

*Statement of the Republic of Tunisia
to the 17th session of the Assembly of States parties
to the Rome Statute*

Delivered by

*H.E. Mr. Elyes Ghariani
Ambassador Permanent Representative to the ICC*

The Hague, 06 December 2018

Mr. President,

It is a great honour to address this august assembly at its 17th session with some remarks on behalf of my Government.

Allow me at the outset to reiterate the firm commitment of Tunisia to the Rome Statute and unwavering support for the fight against impunity of the perpetrators of the most serious crimes of concern to the international community.

The commitment of Tunisia to the norm of individual criminal accountability for serious human rights violations is deeply nested in the irreversible shift at the domestic level over the last few years towards full respect of the fundamental rights of the person and independence of the judiciary.

In this regard, the 2014 Constitution established strong safeguards with respect to human rights and judicial independence. Extensive reforms have been carried out to bring legislation in line with the Constitution through the revision of the Code of criminal procedure, the adoption of a law creating a Constitutional Court and the election of a Supreme Judicial council. A national bill is also being drafted to enable prosecution of the gravest crimes under domestic legislation in accordance with the Rome Statute.

Last but not least, Tunisia's embrace of the human rights legal order has lately been further consolidated at the regional level when it deposited the declaration recognising the jurisdiction of the African Court on Human and Peoples' Rights to receive complaints from NGOs and individuals, thus entering the very restricted circle of eight African countries to have done so in the continent.

Mr. President,

As we are commemorating the 20th anniversary of the Rome Statute, it is worthwhile to make a retrospective appraisal of the record of the Court since it became functional in 2002. To take but a compliance angle of its work, the ICC has certainly secured a number of convictions, albeit a few, but challenges remain in the enforcement of its arrest warrants particularly in light of the growing number of fugitives.

Two fundamental tenets should particularly remain as guiding our collective efforts: universality and cooperation, in order to bring the needed dose of legitimacy, efficiency, effectiveness and transparency to the Court. A full adherence should remain our ultimate goal reaching to the latter third of states not yet parties to the Rome Statute. With regard to cooperation, needless to recall that the ICC is predicated on States to fulfill its mandate. Tunisia continues to provide cooperation the ICC needs for crimes that fall within its jurisdiction.

The ICC being of last resort, it is finally to underscore the importance of strengthening domestic jurisdictions thus reinforcing the principles of complementarity and cooperation with the Court.

Mr. President,

My delegation welcomes the issuance by the Office of the Prosecutor yesterday of the report on preliminary examination Activities for 2018. We appreciate the regular reporting by ICC Prosecutor on the activities of her office with regard to this important aspect and we positively note the intention of the Prosecutor to complete the preliminary examination with respect to the situation in Palestine which is nearing its fourth year. As Israel, the occupying power, is continuing its abuses and violations undeterred, we believe, with all consideration of the independence of the Prosecutor, that it is high time for the investigation to be launched so that perpetrators of atrocity crimes be held to account.

My delegation further welcomes the recent opening of a preliminary examination of alleged deportation of Rohingya people from Myanmar. This plight has to be brought to an end and investigation needs to ensue accordingly.

Mr. President,

Tunisia welcomes the efforts made by the Court in the proposed budget for this year in order to identify efficiencies and optimal ways of spending. While Tunisia's allocations across international organizations and Courts are generally guided by the principle of zero nominal growth, we believe a realistic approach ought to be considered in the current circumstances that takes into account both the capacities of states parties and the growing needs of the Court, in particular with respect to implementing victim reparations. We look forward to a compromise on the budget increase in the ongoing consultations with the budget growth percentage recommended by the Committee on Budget and finance as the refuge of last resort.

Mr. President,

The ICC's pursuit of human rights ideals does not make it ideal. Inasmuch as political and diplomatic backing ought to be expressed when this institution is faced with external jolts, constructive criticism should not be withheld whenever oversight detects shortcomings and deviant practices. It is by being mindful of criticism can the ICC grow stronger and more resilient and live to its full potential in serving the cause of international criminal justice.

I thank you Mr. President.