

**Twelfth session**

The Hague, 20-28 November 2013

**Summary of the Arusha seminar on witness protection
(29-30 October 2013)**

1. On 29 and 30 October 2013, a high level seminar on witness protection was organized in Arusha, United Republic of Tanzania. The seminar, organized by the facilitator for cooperation, Ambassador Anniken Ramberg Krutnes (Norway) and sponsored by Norway, the Netherlands and Estonia, in cooperation with the Court, and receiving full political and logistical support by the United republic of Tanzania, gathered Ministers of Justice and other high ranking officials from nine Anglophone African States Parties to the Rome Statute, namely Tanzania, Ghana, Kenya, Lesotho, Malawi, Namibia, South Africa, Uganda and the Republic of Zambia. Ministers and Deputy Ministers of Justice of Tanzania, Uganda, Lesotho, Zambia, Namibia, took an active part in the seminar, which focused on the reinforcement of national capacities in the area of witness protection and the sharing of best practices and experiences among participants and the Court in this crucial field.
2. Participants to the seminar included the Prosecutor of the Court, Ms. Fatou Bensouda, the Registrar of the Court, Mr. Herman von Hebel, the facilitator for cooperation, Ambassador Anniken Ramberg Krutnes, the Dutch Ambassador to the ICC, Jan-Lucas van Hoorn, as well as representatives of the Secretariat of the Assembly of States Parties, the Registry, the Office of the Prosecutor of the Court and the Mechanism for International Criminal Tribunals (MICT). The United Nations Office on Drug and Crime (UNODC) actively participated in the seminar.
3. Participants had privileged and fruitful exchanges of views on the system of protection in place at the Court, the challenges faced by States and the Court in ensuring the protection of witnesses, the relocation agreements and the Special Fund for relocations, and the complementary role of national systems of protection. The Court emphasized the crucial importance of States Parties' cooperation in the area of witness protection, through the signature of relocation agreements or any other *ad hoc* arrangements. It was stressed that the current number of agreements was not sufficient for the Court. It was also noted that, through the conclusion of relocation agreements, the Court could assist with the transfer of expertise to national authorities in the field of witness protection. Such assistance could also strengthen the national witness protection capacities in general. Established capacities in this field in a larger number of countries may also prove crucial in ensuring effective bilateral and regional cooperation for the investigation and prosecution of all serious crimes.
4. Furthermore the Court stated that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment.
5. Thanks to its interactive format, the seminar allowed for an open and constructive dialogue among the participating States Parties and the Court on the challenges faced in the

area of witness protection at the national level, and the respective national legislative frameworks, including areas where capacity building or technical assistance would be needed. A Special Fund for relocations has been established in recognition of the financial challenges faced by a number of countries willing to consider concluding witness relocation agreements with the Court and the conditions to benefit from this fund were explained. Moreover, the responsibilities and functioning of the witness protection units within the Court were clearly exposed to participants, who gained a better understanding of the operational issues at stake when seized with a cooperation request from the Court. The Court, for its part, was able to gain valuable feedback on the individual countries specific situations and needs.

6. In the course of the seminar, participants identified a number of issues deserving further consideration:

a) The issue of witness protection should be looked at in a comprehensive manner at the national level, when considering establishing a witness protection programme or adopting specific legislation in that regard – as witness protection was described as a fundamental tool to combat serious crimes, such as organized crime, corruption, terrorism, i.e. not limited to Rome Statute crimes;

b) Participants stressed the importance of reinforcing bilateral and regional cooperation in this field; the suggestion was made to create a network of African specialists in the area of witness protection, which could serve as a platform to exchange on best practices and experiences;

c) A call was made for States to develop a specific legislative framework, to establish and develop national witness protection programmes, and to allocate adequate funding to the witness protection programmes at the national level;

d) Several participants acknowledged the absence of a specific policy and legislation on witness protection, and indicated that they would welcome technical assistance from other States or international organizations to achieve this objective;

e) It was noted that States could adopt a pragmatic approach and start by establishing “*ad hoc* units” in charge of witness protection, developing capacity in the most relevant areas nationally – which would also allow them to consider requests for witness protection in relation to Rome Statute crimes;

f) All participants welcomed the opportunity to interact with the Court on this important topic, and noted that they had gained a better understanding of the challenges faced by the Court in the area of witness protection, thereby increasing the chances of considering entering into relevant bilateral agreements with the Court; and

g) Participants encouraged the Court to make use of the network created at the seminar as appropriate, and stressed the importance of following up bilaterally on an informal dialogue level, before proceeding with a formal request for cooperation.
