



CZECH REPUBLIC

Embassy of the Czech Republic in the Kingdom of the Netherlands

Check Against Delivery

Statement by

Mr. Petr Válek

Director of the International Law Department, MFA CR

11th Session of the ASP
Agenda item: “General debate”

“Tenth anniversary of the entry into force of the Rome Statute: the challenges ahead”

The Hague, November 15, 2012

Paleisstraat 4, 2514 The Hague
tel.: (3170) 313 00 11, fax: (3170) 356 33 49, e-mail: hague@embassy.mzv.cz

Madam President,

The Czech Republic fully endorses the statement of the EU and wishes to add a few remarks in its national capacity.

This year, we commemorate the tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court. We appreciate and hail the momentous nature of this year's decisions of the Court in the case against Thomas Lubanga - the first Court's verdict on guilt and the first decision on the reparation for victims. We are also well aware of the extensive activities in all seven situations currently before the Court, as well as of the preliminary examination activities of the Court. On the other hand, it must be admitted that the Court's first decade was not an easy one and that some of the expectations of the first permanent criminal court have not been yet fully met. The slow pace of the Court's proceedings belongs - in our opinion - among the most important areas which are in urgent need of improvement. Therefore, we welcome the intensified Court-wide lessons-learned exercise dealt with in cooperation between the Court and the Assembly's Study Group on Governance and are looking forward to next year's discussions which should lead to substantive proposals aiming at expediting the proceedings before the Court while, of course, fully preserving fair trial and other rights within the Rome Statute.

Justice is inextricably connected with transparency and consistency of procedures and decisions. The Czech Republic is, therefore, of the opinion that the Court, namely the Office of the Prosecutor, could in the forthcoming years further enhance transparency, by providing more concrete updates and issuing, finalizing or amending relevant policy papers, in terms of its activities during the preliminary examination phase and its criteria used in the decision-making process, including the selection of situations and cases for prosecution. Further to the recent debate on the International Criminal Court in the UN Security Council, we would also like to reiterate our support for enhancing the relationship between the Court and the Security Council and for more consistency in the Council's practice towards the Court that would then also have a preventative effect. In this connection and within the context of current „crisis budgetary discourse“, we believe that the costs of the future Security Council referrals should be covered at least partly by the UN, similarly as those for the UN ad hoc tribunals.

Despite the ten years of existence, the Court is still at its formation phase and needs increased expressions of political commitment and support and the implementation of this commitment in practice. The Czech Republic is strongly committed to the idea of the international criminal justice, in particular the International Criminal Court. We believe that the role of the Court in the fight against impunity is irreplaceable and we stand ready to support it wherever possible. For this reason, the Deputy Prime Minister and Minister of Foreign Affairs of the Czech Republic joined in September this year in New York an informal ministerial network on matters related to the Court established by Liechtenstein. In addition to that, on the occasion of the tenth anniversary of the entry into force of the Rome Statute, the Ministry of Foreign Affairs of the Czech Republic organized a conference on October 9, where lessons learned and future challenges for the international criminal justice were discussed. It is also my pleasure to inform you that this year the Czech Republic will provide contribution to the Trust Fund for Victims in total sum of 10.000 USD.

During the upcoming and future ASP discussions, we need to keep in mind that the Court is a judicial body - its *raison d'être* is delivering justice in concrete cases. One of the main topics of the ASP will be complementarity and cooperation. Regarding the topic of

complementarity, I would like to point out that the Czech Republic is currently in the process of adopting a new “Act on International Judicial Cooperation in Criminal Matters”. This Act, if passed, will explicitly and in detail regulate cooperation with the Court, as well as other international criminal tribunals. As such, it will further improve our legal framework for the cooperation with the Court, already covered by the Code of Criminal Procedure.

Regarding the topic of cooperation, the Czech Republic appreciates efforts made by all the stakeholders on this issue. We are aware of the importance of ensuring effective cooperation between the States, international organizations and the Court, including such task as freezing of assets. To ensure smooth cooperation between the Court and States, we call on the Court to learn from the ad hoc tribunals of the UN Security Council and follow already established practices within the existing international organizations, such as the procedure for disseminating arrest warrants via INTERPOL red and/or special notices or operative procedures for identification and localization of assets prior to requesting freezing of the assets in a specific State. It is unfortunate that only the Office of Prosecutor of the Court has entered into a cooperation agreement with INTERPOL and that the Registry, which has the main responsibility for requesting arrest and surrender of persons, has not formalized its relationship with INTERPOL yet. The practice of “fishing expeditions” should be avoided or at least limited, as it may potentially have negative consequences in the long run - a State that had received dozens or even hundreds of formal requests of the Court for judicial cooperation that show no link at all to the State may become less responsive or simply overlook a future requests that is based on such a link. It is also doubtful that “fishing expeditions”, and the need to translate such requests into the languages of all States the Court sends them to, are reasonable from an economic and budgetary point of view.

Madam President,

Let me touch briefly upon the issue of the budget of the Court. The Czech Republic is aware of the importance of ensuring sufficient financial resources for sustainable functioning of the Court as an independent judicial body free from even indirect political interference. We appreciate all the efforts made so far by the Court to save costs. The Czech Republic is of the opinion, however, that the increased modus operandi in non-judicial activities of the Court at the request of the ASP should be reviewed. Such activities are for the Court quite time-consuming and represent an increased mandatory expense for the Court. Our primary task should be to ensure adequate conditions for proper and effective performance of the Court as a judicial organ delivering justice to victims and international community. After 10 years of the Court’s existence - when the new era of judicial activity has been started - we recommend that the ASP reconsiders the extent in which the ICC performs certain mandatory non-judicial tasks, such as some aspects of the outreach and public information, and finds non-mandatory mechanisms for such activities. As the first step, the Czech Republic is prepared to seriously consider any reasonable suggestions aiming at organizational streamlining of these activities and technical cuts going beyond the Court’s proposals or the CBF recommendations.

Madam President,

Finally, I would like to congratulate you on your active leadership of the Bureau. The Czech Republic – as one of the Bureau members – remains ready to fully support you during your challenging mission.

Thank you, Madam President.