

Resolution ICC-ASP/11/Res.5

Adopted at the 8th plenary meeting, on 21 November 2012, by consensus

ICC-ASP/11/Res.5 Cooperation

The Assembly of States Parties,

Recalling the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, and the sixty-six recommendations annexed to ICC-ASP/6/Res.2,

Determined to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

Stressing the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute,

Noting that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

1. *Welcomes* the acknowledgement in paragraph 80 of the Report on the activities of the Court that “[t]he Court’s cooperation with States Parties has been generally forthcoming”,¹
2. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court, and *underlines* the negative impact that non-execution of Court requests can have on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;
3. *Stresses* the value of the lessons learned from international ad hoc and mixed tribunals on the enforcement of arrest warrants;
4. *Emphasizes also* the ongoing efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, and *invites* the Court to also continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance;
5. *Requests* the Bureau, through its Working Groups, to consider, in light of the further views obtained from the relevant organs of the Court, the issue of non-essential contacts, and to report thereon to the Assembly well in advance of its twelfth session;
6. *Welcomes* the efforts of the President of the Assembly in implementing the non-cooperation procedures adopted by the Assembly in ICC-ASP/10/Res.5, and *encourages* the Assembly to keep said procedures and their implementation under review in order to secure their effectiveness;
7. *Expresses* serious concern regarding the detention of four officials of the Court from 7 June to 2 July 2012 and *notes with appreciation* the assistance provided by States Parties, other States, and international organizations in connection with securing their release;
8. *Stresses* the importance of respect for the privileges and immunities of the Court’s staff and officials in accordance with article 48 of the Rome Statute, and the necessity of

¹ ICC-ASP/11/21, para. 80.

securing the respect for such privileges and immunities in all situations, inter alia by adopting relevant national legislation;

9. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority and to incorporate it in their national legislation, as appropriate;

10. *Welcomes* the increased cooperation between the Court and the United Nations, and other international and regional organizations, and other inter-governmental institutions;

11. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;

12. *Encourages* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring support and cooperation to follow up such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;

13. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and other measures so as to ensure that they can fully meet their obligations under the Rome Statute;

14. *Acknowledges* efforts by States and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation;

15. *Encourages* States to consider the establishment of a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court-related issues, including requests for assistance, within and across government institutions;

16. *Acknowledges* the importance of protective measures for witnesses for the execution of the Court's mandate, and *notes with concern* that despite continuous efforts, the Court has not succeeded to establish sufficient arrangements or ensure other measures for the expeditious temporary relocation of witnesses facing imminent threat;

17. *Calls upon* all States Parties and other States, where possible, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court or any other means concerning, inter alia, protective measures for witnesses, their families and others who are at risk on account of testimony given by witnesses, and sentence enforcement;

18. *Encourages* all States Parties to consider making voluntary contributions to the Special Fund for Relocations and to consider entering into relocation agreements or arrangements with the Court, including on a cost neutral basis;

19. *Commends* the work of the Court on framework agreements or arrangements or any other means in areas such as interim release, final release, witness relocation, and sentence enforcement, *encourages* the Court to continue its work in this regard, and *urges* all States Parties to consider strengthening voluntary cooperation in these areas;

20. *Underlines* the importance of further improving communication through established, and possibly new, channels, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations on the identification, tracing and freezing or seizure of proceeds, property and assets, and the corresponding obligation of States Parties, and other States under an obligation to cooperate with the Court pursuant to

Part 9 of the Rome Statute or a United Nations Security Council resolution, to comply with such requests by the Court, as envisaged in article 93, paragraph 1(k), of the Rome Statute;

21. *Emphasizes* the advantage of transmitting requests for assistance to States and organizations to identify, track, freeze or seize proceeds, property and assets as expeditiously as possible;

22. *Welcomes* the enhanced dialogue between States Parties, the Court and civil society offered by the plenary discussion on cooperation held for the first time during the eleventh session of the Assembly, with a special focus on arrests and the identification, tracing, freezing and seizure of assets, and, *mindful* of the importance of full and effective cooperation with the Court in accordance with the Rome Statute, *notes with appreciation* the fruitful exchange of views on, inter alia, practical measures to enhance implementation of requests for cooperation, and the need to include cooperation as a standing agenda item for future sessions of the Assembly;

23. *Requests* the Bureau to establish a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court and non-governmental organizations as well as other interested States and relevant organizations in order to further strengthen cooperation with the Court;

24. *Decides* that the Assembly of States Parties shall continue to monitor cooperation with a view to facilitating States Parties in sharing their experiences and considering other initiatives to enhance cooperation, and, to this end, *decides* that the Assembly will include a specific item on cooperation on the agenda of its twelfth session;

25. *Recalls* the request to the Court by the Assembly of States Parties at its tenth session to submit an updated report on cooperation to the Assembly at its twelfth session, in accordance with paragraph 15 of resolution ICC-ASP/10/Res.2.