

UMBERTO LEANZA: [Interpretation] Umberto Leanza, Professor of International Law at the Rome University. I'm a former legal counsel to the Italian government.

I don't want to sound a bit excessive, but I think that I can say that the success of the Court will be dependent on the value of the staff charged with investigations. At this stage of the prosecutions, the people will have to focalise and they will focalise certainly the attention of the public and the media.

The experience of the other tribunals does not allow it to ignore the two main risks that may come up and which may threaten the Prosecutor; the fact that there is no impartiality or no independence, and that the activity of the Court may be politicised, that's the first danger; the other danger is the failure of efficiency and of prompter intervention in prosecuting the crimes. One can understand that the accusations which might not be well-founded might have an impact, a negative impact on the future of the Court and on the accession of other states to the Rome Statute.

So I would like to draw your attention to the criteria that should inspire the decision of the Prosecutor to start an investigation. In light of the permanent nature of the Court, I think one can say that the Prosecutor will probably have to investigate several cases simultaneously which may involve a very high number of perpetrators. This may lead to the other risk which may be the overload of work, an overwhelming workload which may lead to total paralysis of the OTP.

In order to avoid this risk, the Prosecutor should open an investigation only when you are dealing with very serious crimes. The level of seriousness should not be limited to the crimes themselves, but they should also refer to the degree and the level of the perpetrators of these crimes. In addition, in view of the nature of the crimes and the

circumstances in most cases where the perpetrator is an individual or an organ, the Prosecutor should focalise his attention on the ones that have the highest functions in the state concerned.

A second point which I'd like to draw your attention to has to do with the respect of the principle of complementarity. The decision relative to the unwillingness or inability of the state is up to the Court. Still, these are two points that should be interpreted in a restrictive sense, in view of the fact that this will have a very strong impact on the sovereignty of states. The success of the ICC will not be measured on the basis of the number of cases submitted to its jurisdiction; on the contrary, the success of the Court should be measured by the absence of cases or trials at international levels, thanks to the very efficient functioning of the national systems.

As regards the investigations, the Prosecutor is not purely accusatory. The OTP is also a justice organ founded on the legality of the international law system by adopting all the measures necessary to ensure the efficiency of prosecutions and the respect of the rights of the individuals concerned.

May I be allowed to underscore the respect of confidentiality of personal data. I think that an individual should be given access to the personal data concerning this person, unless of course this may prejudice the activity of the Court or the activities of other people. This right should be enshrined by a special law. If there are mistakes of fact, therefore, the person should be allowed to correct his personal data, or the data should be erased if there are any legal mistakes in them.

Furthermore, we should have, in very short notice and at a very high level, some key personnel in order to guarantee the good functioning of this Court. In this respect one should not forget that the selection of candidates or applicants for the ad hoc tribunal for the former

Yugoslavia was too long and too complex a process. There was too long a delay in recruiting the appropriate staff. This was probably due to the fact that there wasn't the necessary funds at the start, and the Yugoslav tribunal could not offer long-term contracts to the applicants, and most of them, even, at very high senior levels in their home countries. This might happen also to the ICC.

Thank you very much.