

# **STATEMENT BY JOSE SERRANO, MINISTER OF JUSTICE AND HUMAN RIGHTS OF ECUADOR DURING THE GENERAL DEBATE OF THE REVIEW CONFERENCE OF THE ROME ESTATUTE**

Mister Chairman,

Ecuador has lived a deep political, economic and social reform, which first phase concluded with the entrance into force of the new Constitution approved by a majority of the population, by means of a referendum, in October 2008. The approved constitutional text has the protection and promotion of Human Rights.

The new Constitution develops and extends collective and individual rights of Ecuadorian citizens, and it incorporates important provisions of International Humanitarian Law and International Human Rights Law related to the prohibition of torture, forced disappearance, cruel, inhuman and degrading treatment or punishment; death penalty, forced displacement and arbitrary detention are forbidden. It guarantees refugee protection, the principle of non-refoulement, in addition to emergency humanitarian and legal assistance.

The Republic of Ecuador has been responsible before international commitments regarding compatibilization of crimes and punishments, established in the Rome Statute, through the inclusion of these legal institutions in the Criminal Code and the ratification of universal jurisdiction competence in the corresponding procedural Law.

The Ministry of Justice and Human Rights has even prepared and presented a Bill for the Basic Code of Criminal Guarantees, where the reserve of law allows including the objective, procedural and of execution aspects of the punishment in a sole document.

This important advance permits to discern a new focus on criminal justice, harmonizing every international instrument in this legal body and giving prevalence to the victim and his/her rights.

On the other hand, it includes the crime of genocide among the causes to file a political lawsuit against the Head of State, and it condemns leadership and obedience in actions of the Armed Forces that are not subjected to the legal system, based on democracy, human rights and dignity of people.

The new legal reforms have included under the principle of jurisdictional unity, criminal pursuit for crimes committed by security forces of the State in ordinary instances, protecting impartiality and independence of Ecuadorian jurisdiction with this measure.

Article 80 has particular importance, since it establishes imprescriptibility of actions and punishments for crimes of genocide, crimes against humanity, crimes of war, forced disappearance of people or crimes of aggression. Likewise, it recognizes criminal responsibility to the superior official that ordered such crimes.

Mister Chairman,

The extent of the new Constitution required a serious and integral reform that would harmonize Ecuadorian legislation with the conceptual developments that have been performed worldwide and regionwide, as mechanism to assure a correct operation of criminal justice.

We emphasize the criterion of independence of the International Criminal Court, as a guarantee mechanism for the States Parties of the Rome Statute; for that reason, we believe that crimes of aggression should be analyzed and processed in the said jurisdiction.

Likewise, we think that there should not exist procedural prerogatives that generate impunity in the achievement of international criminal justice, as the Rome Statute generates by its transitory provision 124, when granting a term to prevent the knowledge of the most serious crimes.

The Bill for the Basic Code of Criminal Guarantees is one of the laws which processing has been prioritized by the Presidency of the Republic. In this sense, I have the honour to inform that the said text will be submitted to the approval of the National Assembly in August as the commitment of the State of Ecuador before this Conference.

Mister Chairman,

Ecuador has being an active participant of the process that has originated this Conference, since year 2002, date when it ratified the Statute, and since year 2003, as a member of the Bureau of the Assembly of States parties, first; and later, among the countries of the region that have resolutely supported the process of negotiation of "crime of aggression". We are sure that the efforts and resources invested will not be in vain, and that the old and yearned for ambition to end impunity will achieve a successful conclusion in this meeting

My delegation wishes to renew its commitment with the defense of integrity of the Rome Statute and the independence of the International Criminal Court. This Conference puts us to test at the time to guarantee these high objectives, and therefore, Ecuador desires to recall that 12 years ago we agreed to apply the Statute in an integral way, without making distinctions of any type among one or another crime. As article 12 establishes, upon becoming State Parties, we have accept for that act the competence of the Court regarding all the crimes article 5 refers to.

Ecuador reiterates the importance of adopting the definition of crime of aggression, and engages all its efforts to this end, ratifying its firm decision of not relating the work of the Court to the decision of a political body and to not jeopardize independency and credibility of this judicial institution.

We will support every amendment that would assure the effective work of the Court and that represent the progress of international criminal justice, in a special way, my delegation wishes to contribute to banish the contradiction airs that have been promoted between the concepts of peace and justice, because we are convinced of the undeferrable need to fight against impunity, and of not negotiating with the lives of thousands of human beings in exchange for a fragile political stability.

We will support from now on the international judicial training related, without restrictions, to guarantee the presence of judges, justices and public prosecutors compromised by democratic defense of the States and the international criminal pursuit, as value of peaceful coexistence.

Thank you very much,