

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

THE REGISTRAR

**EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS**

**EUROPEAN COMMISSION**

*“Conference on the International Criminal Court”*

**Address by Bruno Cathala,**

**Registrar of the ICC**

(English version – Originally pronounced in French)

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Ladies and Gentlemen,

It is my pleasure to address today's Conference on the International Criminal Court.

I would like to begin my contribution by introducing a necessary distinction, one partly included in the preparatory document for this conference: the distinction between the system established by the Rome Statute, and the Court itself. This distinction will be helpful not only for the purposes of today's discussions, but also for channeling in the most effective manner the assistance provided by the European Commission and other actors.

Let me clarify this distinction in a few words.

The Rome Statute establishes a global system which endeavours to "put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole". This system provides for the primary duty of States in exercising criminal jurisdiction over the perpetrators, the complementary nature of the Court, and the enactment at national level of effective measures for cooperation with the Court. While various actors, such as national jurisdictions, the Court, etc. are called upon to work closely towards the achievement of the ultimate goal - creating a universal system of international criminal justice - the Court remains at the heart of this system. At its core, the Court must achieve and maintain the highest standards of justice by ensuring the fairness and efficiency of its proceedings, ultimately contributing to the establishment up of a credible, transparent, effective, articulate and accessible Court.

In the last few months, the International Criminal Court has become a reality. The Court is no longer an aspiration, it is a tangible and functioning institution built on the system founded by the Rome Statute. The Court is now at the operational stage with judges elected and sworn-in, the Presidency in place, the Prosecutor and the Registrar already in office.

This was made possible mainly due to the financial support of the European Commission, through the European Initiative for Democracy and Human Rights, which has enabled the establishment of the Advance Team. I would also like to take this opportunity to express my gratitude to the Member States of the European Union which have effectively sustained this initiative. The Advance Team has proved to be essential in establishing initial structures, policies and mechanisms to prepare the Court for the arrival of its first officials and to establish the Division of Common Services, which has managed the administration of the Court in the first few months of its existence.

This process has continued with the preparation of the 2004 Budget Programme, adopted by the Assembly of States Parties in September this year. The Budget was designed to sustain a flexible, well-proportioned and cost-effective Court able to respond intelligently to events as they unfold.

On this topic, allow me to remind you that the budget has been built on the assumption that sound, capable and well-informed national jurisdictions are in place. As you know, the mandate of the Court is to prosecute the most significant perpetrators. Therefore, the responsibility of other perpetrators will have to be considered by other instances, particularly in national courts, in order to avoid any 'impunity gap'.

The Court can only accomplish its mission within the remit of its mandate. The Court has neither ambition nor means to respond alone to all the challenges of international criminal justice. The strong commitment expressed by the international community and civil society throughout the process of the establishment of the Court should continue. Now, more than ever, the Court and the

system established by the Rome Statute need the steady support of States Parties, NGOs and other international organisations.

This support is closely linked to the needs of the Court and the system established by the Rome Statute through additional budgetary resources which allow crucial projects to go ahead. These projects are designed to strengthen the system created by the Rome Statute and to contribute to the sound administration of the Court. These projects are not part of the core functions of the Court, maintained through the regular budget, but are complementary to its fundamental activities.

I would like now to share with you the thematic priorities around which voluntary contributions of various partners in the international arena (States Parties, NGOs, European Commission and other international organisations) could be gathered to strengthen the “strategic partnership” and connect all the actors anchored in the Rome Statute system, a partnership which will best match the resources and means at stake to the needs of the Court.

The Court has identified five thematic priorities. They are the outcome of a thorough internal reflection process which included the Judiciary, the Prosecution, and the Registry and are in complete agreement with the position adopted by the Member States of the European Union in June 2003.

### ***Proposed thematic priorities***

The five thematic priorities are as follows:

- 1) To develop the universal aspect of the Court;
- 2) To implement the principle of complementarity;
- 3) To educate the public and our ‘clients’ through communication;
- 4) To establish special support structures for victims and witnesses;
- 5) To strengthen the continuous self-learning capacity of the Court

It should be noted that under each thematic priority concrete projects have already been developed, while others are about to be developed: some by the Court, some by other bodies (NGOs, States Parties, etc.). It is important to note that for certain areas such as victims and witnesses, external communication and universality, the financial support of the international community should be equally distributed between projects initiated by the Court and those developed by NGOs.

#### *1) Development of the Universal Aspect of the Court*

As I previously said, the success of the International Criminal Court is directly linked to complete and prompt cooperation with States Parties, who will need to assist the Court. Therefore, high quality of implementing legislation is essential. In this respect, the Court endeavours to create a database of implementing legislations. The Court will also encourage an active dialogue between States Parties to ensure that the objectives of the Statute are met and reflected accordingly in respective legislation as this will certainly be a long and difficult process. It is vital that the prevailing legislation facilitates the work of the Court.

The strong and constant support of States has been essential in establishing the Court. As the Court has now entered a new phase, the operational phase, this support has to be reinforced, bearing in

mind the fact that the universality of the Court is dependent on the ratification and acceptance of the Rome Statute by as many States as possible.

In this area, governments and NGOs have played an essential role, and their efforts must be recognised. The Court, mindful of the need for the practical, political and moral support of States, urges civil society to continue campaigns for ratification. Moreover, civil society should continue to provide assistance to countries throughout the drafting of implementing legislation.

Against this background, it is of the utmost importance that constant support of the European Commission be ensured for activities and projects directed towards the universality of the Court.

## *2) The implementation of the principle of complementarity*

As I have already said, it is up to the States to try their own criminals. The principle of complementarity is central to the work of the Court and its mandate.

A sound and competent national structure is the only guarantee that perpetrators of crimes contained in the Rome Statute will be duly punished at the national level, thus further reducing the “impunity gap” and validating the effectiveness of the International Criminal Court.

Giving life to the principle of complementarity also entails continuous awareness-raising campaigns aimed at communicating to the world the work and mandate of the Court.

So that judiciaries can function properly, a crucial role is to be played by defence. In giving support and assistance to bar associations, the system established by the Rome Statute will be strengthened to guarantee a fair trial without undue delay, while the protection of the rights of the accused will be ensured both at the national level and before the Court. By investing funds in bar associations and other bodies active in the area of defence, expert knowledge will be gathered which will ultimately serve national jurisdictions and/or the Court, and hence reinforce complementarity. However, it is necessary for this support to go well beyond European bar associations and be directed towards other continents (Africa, Asia).

In its endeavours to implement the principle of complementarity and communicate better to the public at large, the Court has developed an internship project aimed at members of national judicial systems. The project will enable different nationals from all over the world (especially from the least developed countries in Africa, Asia and Latin America) to participate in the work of the Court and thereby obtain an in-depth theoretical and practical knowledge of the workings of the Court. Upon completion of their period at the Court they will become valuable assets for their countries of origin and will further contribute to creating sound national systems that will strengthen the complementary statutory nature of the Court. Moreover, the project will contribute to the creation of strong advocacy capacities at the national level through the dissemination of knowledge. Here, I must express my concern regarding the delay in the development of this project which is essential for the implementation of both the principle of complementarity and that of universality.

From a medium and long term-perspective, the International Criminal Court envisages building up infrastructural support for international justice in the broader sense. In this respect, the establishment of a “best practices” database will create the capacity to share working methods between various international criminal jurisdictions and will establish viable mechanisms to learn lessons.

### *3) Educating the public and 'clients' through communication*

Setting up an effective external communication strategy is vital for the functioning of the Court. Such a strategy should be adapted to the phase in which the Court now finds itself. For the operational phase, the Court has drawn up a simple explanation to communicate "what the Court is and what it is not".

The Court is a judicial institution that belongs to all the world's citizens. Therefore, an interactive information exchange between civil society, the media, victims' groups and the public at large should be maintained. The role of NGOs and journalists' associations will continue to be critical both with respect to collecting information worldwide for the benefit of the Court and to disseminating information about the Court. It is essential that the campaigns led by NGOs provide information on the work of the ICC for the public at large and persons who may become involved in trials, without raising unrealistic expectations.

The Court will shape its communication strategy with a view to addressing special groups such as victims and largely illiterate populations as well as the media, academia and those States Parties in whose territories crimes under the Rome Statute have allegedly been committed.

In addition, the Court will have to work in various regions around the world and it will have to rely on specialised help and local initiatives in the field. The role to be played by NGOs and the media in this respect is essential as it will help the Court in getting its message across in line with the culture, language and customs of the regions concerned. Therefore, a key priority identified for the present is keeping the media informed of fundamental issues related to the mandate and the mission of the Court.

### *4) To establish special support structures for victims and witnesses*

The Rome Statute and the Rules of Procedure and Evidence have established a system which ensures full protection of the rights of all parties. However, the participation of victims in the proceedings before the Court and the possibility of reparations represent a novelty for the international criminal law. Victims are able to participate not only as witnesses, but also in the active defence of their own rights. In addition, the system provides for a range of reparations for victims of genocide, crimes against humanity and war crimes. One of the challenges lying ahead is bringing this system into operation.

The Court has developed several projects aimed at improving the capacity of the Court to support victims' rights. However, we need support to implement these projects. The projects are directed at launching an information campaign for potential victims and groups working with them regarding what the Court's mandate provides for the victims and what it does not provide, thus contributing to a clearer conception of how the Court and national legal systems will have to work together in this field. Comprehensive information material, fully appraised of the situations facing the Court on the ground, will have to be compiled. This material will provide a guide for victims and their legal representatives.

Moreover, specialised training programmes will be produced in the area of victims' rights. The training programmes will in turn contribute to fostering cooperation between the Court, victims, civil society, inter-governmental organizations, and States Parties.

Particular attention will be given to issues of women and child victims in the production of information material, as well as in training programmes for legal representatives. Expertise in these matters will be incorporated into the policies of the Court in order to address their special needs effectively.

As far as witnesses, whose importance is obvious for the work of the Court, are concerned, it will be necessary to develop superior witness protection programmes adapted to different environments in which the Court will have to work, particularly at national level.

#### *5) Strengthening the self-learning capacity of the Court*

The International Criminal Court will have to prove its efficiency in the years to come. Consequently, its external actions will need to be supported by strong internal institutional capacities aimed at building and continually improving an efficient organisation.

Training on various topics essential for the work of the Court is envisaged with a view to enhancing the quality of the workings of the Court. Additionally, by engaging temporary experts the Court will not only be able to conduct its operations in a flexible and proportional manner, but also to benefit from the best expert knowledge at the right moment, not only in judicial matters but also in issues regarding management, for instance in establishing an efficient organisation with limited bureaucracy. That is to say, to allow the Court to become an organisation able to meet the challenges ahead.

### *Conclusion*

By way of conclusion I would like to underline the essential role played by the European Initiative for Democracy and Human Rights, an efficient tool developed by the European Union to address international justice.

Under this umbrella, a wide range of projects have benefited from financial support and contributed to the creation of favourable conditions for the establishment of the Court and, moreover, to the advancement of the international criminal justice system envisaged in the Rome Statute.

It is of the utmost importance that we ensure an ongoing consultation process between the Court and the European Commission. The support given by the Commission and the Member States from the very beginning of our institution has been essential.

We must combine our energies in a joint effort so that resources allocated to the Court become part of a concerted and coherent effort to develop international criminal justice and bring us closer to a world governed by ethical ideals as prescribed by the Rome Statute and the common platform of the European Union. Each euro invested in the Court and the system of the Rome Statute must be directed towards a comprehensive objective visible to the citizens of the European Union, the rest of the world and their representatives.

I would like to end by stressing the point that it is not up to the ICC to validate the projects that will be submitted to you. However, it stands to reason that we cannot be indifferent to the choices made as they inevitably have an impact on the work of the Court.

Thank you.