

MARK ELLIS: Thank you.

My name is Mark Ellis, the Executive Director of the International Bar Association.

If we view this concept of complementarity as a procedural and substantive safeguard against curtailing the sovereign rights of nations, and I think it's reasonable to assume that states will continue to stress that the primary responsibility of investigating and prosecuting the international crimes will remain part of the sovereign rights of a nation and I think states will attempt to aggressively prosecute in the domestic case these international crimes so as, really, to avoid triggering the jurisdiction of the ICC in a particular case.

And yet, as we know, there are a number of issues, substantive procedural issues, deficiencies, within the legislative framework of many of the States Parties in relation to the required cooperation with the Court and particularly in relation to undertaking, or their ability to undertake, their own trials. This is, again, particularly the case in the developing countries, in the post-conflict countries.

I witnessed this two and a half weeks ago when the International Bar Association was asked by the Serbian government to assist in drafting their new domestic war crimes trial law. We put together an international team of experts, a number of them from this audience, in fact, including, I might add, individuals from the Office of the Prosecutor from the ICTY, which was exceedingly important. And I think we learned two things: One, any state is going to have difficulties in creating these types of laws, in creating the procedural substantive safeguards that are needed to undertake these trials; but most importantly there was a real willingness to take international assistance

and to listen to the international community when they were drafting this type of legislation.

And so I think this moves to my point about the need to have an outreach programme, a fairly aggressive outreach programme, and I hope that the international community and certainly the International Bar Association can join with the Court, can join with your Office, to help these countries that are still in need of the assistance to bring about changes in their own legal system so they can cooperate fully with the Court.

Perhaps, most importantly, the international community must somehow be prepared to assist a nation state that decides to undertake its own prosecution under the concept of complementarity, even though that state may not be fully up to the task to undertake this type of major commitment. And I think under the concept of complementarity, we, as the international community, owe it to these states to create a long-term assistance plan that will enable them to conduct these trials as contemplated by the Statute.

I appreciate an opportunity to talk to you.