

Statement of Annalena Baerbock, Minister for Foreign Affairs of the Federal Republic of Germany

Commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute of the

International Criminal Court

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“It causes me pain to see the world as it is.

But not to do anything, not to try, that would be a wrong.”

These are the words of Benjamin Ferencz, the last surviving prosecutor of the Nuremberg Trials, who passed away this April at 103 years of age.

His entire life, Ferencz strove to bring justice to the victims of the most atrocious crimes – and to build a world based on the power of the law.

Ferencz argued that his lifetime was proof that progress towards such a world was possible – despite all setbacks.

He would point to how, at key moments of history, politicians, diplomats, lawyers and civil society advanced international law to reflect new international realities.

The adoption of the Rome Statute 25 years ago was such a key moment in history.

By creating the International Criminal Court, the international community made a commitment:

Victims shall receive justice.

Perpetrators shall be held accountable.

And where the most severe international crimes are committed, the international community will not look the other way.

To me, as German Foreign Minister, the ICC has a special significance among the international institutions.

My country, Germany, has waged inhuman wars of aggression and committed the most atrocious genocide, killing millions of people.

Therefore, we have a special responsibility to do our part so that such crimes will never happen again – to help bring justice to the victims and ensure accountability for the perpetrators.

That is a reason why Germany is the second largest donor to the ICC.

That is why we are proudly putting forward judicial candidates for election to the Court – like Dr Ute Hohoff, who is with me here today.

And that is why we continue to align our own national criminal law with the Statute.

German courts have pioneered trials for international crimes committed by the so-called “Islamic State” and by officials of the Assad regime.

Currently, Germany is working to make sexual slavery exactly as defined in the Statute a crime under our national law.

The victims of these crimes will have the right to take part in the proceedings – so that they can make their voices heard.

Time and again, the Court has proven its courage to bring justice to the unseen, to the most vulnerable – and I want to thank its entire staff for their tireless work for the weakest, for their professionalism and independence.

From the very start, the Rome Statute was meant to be a work in progress – just as international criminal law as a whole.

The international community has proven in many instances that it was able to rise to the occasion of those “key moments of history” that Benjamin Ferencz mentioned – even though it sometimes took time.

For example, regarding the prosecution of sexualized violence.

During the Balkan wars as well as in Rwanda, thousands of women and girls were raped – as were many before them, in other conflicts.

How often did women around the world hear that rape had always been a by-product of war, that it was a regular occurrence in times of conflict, that there were hardly any legal remedies available to them.

Finally, the ICTY and the ICTR did not allow this unbearable result to stand. They passed convictions for rape as a crime against humanity.

And in the Rome Statute, sexual violence crimes have been explicitly codified as crimes against humanity.

Regarding the most vulnerable – the Court also brought more justice to children.

“They were 9, 11, 13 years old.

They cannot forget the terror they felt and the terror they inflicted.

They cannot forget the sound of their machine guns, they cannot forget that they killed.”

With these words, the prosecutors of the International Criminal Court described the horrors experienced by children recruited into a militia – when opening the Court’s first trial in 2009.

In this trial, the Court convicted the man who was responsible for enlisting children to 14 years in prison.

And – for the first time in the history of international law – the Court invited those children to give testimony, as victims, in an international trial.

Now, we are going a step further:

Since the start of Russia’s war of aggression against Ukraine, Russian authorities have been deporting thousands of Ukrainian children to Russia and to Russian-occupied territory.

They have taken them from children’s homes and schools, they have taken them from summer camps where their parents had sent them.

Imagine how the fathers and mothers of these children feel?

Not to know where they are.

To worry if they are well.

To fear that, at some point, they will no longer recognise their parents.

That the ICC based its arrest warrant against President Putin specifically on the deportation of Ukrainian children puts a spotlight on the most vulnerable in wars.

And the Russian war against Ukraine puts us at yet another “key moment of history”, as Ferencz put it.

A permanent member of the UN Security Council has invaded the territory of its neighbour, trying to place it under imperial domination.

Instead of protecting the Charter, as Russia is supposed to do as a P5 country, it is violating its core principles.

I am convinced that this is a moment for which Benjamin Ferencz reminded us that “... not to do anything, not to try, that would be a wrong.”

Because if we do not respond to this, if the answer of the international community to Russia’s aggression is impunity;

if, as a non-signatory to the Rome Statute, Russia can never be prosecuted for its war of aggression against Ukraine –

then our world will be a place where all states will live in fear of a bigger neighbour.

I do not want to live in such a world.

None of us want to live in such a world.

We have a responsibility to try.

To join forces and find ways to close the accountability gap for the “crime of crimes”, the crime of aggression.

For Russia’s war – and for any future war of aggression, wherever it might occur.

As the crime of crimes, the crime of aggression opens the door to the other core crimes of the Rome Statute: war crimes, crimes against humanity, and genocide.

As I will further elaborate at a side-event later today, Germany is therefore advocating for a reform of the Rome Statute, to expand the ICC’s jurisdiction to include the crime of aggression – to pick up the ball again and re-address what we didn’t manage to achieve at Kampala.

I believe that the 2025 review of the Rome Statute – where we will have another look at the Kampala Amendments – is an opportunity to take steps forward, also for other reform projects.

I hear those of you who say that this will not provide a solution in the short term.

For this reason, as part of a dual track approach, Germany is also backing an internationalised special tribunal for the crime of aggression against Ukraine – because we cannot let impunity prevail for Russia’s war while working on changes to the Rome Statute.

And I hear many ask: Is pursuing a reform of the Rome Statute worth the effort?

But what would have happened if Benjamin Ferencz and the other prosecutors at Nuremberg had said: prosecuting Nazi crimes is too exhausting?

What message would we have sent to the women in the Balkans and in Rwanda, had we told them that rape had to be endured in wartime?

What would it have meant for the 9, 11 or 13-year-old child soldiers, if the ICC prosecutors had said that the hearing of children in court was out of question?

What signal would it send to the people of Ukraine, to world, if a bigger neighbour were to get away with invading another country?

“Not to do anything, not to try, that would be a wrong.”