group of international experts, designated by the Conference organizers, under the auspices of President Arrias of Costa Rica. The Declaration affirms the basic principle of the Rome Statute, namely that there must be no impunity for the most serious crimes of concern to the international community as a whole. It emphasizes that peace and justice are *not* contradictory, but rather promote and sustain one another. This is very much in line with the position taken by the United Nations Secretary-General that peace and justice must go hand in hand and that there can be no sustainable peace without justice.

Mr President, Ladies and Gentlemen,

While we wholeheartedly welcome the positive development of the International Criminal Court, we should not lose sight of the problems and challenges which the Court has to face. The fact that states fail or refuse to comply with their obligation to cooperate with the Court is not acceptable.

The execution of an arrest warrant may be beyond the means of a single state. However, in such a case a coordinated regional approach should be considered in order to avoid safe havens for alleged criminals. Furthermore, we urge the Government of Sudan and all other parties to the conflict in Darfur to cooperate fully with the Court, in conformity with Security Council Resolution 1593, in order to put an end to impunity for the crimes committed in Darfur.

We call upon all sides to defend the Court's independence and impartiality and to refrain from any political interference in ongoing judicial proceedings.

Mr President, Ladies and Gentlemen,

This Assembly has an ambitious agenda. The adoption of the Court's 2009 budget is at the top of it. We welcome and support the excellent preparatory work carried out by the Committee on Budget and Finance. The Committee's expertise as documented in its report will allow the Assembly to take a well-informed decision. Notwithstanding the Assembly's prerogative to debate and adopt the budget, we would find it unfortunate to see the Assembly's plenary duplicate the CBF's work and enter into a microanalysis of the budget.

At the same time the CBF's comments on the macroanalysis are of the greatest importance. In particular we share the CBF's concern to contain costs by addressing substantial cost drivers and relevant issues such as the establishment of indigence. The CBF further agreed that the Court would increasingly need to live with the means available to it. The time of double digit growth rates seems to be over. We encourage the Court to accept the CBF's challenge to produce a budget for 2010 which funds any increase in spending from savings to administrative processes.

Much has been said and written on the issue of family visits to detained persons. In order to advance the file we strongly recommend seeking advice from the CBF. However, what has already emerged with considerable clarity is that there is no legal provision whatsoever granting individuals the right to have the costs of family visits covered.

The budgetary impact of the issue of permanent premises for the Court is evident. We are glad to learn that the Oversight Committee established by this Assembly has achieved remarkable progress. The architectural competition is completed, the project governance structure is in place, the issue of financing is well advanced. We trust that now the project can be speedily brought forward.

Mr President, Ladies and Gentlemen,

Once more the Assembly will devote considerable time to the Special Working Group on the Crime of Aggression. Given the complexity of the issue, we are happy to recognize the progress that has been made with regard to the definition of the crime. As you are certainly aware, the exercise of jurisdiction remains the most difficult issue. It will require hard work to reach the widest possible consensus. As a matter of principle, however, we consider it absolutely necessary to maintain the International Criminal Court's independence from political interference. The course of justice must not be compromised by political considerations. Defending the Court's full independence would in no way affect the Security Council's prerogatives. The Review Conference is called upon to amend the Rome Statute – not the United Nations Charter whose provisions would in any case remain untouched.

As the Review Conference approaches, it is now high time to take a final decision on the venue and my delegation is ready to join a consensus in this regard. Looking ahead we should make sure that the Review Conference gives a new boost to the fight against impunity. We therefore recommend a focused agenda permitting us to send a strong political message.

Mr President, Ladies and Gentlemen,

We welcome the activities initiated by the Trust Fund for Victims within its twofold mandate. I am glad to announce that Germany has decided to make a voluntary contribution of 300,000 € for the fiscal year 2008. We expect the Fund to show utmost transparency in its project strategy and management. The Fund must operate as closely as possible to the victims. It must clearly prove its own specific added value, avoiding any duplication of other measures in fields such as peacebuilding and development aid.

Mr President, Ladies and Gentlemen,

Let me conclude with a reference to universality. Ultimately, impunity for the most serious crimes can only be overcome by global efforts. We therefore renew our call on all states which have not yet done so to accede to the Rome Statute. In 2008 Germany has spent some 250,000 € on projects to promote accession to the Rome Statute and we intend to continue our efforts in the years to come.

The German delegation fully associates itself with the statement made by the Presidency on behalf of the European Union.

Thank you.