

## Resolution ICC-ASP/12/Res.4

*Adopted at the 12th plenary meeting, on 27 November 2013, by consensus*

### ICC-ASP/12/Res.4 Complementarity

*The Assembly of States Parties,*

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

*Welcoming* the efforts and achievements of the Court in bringing those most responsible for these crimes to justice and *noting* the jurisprudence of the Court on the issue of complementarity,

*Recalling* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are capable of genuinely prosecuting such crimes,

*Recalling further* that the application of articles 17 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

*Recalling further* that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

1. *Resolves* to continue and strengthen effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;
2. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions to enable States to genuinely prosecute Rome Statute crimes;
3. *Welcomes further* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society, and in that context *takes note* of the important work being undertaken in the United Nations on the post-2015 development agenda, including the important role of the rule of law in that regard;
4. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of these laws, and *urges* States to do so;
5. *Welcomes* the report of the Bureau on complementarity, and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, in accordance with resolution RC/Res.1 and related documents, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court, and the role of partnerships with national authorities and other actors in this regard;

6. *Welcomes* the report of the Secretariat of the Assembly of States Parties on the progress of giving effect to its mandate to facilitate the exchange of information between the Court, States Parties, and other stakeholders including international organizations and civil society, aimed at strengthening domestic jurisdictions,<sup>1</sup> *welcomes further* the work that has already been undertaken by the Secretariat, including inviting States to submit information on their capacity-needs and reporting on this to the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information in this regard, and report to the thirteenth session of the Assembly on progress achieved;

7. *Calls upon* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities, and *requests* the Secretariat to report to the thirteenth session of the Assembly in this regard;

8. *Welcomes* the report of the Court on complementarity and completion of Court activities in situation countries and, while recalling the Court's limited role in strengthening national jurisdictions, its contribution to the efforts of the international community in this regard, including the Court's Legal Tools Project, and *requests* the Court to, within the existing mandate, continue cooperation with the Secretariat on complementarity and report, as appropriate, to the thirteenth session of the Assembly.

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<sup>1</sup> Report of the Secretariat on complementarity, ICC-ASP/12/33.