

INTERNATIONAL CRIMINAL COURT
ELEVENTH SESSION OF THE ASSEMBLY OF STATES PARTIES

- GENERAL DEBATE -

STATEMENT BY H.E. DR. BOGDAN AURESCU,
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ROMANIA

The Hague
15 November 2012

Madam President,
Ladies and Gentlemen,

The activity of the International Criminal Court during this anniversary year, illustrated by its first verdict and sentence in the case of Mr. Thomas Lubanga Dyilo, proves once more that the Court represents today not just a *community* of States or ideals. It shows eloquently it is a fully functional institution and a key actor in combating impunity for the most serious crimes of concern for the international community as a whole. It represents a guarantee to the victims of the worst atrocities that justice can be done and that justice will be done so that their rights and their dignity are protected and looked after. We commend the work of the past and present ICC judges and prosecutors. We praise their braveness and dedication in leading to what ICC means today for the international community.

This anniversary represents not only a proper moment to look back to the achievements of the Court, but also to look forward. Indeed, it is an excellent opportunity for a substantial reflection on the challenges ahead in its activity, as well as on the vital part that States play, in helping the Court to fulfill its mandate.

Among these challenges, the quest for *universality* should *continue* and, in this respect, we encourage all States to become parties to the Rome Statute: each step towards its universality would significantly reduce the risk of impunity and work towards enhancing peace and stability worldwide. The Rome Statute currently counts 121 States Parties and we hope that others will join in the very near future. As a facilitator on universality under the Plan of Action in the New York Working Group, Romania stands ready to assist all States in their efforts to ratify and fully implement the Rome Statute. We congratulate all the States Parties pledging for the universality of the Rome Statute and the ICC during the UN high level meeting on the rule of law this September. We hope that their pledges will become effective soon. It is encouraging that also during this debate some non states parties have shown receptivity towards ICC and its role in promoting the rule of law.

We take this opportunity to congratulate Guatemala, for becoming a State Party to the Rome Statute, as well as for its effort in convening, this October, in the Security Council, a substantial open debate on Peace and Justice with a Special Focus on the Role of the International Criminal Court. The debate proved once more the large and strong support

for the activity of the ICC and for its mission to deliver justice and peace, and at the same time the challenges faced while fulfilling this mission.

We note, as well, the need for wider participation in the *Agreement on the Privileges and Immunities of the Court*. We consider the ratification and full implementation of this Agreement as a matter of priority and we encourage the signatories to take this step forward as well as non states parties since we have a precedent of a non state party ratifying it. We congratulate Bosnia and Herzegovina and Switzerland for becoming parties to it this year. It would be helpful and natural, as well, that the Rome Statute and the APIC be regarded as a *package* when action is taken for a State to join the *community of States Parties to the Rome Statute*. Romania promotes this approach throughout its facilitating efforts under the Plan of Action.

The International Criminal Court *relies* significantly on the cooperation of international community. As a matter of fact the Court will always rely on the cooperation of the States since there is no special law enforcement authority available to it. From this perspective, States should be aware of their significant role in the materialization of the international judicial act. They should adopt measures to ensure full and prompt cooperation with the Court – including with respect to the execution of outstanding arrest warrants – in accordance with the legal obligations stemming from the Rome Statute and/or the UN Security Council resolutions.

Non-cooperation is not only a violation of international obligations, but it has, as well, the effect of undermining the efforts of the Court to deliver justice and ensure respect for the rule of law. It could also affect its credibility by failing to meet victim's expectations for justice. Therefore, an important responsibility for the success of the Court relies on States Parties which must act consistently and persistently to support its activity and preserve its independence. At the same time, States Parties should creatively joint efforts in fostering the will to cooperate among third States, as a duty derived from the principle of complementarity and the ownership of the accountability system. Dialogue between ICC and United Nations should be enhanced in this respect, as well.

The principle of complementarity *continues* to underline the fundamental obligation of States Parties to properly implement the Rome Statute in their national systems, as well as their primary duty to investigate and prosecute those responsible for the most serious

crimes of international concern. The Legal Tools Project developed within the ICC through voluntary contributions should be constantly supported and promoted as it has increased potential for assisting States and their officials in better understanding the international criminal law and in developing national capacity that finally leads towards an effective universality of the Rome Statute. Romania has taken important steps in this respect by amending its Criminal Code and will continue to reform its legal system in order to ensure the effective implementation of the provisions of the Rome Statute. It is currently preparing the ratification of the Kampala Amendments. We commend Liechtenstein, San Marino, Samoa and Trinidad and Tobago for ratifying the amendments and we express our hope that the historic consensus reached in Kampala on the crime of aggression will be effective as of 2017.

From the perspective of these two last challenges, the initiative to have a special debate on cooperation and complementarity within this ASP session is timely, since more effort is needed on the part of the *Rome Statute community of States* to ensure that the Court can adequately function. We are looking forward to the substantial debates that will take place in the Plenary during the forthcoming days of the Assembly.

The involvement of States is also reflected in their financial efforts deployed in order to ensure adequate resources for the effective functioning of the Court. While acknowledging the current economic difficulties and the increased pressure on the resources available to the Court, we share the view that short time reductions in the budget of the Court may indeed cause long term shortcomings in its activity. Such a situation can certainly not benefit the Court or its activity. Therefore, it is essential for solutions to be identified that would ensure the adequate financial resources for the Court so that its effectiveness and efficiency would not be affected.

Madam President,
Ladies and Gentlemen,

Ten years after the entry into force of the Rome Statute the activity of International Criminal Court and the words and deeds of the States Parties must *continue* to complement each other in order to further consolidate this unique institution, as this moment represents just a first stage of a difficult journey.

This journey was initiated many decades ago, when visionaries like the outstanding Romanian diplomat and jurist Vespasian V. Pella, from whose birth we commemorate, in 2012, 115 years, as well as 60 years since his passing away, were advocating the ideals of international criminal justice and were continuously promoting the idea of an international criminal court, which today are tangible reality. It would have certainly remained a dream, without the determination of the international community that considered that something must be done for peace and justice to prevail. And it would have remained an *international treaty*, without the engagement of the members of the Court and of the civil society. Towards the civil society and their abnegation goes last, but definitely not least, the gratitude of my delegation. In particular we thank the relevant NGO's for their significant involvement and constant contribution, during this year, and generally, during the entire decade, in relation to the activity of the ICC.

I would like to end my statement by reemphasizing Romania's full support for the activity of the International Criminal Court in its fight against impunity and to equally underline the need of strong, consistent, continuous and wider commitment of States and international community for the International Criminal Court.

As Vespasian Pella said in his article "Towards an International Criminal Court", published in 1950 in the American Journal of International Law: *"If the doctrine of absolute sovereignty be accepted (...) any discussion of the place of an international criminal court is meaningless. But if, on the contrary, the principle of the reciprocal limitation of individual sovereignties in the interest of the organization of peace (...) if that principle be admitted, and if that view be taken, that states must adjust their sovereignty to the mould of international law, then it follows that they may set up an international criminal court, that is to say, a court charged precisely with the determination of acts committed in improper exercise of sovereignty so conceived."*

The Romanian delegation fully aligns itself to the statement delivered by the distinguished representative of the Republic of Cyprus on behalf of the European Union.

Thank you.