



REPUBLIC OF BURUNDI



**STATEMENT OF H.E VESTINE NAHIMANA AMBASSADOR OF BURUNDI DURING THE  
15<sup>th</sup> SESSION OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE**

President of the Assembly of States Parties,

Ladies and gentlemen Members of the Diplomatic Corps in The Hague,

Distinguished delegates all Protocol observed.

Accept my warmest greetings on behalf of the people and the Government of the Republic of Burundi. It is a pleasure to be back before this Assembly to bring to communicate to you, the sovereign will of the people of Burundi at the moment when the attention of both national and international opinion is turned towards the Burundi.

You have no doubt been notified the instrument of withdrawal of the Republic of Burundi from the Rome Statute. The decision emanated from popular request by the Burundian people and reflects their sovereign will. This decision was also motivated by the fact that all reasonable efforts, by the Government of Burundi to assert its complementarity rights guaranteed by the Rome Statute were irreparably compromised.

The systematic violation of the Rome Statute and a number of actions which called into question the independence of the Office of the Prosecutor in relation to its actions towards Burundi, led Burundi to withdraw from the Rome statute.

Indeed, for more than a year and before Burundi commenced the withdrawal procedure, Burundi approached the Office of the Prosecutor to protest in writing, through diplomatic contacts, ministerial delegations and diplomatic correspondences against measures taken by the Prosecutor which Burundi considered potentially compromising to its security and national cohesion. Burundi was concerned in particular by the lack of sensitivity and cooperation on the part of the office of the Prosecutor to the information provided by Burundi on some Burundian citizens who are wanted by Burundi's judiciary for their active participation in serious crimes that have cost the lives of many innocent citizens and members

of the security forces of Burundi. International warrants of arrest arising from the criminal proceedings against these individuals before the competent judicial institutions of Burundi are pending execution. The ICC Prosecutor was duly notified of this fact but chose to ignore.

The Government of the Republic of Burundi was surprised and scandalized by the fact that despite the protests and the information provided to the Office of the Prosecutor, the latter continued to grant these fugitives from justice audiences and invite them to conferences organized by the Office of the Prosecutor during which they carried out vicious attacks and made false and defamatory allegations against the Government of Burundi.

Burundi was also concerned about the use by the Prosecutor of political and partisan rhetoric such as "third term" to qualify the election of the President of Burundi His Excellency Pierre NKURUNZIZ during her media outings on the situation in Burundi, despite the judicial decisions of competent national and regional courts confirming the presidential mandate won by the President; recognizing the popular, sovereign and irreversible verdict of the people of Burundi.

Burundi expressed outrage over the blatant influence exerted by Belgium the former colonial power of Burundi, the European Union, and some international organizations including the Office of the High Commissioner for Human Rights of the United Nations in the decision taken by the Prosecutor to open a preliminary examination on the situation in Burundi. These incriminating actions compromised the independence of the Office of the Prosecutor and violated the letter and spirit of the Rome Statute. Cooperation requested by the Government to address these concerns was ignored with the Prosecutor preferring to provide tacit answers the requests of Burundi through media channels.

Burundi's accession to the Rome Statute was motivated by the guarantees of respect for the independence and sovereignty of States Parties under the provisions on complementarity, the independence of the statutory bodies of the ICC, in particular, the independence of the Office of the Prosecutor in the administration of international justice. Once the people of Burundi had evidence of violations of these guarantees with so much potential harm to the Republic of Burundi, it took its responsibilities under the Rome Statute and the Constitution of Burundi to denounce the violations and demand the immediate withdrawal of Burundi.

For Burundi as well as many African countries, the founding spirit of the Rome Statute founded in a new world judicial order based on equality and non-discrimination was the underlying motivation for its membership. It is this founding spirit which appeared to be the panacea and hope for all the peoples and victims of colonialism in Africa.

Burundi has domesticated and incorporated the Rome Statute, in its national legislation. On the inspiration of ICC model, Burundi promulgated the law on the protection of vulnerable persons, victims and witnesses. Within the complementary jurisdiction of the Rome Statute, these laws were already in application by the independent and functional of the Burundi justice before, pending, and after the political crisis which begun in April 2015.

The independence and effectiveness of the Burundian judicial system is reinforced by the Court of Justice of the East Africa community, before which aggrieved Burundians regularly appeal for justice. In addition, Burundi has transitional justice constitutional mechanisms that include the Truth and Reconciliation Commission, the Land and other Property Commission, the Commission on human rights, the National Communication Council etc... These Transitional Justice Institutions were established by the Arusha Peace Accord to hold perpetrators of past and ongoing violations and crimes responsibility for their acts and provide effective reparations to victims. These institutions are playing a key role in redressing the socio-economic, cultural and political situation of Burundi.

The establishment of these independent judicial institutions by Burundi was supported by the international community based on a careful reading of the history of Burundi. This included knowledge of the sacrifices of the martyrs of the struggle for Independence, freedom, democracy, equality and the harmonious cohabitation.

The crisis of April 2015 did not make these institutions less effective, less independent, or unable to investigate and to prosecute all the perpetrators of the crimes in the territory of Burundi. On the contrary, these institutions have carried out and continue to carry out their mandate to the satisfaction of the people of Burundi and all national and truly independent fair-minded international institutions who took the time to come and verify the truth from all components of the population of Burundi and its sovereign institutions.

You may be aware that his Excellence President Pierre NKURUNZIRA was chosen as a candidate in the Burundi presidential election in April 2015 which he contested and won. The main opposition parties in Burundi also participated in this election. Today they are participating in Parliament and the Government. Election challenges were brought before the Constitutional Court of Burundi and East Africa Community High Court of Justice. That was the right thing to do.

Regrettably, a fringe component of the radical opposition that boycotted the elections also rejected the path of legality and the decision of the Constitutional Court and the Court of justice of the East African community; preferring the recourse to violence as a means of political expression. The Government of

Burundi considers participation or boycott of the election; peaceful protest against the results of the election was a right protected by the Constitution of Burundi.

However, what commenced as a non-violent protest turned extremely violent, leading to the death of civilians and the destruction of private and public property. The violence also targeted military and civilian targets and the symbols of state sovereignty. These criminal acts are punishable by the laws of Burundi. Unfortunately, some of the citizens of Burundi who have publicly claimed responsibility for these criminal acts, have repeatedly been granted audience by the ICC during which they have propagated their campaigns incitement to violence, peddling of lies, blackmail, calumny and falsehood against Burundi in the absence of its duly accredited representatives.

Burundi strongly protested recourse by the Prosecutor to fabricated reports prepared and presented by fugitives facing charges for serious crimes before the judicial system of Burundi to justify her decision to begin a preliminary examination on the situation in Burundi. Burundi perceived the visibility and credibility granted by the Prosecutor to these fugitives as an attempt to insulate from the serious crimes committed them and an inappropriate grant of immunity and impunity. With this apparent support of the ICC, these fugitives are transformed into victims to the surprise and indignation of the people of Burundi who were plunged into mourning by their barbaric conduct. The publication of the photos taken with the Prosecutor and staff of the Prosecutor's Office in the social media networks, the written and audiovisual media to underline their constant threats against the leaders, politicians and members of the law enforcement services of Burundi by these fugitives away are undermining the legitimate struggle of the people of Burundi people against crime and impunity.

Following these acts of provocation and contempt, Burundi has decided not to submit to this gross violation of the Rome Statute, for doing so would tantamount to a betrayal of the sovereignty of Burundi, its people and National Institutions.

The violence which has cost the lives and property of civilians, forcing hundreds of thousands to flee into exile in neighboring and Western countries, was well coordinated by some radical politicians, civil society activists, some non-governmental national and international organizations, foreign Governments and a small group of military and police forces, who staged a coup aborted on May 13, 2015. The acts of terrors intended to make the country ungovernable to facilitate foreign intervention aimed at regime change were orchestrated from Rwanda, a non-State party to the Statute of Rome and the former colonial power of Burundi, Belgium. Failing a military solution, they planned to appeal to the ICC to achieve this goal.

Informed of this plan, The Government of Burundi sent the Minister of Justice and keeper of the seals to re-iterate its prior notification provided through its diplomatic Mission to the Office of the Prosecutor that Burundi was exercising its right of complementarity with regard to the situation in the country. Burundi also sent through diplomatic channels and on an ongoing basis, reports detailing the efforts it was deploying to investigate and prosecute all the perpetrators of crimes committed on its territory. The Prosecutor did not deem it necessary to acknowledge receipt of these reports.

The Prosecutor did not also provide a response to diplomatic correspondences and reports seeking explanations about hostile actions targeting Burundi. The Prosecutor was expected to be working in accordance with the Rome Statute with the Government for the fulfilment of its treaty obligations.

That was regrettably not the case. Respect for the sovereignty of nations, large and small is the Foundation of international relations, as well as respect for the rights of all people before the law. Despite all its efforts to have the cooperation and effective communication with the Prosecutor of the ICC, the Prosecutor chose the public media and distributed press statement to notify Burundi decisions taken on the situation in Burundi. Not a single official correspondence informing Burundi as diplomatic practice requires.

Worse, in a televised statement, the Prosecutor warned the President of the Republic, His Excellency Pierre NKURUNZIZA and the people Burundi that she would intervene should the ultimatum given by the President to surrender them to the national security forces, lead to violence and crimes coming within the jurisdiction of the ICC. The Prosecutor by these warnings against the President and people of Burundi constituted herself and her office as the supreme Constable over Burundi whose sovereignty seemed to be lost by its membership of the Rome Statute. The Burundian people responded no! A thousand times no!

However, this decision by the President to disarm the civilian population was welcomed by the majority of the population of Burundian, sub-regional organizations of peace in the Great Lakes, the countries and people of Africa, internal peacekeeping mechanisms as well as the members of good faith international community who assisted the government in its disarmament efforts. Thanks to this measure, peace, security and national cohesion have returned to Burundi. Thank God.

Burundi and people of Africa noticed that the Prosecutor did not issue a threat against French and Belgian leaders for the elaborate security measures taken by these two Member States of the Rome Statute and of the European Union, as a result of the terrorist attacks on their national territories. This manner of addressing the President in the discharge of his constitutional mandate to fight impunity, criminality

within his national territory and the people of a sovereign nation, State party to the Rome Statute was considered patronizing and unacceptable by the Burundian people

On April 25, 2016, the anniversary of the inauguration of President Nkurunziza as a candidate in the presidential elections in Burundi was the date chosen by the Prosecutor to announce her decision to open a preliminary examination on the Situation in Burundi. The Government of Burundi wrote to the Prosecutor of the ICC to reject her decision.

Without getting a written response, the Government of Burundi sent a delegation led by the Minister of External Relations and international cooperation and the Minister of Justice and keep seals to the Prosecutor to explain the position of the Government and the Burundian people. During the meeting, the Government of Burundi reiterated its preference to assert its right of complementarity on all crimes committed on its territory. The Government of Burundi informed the Prosecutor that her intervention would undermine national, international and regional efforts aimed at bringing peace, reconciliation and justice in Burundi.

The Government informed the Prosecutor that:

- The United Nations Security Council, which has a referral mandate of situations before the ICC had preceded the intervention of the Prosecutor in Burundi and had come to Burundi twice. If there was a need to make a referral, the Security Council would have done so. That was not the case.
- Burundi was in communication with the Prosecutor and was assessing the situation on its national territory and could make a referral if the situation justified this action, but did not.

Meanwhile Burundi continued to cooperate with the ICC in order to demonstrate the manner in which it was exercising its rights of complementarity even though the Office of the Prosecutor was not demonstrating the required cooperating.

Accordingly, that left Burundi with the only reasonable option which was to withdraw from the Rome Statute. Membership under these circumstances became a serious affront to peace and national cohesion, national sovereignty, its national dignity and the dignity of African victims of selective and discriminatory justice peoples.

Burundi remains committed to the objectives and principles of the Rome Statute. Despite its withdrawal from the Rome Statute, Burundi will continue to rely on its founding objectives to guide its actions in its ongoing war against impunity.

After the deposit of the instrument of withdrawal, the Prosecutor came to the Embassy of Burundi to notify Burundi the implications of Article 127 of the Rome Statute on its withdrawal. Taking advantage of this visit, the Ambassador invited the Prosecutor to send an official correspondence to the Burundi Government to clarify and answer all pending questions and concerns raised by Burundi that have been pending for more than one year without response. Instead of an official mail Burundi was dismayed to read in the pages of a newspaper, "News Great Lakes" of October 4, 2016 a warning about the consequences of non-cooperation with the Prosecutor during the period of one year from the filing date of its withdrawal.

Burundi rejects these threats which fall in line with prior violations of the Rome Statute in the strongest terms. The sovereign people of Burundi deserve to be treated with dignity and respect. Burundi expects to be addressed through a communication policy that represents the face of international justice and the original spirit of the Treaty of Rome.

Thank you for your kind attention.