

International Criminal Court  
Eighth Session of the  
Assembly of States Parties  
(The Hague, 18 to 26 November 2009)

Statement on behalf of

**Germany**

by

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Mr President, Ladies and Gentlemen,

Since the Assembly held its last general debate one year ago the International Criminal Court has seen a number of crucial events and developments. The Court has started its first trial, a second trial is about to begin soon, and a third trial scheduled for April 2010 is well under way. For the first time a Pre-Trial Chamber of the Court issued an arrest warrant against a sitting head of state. Only recently the Prosecutor announced his intention to submit to the Pre-Trial Chamber a request for authorization of an investigation with regard to Kenya, by using – again for the first time – his proprio motu powers under Article 15 of the Rome Statute.

While the Court is still a young institution and many things happen for the “first time”, we are glad to note that the Court has become increasingly operational and in some areas has developed good practices, and indeed a routine. The International Criminal Court is now a well established independent international judicial institution. What is even more interesting is the Court’s impact on international relations beyond its immediate scope of activities. Whether at the United Nations Human Rights Council or on the agenda of regional organizations – the Court has become a major factor in international relations. This is a development which should not be underestimated.

The International Criminal Court has clearly advanced the cause of international criminal justice. The Court has strengthened the rule of law in international relations. It therefore gives me great pleasure to reaffirm Germany’s strong commitment to the Rome Statute and the International Criminal Court.

Mr President, Ladies and Gentlemen,

We commend the focal point on cooperation, Ambassador Yves Haesendonck, for his excellent report. The efficiency with which Ambassador Haesendonck has moved the issue of cooperation forward shows that currently there is no need to create any new structure for this purpose within the Assembly. But let us be clear: cooperation remains crucial for the Court’s success. Cooperation is a legal obligation and not subject to decisions by political bodies. Arrest warrants must be executed.

Mr President, Ladies and Gentlemen,

This Assembly will prepare the first Review Conference scheduled to start on 31 May 2010 in Kampala. We are very grateful to the Government of Uganda for hosting this prestigious event. According to the Rome Statute the Review Conference’s primary objective shall be to consider any amendments to the

Statute. A number of proposals for amendments have been put forward. We feel that this Assembly should take the time to assess each proposal on its merits and to decide whether or not to take it up at the Review Conference. It is our understanding, however, that only those amendment proposals which are likely to receive consensus or at least substantial support should be forwarded to the Review Conference.

The crime of aggression will certainly be at the top of the Review Conference's agenda. I would like to seize this opportunity to once again commend you, Mr. President, for your chairmanship of the Special Working Group on the crime of aggression. The final report of the Group provides a perfect basis for the final stages of States Parties' deliberations. As everyone knows, the conditions for the exercise of jurisdiction with respect to the crime of aggression remain the most contentious issue. Now is the time to make an extra effort in bringing about widest possible consensus, and to encourage fresh and creative thinking in our deliberations. At the end of the day, however, it will be important to find a solution which retains the International Criminal Court as a credible and efficient judicial institution based on law and justice.

The second pillar of the Review Conference shall aim to take stock of international criminal justice. In our view this seems to be a very timely and useful exercise, since the Ad-hoc Tribunals on the former Yugoslavia, Rwanda and Sierra Leone are moving towards their completion. Their legacy may serve as valuable guidance for the future of the International Criminal Court.

We strongly welcome the very concise paper prepared by the facilitators for the Review Conference and we think that all the topics mentioned therein deserve to be addressed by the Kampala Conference in one way or another, in particular issues related to universality, cooperation, complementarity and outreach, as well as peace and justice.

Given the many complex issues to be debated in preparation of the Review Conference in an efficient manner, the meeting time allocated to this item in the course of this Assembly may turn out to be insufficient. Furthermore the time span between the conclusion of this Assembly and the Review Conference in Kampala appears to be quite long. Under these circumstances we wonder whether it would not be wise to hold a resumed session of the Assembly at some stage halfway between now and the Review Conference. Such a session could be devoted exclusively to an in-depth debate on all issues related to the conference in Kampala.

Mr President, Ladies and Gentlemen,

International criminal justice costs money – and money is a scarce resource, particularly in times of deep economic and financial crisis. We therefore acknowledge that the Court has presented a reasonable draft budget for 2010. We welcome the analysis of the draft budget carried out by the Committee on

Budget and Finance and we support the Committee's findings and recommendations. We also note with appreciation that the CBF is developing an increasingly strategic approach in its deliberations. It is our firm belief that the role of the CBF as the Assembly's expertise in financial matters must be strengthened. It is therefore clearly our policy and advice to follow the CBF's recommendations.

Another issue with financial implications is the permanent premises of the Court. One year ago we were all invited to attend a glamorous ceremony in The Hague's city hall where an independent jury announced the prize winners of the architectural design contest – a decision that only recently was confirmed by another jury. In spite of the juries' findings a decision on the selection of an architect still has not yet been taken. This certainly raises the question of the efficiency of the governance structure which this Assembly has put in place. As things stand now, it seems to us that adjustments may be necessary to make sure that all steps are taken in full transparency and in accordance with lean management principles in order to avoid further costly delays.

Mr President, Ladies and Gentlemen,

Universality remains a vital issue on the agenda. Impunity for the most serious crimes must be addressed by a global approach. We therefore renew our call to all states which have not yet done so to accede to the Rome Statute. In order to promote accession to the Rome Statute Germany has spent some 250,000 Euro in 2009 and we intend to continue our efforts in this regard. Achieving universality means also a contribution to the benefit of the victims who suffer most from gravest crimes. We therefore welcome the activities initiated by the Trust Fund for Victims. I am happy to announce that Germany once more supports the Fund with a contribution of 300,000 Euro for the fiscal year 2009. However, the Fund is still in the initial stages of its existence and a number of basic legal questions concerning the Fund's operation need to be further elaborated. I am therefore pleased to announce that Germany will finance the secondment of a lawyer to the Trust Fund for Victims for up to two years starting from 2010.

Mr President, Ladies and Gentlemen,

The German delegation fully associates itself with the statement made by the Presidency on behalf of the European Union.

Thank you.