



## Report of the Conference held in Naples


25 - 26 - 27 September 2003



### **Chris Patten, European Commissioner for External Relations**

on the occasion of the solemn undertaking by the Prosecutor of the ICC,  
Luis Moreno Ocampo.


*“The European union has been a staunch supporter of the ICC with strong political, diplomatic and financial backing to the new Court. I have no doubt that the EU will continue to offer full support to the ICC as it translates the commitment of those States which have ratified the Rome Statute into concrete action to combat impunity and advance international justice.”*



### **Javier Solana, EU High Representative for Common Foreign Security Policy**

on the occasion of the 2004 Stockholm conference “Preventing Genocide: Threats and Responsibilities”.

*“International law is the guiding spirit and lifeblood of our multilateral system. The International Criminal Court has shown that the multilateral system can be adapted and strengthened to meet new challenges. We have a responsibility now to ensure that it can do its job. (...) We are conscious also of the need to use our range of instruments -military, civilian, humanitarian, trade and development- in a more coherent, co-ordinated way. In countries recovering from or at risk of genocide, we must ensure that our development, trade, political and crisis management instruments all follow the same agenda. We also need to co-ordinate our efforts much more closely at international level.”*





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Director for horizontal operations, EuropeAid, European Commission	
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***WELCOME by Mr. Francesco de Angelis  
opening session on 25 September 2003***

*Ladies and Gentlemen,*

*It is with great pleasure that I find myself amongst such a distinguished audience, that is to be gathered here for the next three days, to deal with the International Criminal Court and the various efforts to be deployed to assist it mainly through the European Initiative for Democracy and Human Rights.*

*You are all aware of the fact that the European Commission for years now has been very actively supporting the idea of an international criminal jurisdiction, and after that the Rome Statute has entered into force the prompt establishment of the Court.*

*The Years 2002-2003 have been a turning point in this regard. The 60 ratifications have been obtained much quicker than expected, the Rome Statute is applicable, the three essential organs of the Court are being established in The Hague and already a President, a Prosecutor and a Registrar are appointed.*

*You will remember that the European Commission already convened in January 2002 in Brussels a first seminar relating to the ICC aiming at how best to assist it through the European Initiative for Democracy and Human Rights.*

*Things have substantially move forward but it remains to be essential that the different players, institutional or not, that have shown their commitment in promoting the idea of an enhanced international justice, can go on gathering to participate to debates and draw updated perspectives adapted to the situation. This shall be done in full respect of the institutional prerogatives of each of those actors. This is the idea of this Seminar in Naples in this wonderful place for the opening session that is put at our disposal by the Naples Bar.*

*Present here today are representatives of Member States to the European Union. This underlines the fact that since the beginning, the EU as a whole has been playing a decisive role in supporting the creation of the Court.*

*Also present are the representatives of different International Institutions, firstly the ones relating to International Justice as the International Criminal Tribunals for the Former Yugoslavia and Rwanda, the Special Court for Sierra Leone, as well as Institutions like the Council of Europe or the International Committee of the Red Cross. Representatives of NGO's with whom the Commission has been working on the ICC for several years, representatives of Foundations, and various specialists in different fields of expertise are also represented here today. The presence of these stakeholders is crucial. However nothing is more essential than the presence of representatives of the three organs of the Court, which I am very pleased to greet today. Mr. Bruno Cathala will address the participants on behalf of the ICC this afternoon.*

*As you may have seen, the agenda of this conference is broad and the debates foreseen for the next two days will allow participants to express their views in a constructive manner.*

*I would like to take a short time to remind you about what is first the European agenda in the Court's matter and why subsequently we have chosen the end of the year 2003 to hold this new Conference on the Court.*

- The three Council's Common Positions of June 2001; 2002 and 2003 represent the cornerstone of the EU support. Compared to the first Common Position at our disposal when we convened the Brussels Seminar, the texts now call upon the European Institutions to allocate the different tasks allotted to them according to their competences (both actions by the Council and the Commission). An ambitious plan of action was therefore adopted by the Council in May 2002.*
- The Commission adopted its essential document in May 2001: the Communication to the Council and the Parliament on Human Rights. As you know this document mentions four priorities and one of them is the support to the Court and existing Tribunals.*

- The European Parliament for years has made it clear about the importance of this issue. Lastly it managed to increase to 7 million € for 2003 and 2004 the budget devoted to the International Justice. Its political statements defending the integrity of the ICC are already numerous.
- The Rome Statute entered into force on 01/07/2002, which makes the Court now a reality.

*In such specific and unprecedented circumstances, which will undoubtedly spread out a new sense of commitment for everybody, the Commission (EuropeAid Cooperation Office and Directorate General Relex) felt that it was time to convene a new specialists meeting benefiting from the presence of ICC representatives.*

*As you know, the EuropeAid Cooperation Office, of which I am the Director of the Directorate F, is in charge of managing projects led with partners in the external relations' field, including all Human Rights issues. It will hence manage the new budget of 7 million € allocated by the Budgetary Authority. We will definitely select, in the programming framework drawn by DG Relex, new actions required by the Court in order to both assure its credibility and assist its effectiveness.*

*This new momentum calls for a reflection from each of us on a renewed modus operandi with actions of support to the Court. In the last years, the Commission and its NGO partners have concentrated successfully on raising awareness among public opinion and on promotion of the ratification process towards public authorities. Our purpose is not to review the nature of such actions, at a time when the Court needs to target the universality of support, but maybe to build upon them in the framework of the incoming debates over other types of support, such as actions aiming at ensuring better complementarity between the Statute and the national jurisdictions for example.*

*The moment has come for each of us to collaborate even more closely, in the interest of the Court, to avoid any duplication of effort and give more opportunity to develop synergies between "actors of good will".*

*Together with a comprehensive agenda, and an updated synthesis of the actions carried out by the players gathered there, we have provided you with a discussion paper on perspectives for future actions to sustain the effectiveness of the Court's works. I will not address here the specific items: they form a basis for discussion for your specialists.*

*What you must know is that the Commission by the end of this Conference aims at being provided with concrete operational needs to assist the Court, that it will be able to address in its tools aiming at designing the selection of the best projects in support of the Court for the period 2004-2005.*

*Our overall aim, from the point of view of the European Union, is to continue to take the steps towards the existence of an ICC able to react to the high expectations at stake, to decisively address the impunity towards the gravest crimes throughout the world. It is our responsibility to do as much as we can through the instruments at our disposal to ensure that the creation of a permanent international jurisdiction, one of the most major achievements in the History of International Human Rights Law, will eventually fulfil its full potential.*

# INTRODUCTION

The European Union is fully committed to the success of the International Criminal Court (hereafter ICC). The principles of the Rome Statute of the International Criminal Court, as well as those governing its functioning, are fully in line with the principles and objectives of the Union. They shall all contribute to the consolidation of the rule of law and respect for human rights, as well as the preservation of peace and the strengthening of international security. The EU's commitment to the ICC is reflected in its Common Position 2003/444/CFSP and its detailed Action Plan as well as in the Council Conclusions and Guiding Principles in relation to US demands for bilateral agreements regarding the non-surrender of individuals to the Court.

In line with the EU's positive stance, the **European Commission** (EC) has been supporting the campaign led by civil society in favour of the establishment of a permanent and independent International Criminal Court (ICC). Since 1995 the EC has channelled around € 13 million through the European Initiative for Democracy and Human Rights (EIDHR) to a wide range of activities in support of international justice.

The EIDHR was created at the initiative of the European Parliament in 1994 to support the two ad hoc tribunals, ICTR and ICTY, and the preparatory work for the setting up of the International Criminal Court carried out in partnership with non-governmental organisations. On the 29 of April 1999, the Council Regulations (975/1999 and 976/1999, OJ 120/1 of 8 May 1999) provided the legal basis for all human rights and democratisation activities carried out by the EC under chapter B7-7 of the EU budget.

The **European Parliament** has been a consistent supporter of the establishment and of the well functioning of the ICC, not only through its initiative to include and increase provisions in the EU budget, but also by way of its political support, having adopted a wide range of supportive resolutions on the ICC, as well through questions to the Council and the Commission, by holding public debates on the ICC and, finally, by the creation of an informal group of MEPs, so-called "Friends of the ICC", whose members are committed to the promotion of the ratification, implementation and defending the integrity of the Rome Statute as they meet and discuss with counterparts around the world.

The fifteen **Members States** of the European Union were amongst the first sixty to ratify the Statute and to become States Parties to the ICC. The adoption by the **Council of the European Union** of the Common Position on the International Criminal Court (CFSP/444/2003), first in June 2001, renewed in June 2002 and more recently, in June 2003, was a landmark in the support for this international institution. The EU support has contributed in a unique way to the significantly positive developments towards the prompt entry into force of the Statute and the early functioning of the Court. The Council Common Position and its comprehensive followed-up Action Plan (adopted in February 2004) provide a large mandate to all Member States to support the Court, its universality, effectiveness and the integrity of the Rome Statute in various critical ways. As indicated in the Common Position, the European Commission intends to direct its action towards achieving its objectives and priorities, where appropriate by pertinent Community measures.

Indeed, on the occasion of the Inauguration of the International Criminal Court, on 11<sup>th</sup> of March 2003, the EC statement read as follows: *"International justice and the ICC remains one of the four major priorities for the EIDHR. The European Commission will continue to offer concrete assistance for efforts to bolster the work of the ICC and to ensure that it is strong enough to withstand the challenges, which it undoubtedly face."*

Therefore, it is the intention of the European Commission (hereafter EC) to maximise the resources available for the support to international justice making a useful contribution for the ICC, having a positive impact in its future work, its universality, effectiveness and integrity.

On 28-29 January 2002, the European Commission/EuropeAid Cooperation Office (hereafter EuropeAid) organised the First *"Conference on the European Commission's support for the establishment of the International Criminal Court"* in Brussels. Experts were gathered for a two-day conference to discuss the

main challenges for the establishment of the ICC. The conclusions and recommendations<sup>1</sup> of the conference provided with a constructive input for the implementation of projects and activities during the period of 2002-2004.

Following the precedence of that conference, EuropeAid organised on 25-26-27 September 2003 a Second “*Conference on the International Criminal Court*”, in Naples, Italy, in order to identify the thematic priorities for the newly established Court. The main goal was to enable the EC to analyse what the new challenges are for the ICC and what are the best actions, approaches and methodologies required in this new stage in order for the EC funds to have the highest impact in the establishment and well functioning of an effective and universal ICC.

The conference brought together key experts on the ICC from: EU Member States and EU institutions (European Parliament, Council and Commission -RELEX, EuropeAid-), as well as representatives from the Council of Europe, the International Committee for the Red Cross, from donor organisations or institutions (e.g. Canada, Open Society, Ford Foundation, Macarthur Foundation), NGO representatives, representatives from academic institutions and finally also representatives from the ICC (from each organ of the Court).

The diverse expertise was intended to offer the broadest approach to the perspectives, priorities, and political and practical means to make the ICC a universal and effective functioning institution enshrined in the new international criminal system. Experts participated in an open and frank debate and were able to formulate practical and concrete suggestions about the various topics presented to their attention. Their comments on previous actions or on innovative ones were well appreciated.

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<sup>1</sup> See the Report of the conference including the background papers, the conclusions and recommendations, at: [http://europa.eu.int/comm/europeaid/projects/eidhr/conferences\\_cpi\\_en.htm](http://europa.eu.int/comm/europeaid/projects/eidhr/conferences_cpi_en.htm)

# OBJECTIVES

## **Objectives of the Naples 2003 Conference**

- Support the strengthening of the International Criminal Court and the establishment of an efficient system of international justice;
- Support the European Commission-EuropeAid in its aim to direct its financial contributions to international justice and the International Criminal Court in the most efficient way;
- Provide EuropeAid with constructive input for the 2005-2006 strategy in order to review the implementation of current projects (undertaken, mainly, by NGOs, and International Organisations);
- Enable the European Commission/EuropeAid, in accordance with the Council Common Position on the ICC (CFSP/444/2003), to direct its actions towards achieving the objectives and priorities of the Common Position, including by pertinent community measures;
- Contribute to promoting consistent and coherent policies towards the International Criminal Court, within and between the European community policies, and between those policies and actions of the Common Foreign and Security Policy and that of Member States;
- Enhance co-ordination and cooperation among the various actors working on the ICC, contributing to avoid duplication of efforts and to fill the gaps.



# THE NAPLES EXPERTS CONFERENCE

## A. BACKGROUND DISCUSSION PAPER Perspectives and needs for 2004-2006

In June and July 1998, the international community met at the Rome Diplomatic Conference of Plenipotentiaries in order to negotiate and agree upon the final text of the treaty establishing the world's first International Criminal Court. On the 17 of July 1998, the Rome Statute of the ICC was adopted by a vote of 120 to 7, with 21 abstentions.

Following the adoption of the Rome Statute, very few would have dared to imagine that in only four years the Treaty would be in force. Since the adoption of the Rome Statute, one hundred thirty nine countries have signed the Treaty before the end of the established deadline on the 31 December of 2000. Following the deposit of the 60th ratification instrument on the 11th April 2002, the Rome Statute entered into force on the 1st July 2002, pursuant to article 126 of the Rome Statute, thus, marking the beginning of the ICC jurisdiction for the worst violations against humankind. At present<sup>2</sup>, ninety four countries have ratified or acceded to the Rome Statute that now gathers support all over the world: 24 States Parties in Africa, 19 in the Americas, 12 in Asia / Pacific Islands, 38 in Europe and only 1 in the region of the Middle East/ North Africa, Jordan. While the ICC has a vocation to be universal, yet in most cases, States must ratify or accede to the Rome Statute for the Court to be competent. This is why it is still worrisome that some regions are under-represented in the Court, in particular, Asia and the Middle East.

The ICC is meant to be a court of last resort. It is critically vital for the system enshrined in the Rome Statute to function effectively that every state exercises its criminal jurisdiction over those responsible of having committed the worst crimes against humanity. States Parties should take the necessary legislative measures to ensure their judiciary can undertake an investigation or trial over war crimes, crimes against humanity and genocide. Equally, States Parties must fully cooperate with the Court. At present, only a handful of State Parties have enacted legislation that will ensure that the national procedures will allow for all forms of cooperation with the Court. Meanwhile, there are increasing –seldom, unrealistic- expectations about the revolutionary changes that the ICC will create in the fight against impunity.

Yet, the ICC is at its earliest stage in terms of logistical and operational functionality. The ICC has established its headquarters in The Hague, the Netherlands. The Court's main officials were elected in 2003 by the Assembly of States Parties: eighteen Judges, the Prosecutor and the Registrar. All have taken office. Meanwhile, the Court is engaged in recruiting the necessary staff to become fully operational, since, as it was suggested in the July 2003 Prosecutor's Public Hearing, he must ensure that solid foundations are set before he initiates an investigation and prosecution. Some institutional core measures will inevitably need to be undertaken directly by and within the ICC, while others could -or even shall- be best done by outside actors, yet, in close coordination with the ICC.

In the past, most of the actions supported by the EC were geared to activities directed to the universal ratification campaign, implementation and technical assistance, seconding technical assistance to delegations during the negotiations, building national civil society networks and parliamentary support, academia and lawyers led training courses or monitoring the negotiations.

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<sup>2</sup> Although the background paper was presented in September 2003, for the purpose of this publication it has been updated to new developments and, thus, modified as of 20th May 2004.

The first question that arises in this new stage is how involved shall the ICC itself be in the definition, and eventually in the implementation, of EC actions supporting the work of the Court. In the end, it is the ICC that will know best what the challenges will be in the years to come. Thus, establishing a proper mechanism for on-going consultation and coordination with the ICC seems very logical and reasonable. In some occasions, the ICC might need to provide guidelines or set criteria on specific issues (e.g. implementing legislation, communications strategy, setting up a judicial data base, training, etc.). Should this be taken into account when NGOs or other institutions define their projects and/or during the implementation of their actions?

Following are some topics and questions that should help to focus and kick off the discussions during the seminar.

## **Establishment of the International Criminal Court:**

*First, the Advance Team, and, then, the Division of Common Services created the basic structure for the Court to start functioning. As a completely new international organisation, the ICC will require of many innovative institutional measures to be created. Some core functions will necessarily be undertaken directly by the ICC, while others will be done by outside actors –mainly by NGOs–, yet, in close coordination with the ICC.*

Should the EC contribute to the setting up of some core functions, e.g. a judicial data base, a library, Victims Trust Fund, victim's protection measures, etc.? Should the EC contribute to the fulfilment of the functions of the ASP Secretariat? Does the participation of NGOs in the ASP negotiations contribute to the universality of the Court and therefore should the EC ensure the participation of worldwide NGOs? And in the follow up of the ICC work? What will be the logistical difficulties and the needs to ensure the worldwide participation of the civil society, media, lawyers, academics, victims groups, etc. at The Hague? Should NGO substantive contributions be ensured throughout the evolving developments of the ASP and the Court proceedings?

## **Part I. Strengthening the International Criminal Court**

*The legitimacy of the Court will come from the perception that it radiates of being universal. Universality, of course, lays in the ratification and acceptance of the Court by as many States Parties as possible. In this regard, Asia and the Middle East are regions still under-represented in the ICC. But universality also means that the message about the significance of the Court as well as on its work and proceedings as it evolves reaches all audiences.*

How can the Court outreach the public at large, media, academia, victims, legal professionals, parliamentarians, countries in conflict situations or where allegedly crimes have been committed, States Parties, Non State Parties, intermediary groups (NGOs, IGOS, UN High Commissioner for Human Rights, etc.)? Will the Court benefit from the visit of targeted groups to consult and exchange information with the Court? Should measures be undertaken to ensure the participation of LDC delegates in the ASP? Should measures be undertaken to ensure the participation of worldwide civil society at the ASP and monitoring the work of the ICC? What innovative actions could be created to disseminate and communicate the concept of 'justice', in particular to countries in conflict or post conflict situations? What balance can be found between information widely spread and a potential proliferation of websites and brochures by each institution working on the ICC? Is there a real risk of duplicating efforts? How crucial translation of key documents (in particular non UN official languages) will be? Which regions should be prioritised? What lessons can be learnt from previous coordinated work undertaken in other regions? How important is to build national coalitions to success in a ratification campaign? What type of conferences-seminars is needed today to build political willingness in Asia and the Middle East? Should the EC seek that the dissemination campaigns target specific groups? What measures and facilities must be created for media coverage of the ICC proceedings?

## Part II. Establishing a system of the Rome Statute

*The bases of the implementation of the Rome Statute at the national level are the principles of cooperation and complementarity. The full cooperation of States Parties with the ICC is needed for the Court to function effectively. States Parties will be relied on to assist the ICC at every single stage of its investigations and prosecutions. The ICC will not have its own police forces, or prisons, so States must ensure the detention, arrest of suspects, interview of witnesses, provide information and evidence, provide for any assistance sought by the Court. It is essential that national legislation ensure that it can fully and expeditiously meet the requests from the ICC. Equally important will be the ratification and implementation of the Agreement on Privileges and Immunities which will allow the Court to protect officials, staff, victims, witnesses, and other persons as well as documents, buildings and resources related to the Court.*

*The European Union has declared that maintaining the integrity of the Rome Statute is eminently important and has adopted a set of guiding principles and Conclusions to serve as guidelines for possible agreements or arrangements in responding to proposals regarding the conditions to surrender persons to the ICC.*

*The ICC is a court of last resort. The Rome Statute emphasizes that the ICC shall be complementary to national criminal jurisdictions. Only when the State concerned is genuinely unwilling or unable to proceed with an investigation or prosecution, would the ICC be able to rule a case admissible. The revolutionary effects of the ICC will be appreciated rather on its success to foster the development of national implementing criminal legislation than on its own existence. Moreover, the limitations of the ICC lie in its own jurisdictional regime, as well as in the restrictions of its budget. The ICC, therefore, is only one, albeit important, means in the international justice system to fight against impunity of the worst crimes against humanity. Promoting the successful development of ICC legislation has become an increasing priority for governments, the European Union, the ICC and NGOs.*

Should the Court provide for guidelines for implementing legislation? Will the Court be able to analyse drafting legislation? How should the advocacy and legal assistance role of the NGOs be coordinated with the Court? What type of technical assistance should be provided to foster implementation: e.g. twinning programs (an expert from country X joins the Ministry of Justice for a few months in country Z and vice versa), developing a list of international experts deployed in demanding countries, ad hoc small experts meetings, regional conferences, building political support with high profile politicians, developing check lists on implementing legislation, etc.? How important is the existence of organised civil society grass roots groups to monitor and ensure the adoption of implementing legislation? What type of technical assistance should be provided to countries unable to proceed with an investigation? Should mobile units with operational capacity to facilitate assistance be created? Should the Court seek for outside assistance, by whom? Should a Trust Fund for analysts, investigators and other experts be created? What is the role of NGOs in fact finding mission, should this be coordinated by the ICC? What activities can be best directed to monitoring the proposals for agreements or arrangements regarding conditions to surrender persons to the ICC?

## Part III. Building an international community of international criminal justice

*The ICC has been so far a matter of discussion amongst international jurists and legal experts. If the ICC is to become universal an international community of international criminal justice must evolve. Lawyers and experts from the ad hoc tribunals and the Special Court for Sierra Leone, lawyers defending victims' rights, magistrates, prosecutors, lawyers and experts from national jurisdictions, etc. must create a new 'culture' of international criminal justice.*

*At the same time, the core values of the Court are to promote greater peace and security through accountability. Given the limitations of the ICC and the increasing expectations about its 'immediate' results, 'fighting against impunity' shall be mainstreamed into other policies, e.g. foreign policy, post conflict resolution, development cooperation, justice and home affairs, etc.*

While guaranteeing the independence of academia, institutions and NGOs in defining the priorities and methodologies, yet, should the ICC be consulted in the identification of the target groups? Should LDC beneficiaries be prioritised? Should the ICC provide certain guidelines for training? How can consultation and coordination be organised? Should a network for training purposes be established in close coopera-

tion with the Court? Should the ICC provide guidelines for training courses? Should the ICC be at the centre of any debate on strategies regarding alternatives or complementary means to the ICC? Should a Scientific Council be created to debate on strategies to fill in the 'impunity gap'? Should efforts be undertaken to expand the ICC international community to non-legal experts, e.g. experts on development cooperation, humanitarian relief, post-conflict situations, etc?

#### **Part IV. Defence counselling**

*Ensuring that the ICC guarantees a fair trial is a must. Everyone is presumed innocent until proved guilty before the Court in accordance with the applicable law. According to Article 67, in the determination of any charge, the accused is entitled to a public hearing, to a fair hearing conducted impartially, and to a set of minimum guarantees, in full equality. The creation of an international criminal bar has been discussed for the last years. The Rules of Procedure and Evidence state that 'for purposes such as maintenance of legal assistance in accordance with rule 21 and the development of a code of professional conduct in accordance with rule 8, the Registrar shall consult, as appropriate, with an independent representative body of counsel or legal associations, including any such body the establishment of which may be facilitated by the ASP'. There is a need to ensure the coordination and consultation between the Court and the defence lawyers.*

*Victims have won, for the first time in the history of international criminal justice, the right to make submissions directly, as well as through counsel, participating in all stages of the proceedings before the Court, and to make applications for compensation. There is a great need for an extensive dissemination of the provisions regarding victims' rights in order to guarantee that the victims exercise these rights. Adequate levels of support, protection and assistance to victims and witnesses must be ensured, as those will indeed determine the extent to which they will cooperate with the ICC and in its proceedings.*

Should the EC support efforts to establish an independent representative body of counsel or legal associations? Should the EC contribute to discussions on this issue among those interested institutions and organisations? What tools and mechanisms will be necessary for the defence to exercise its profession effectively?

Should the Court provide materials disseminating basic information about the Court and its proceedings? Should the Victims Participation and Reparation Unit get expertise on mass claims and the participation of victims in criminal proceedings? Will the regular ICC budget cover the costs of legal representation for victims, should other remedies be developed? What measures are necessary to ensure the physical and psychological safety of the victims, their families and others at risk? Should measures be undertaken to ensure the presence of the Court in the field nearby the victims? In which ways can civil society organisations (e.g. women, religious, youth, refugee and displaced persons, humanitarian aid organisations) support the ICC in carrying out activities in relation to victims? How can NGOs contribute to raise awareness on the need of the trust funds?

## B. REPORT OF THE CONFERENCE

### 1. SUMMARY OF INTERVENTIONS

The European Commission/EuropeAid Experts Seminar on the International Criminal Court took place in Italy (Naples), during two days, Thursday afternoon and Friday, September 25 and 26, 2003. The conference gathered around fifty experts: four representatives of the ICC - the Registrar, *Mr. Bruno Cathala*, and representatives of the three organs of the Court, the Presidency (*Mr. Zellweger*), the Office of the Prosecutor (*Mr. Bersgmo*), and the Registry (*Mr. Muller*) -; representatives of eight Member States of the European Union (France, Finland, Germany, Italy, Ireland, The Netherlands, Spain, Sweden); representatives of the Council of Europe, the European Parliament, the European Commission (Directorate General RELEX and EuropeAid), the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the International Committee of the Red Cross, Donors and Foundations (Ford Foundation, Liu Institute for Global issues; representatives of civil society organisations (WFM-CICC, HRW, AI, FIDH, NPW), ERA, REDRESS, European University Institute, Association of ICC Journalists, Forum Asia, ONDH Senegal); as well as lawyers, prosecutors and independent experts.

The seminar started with a public session on Thursday afternoon, opened to the public at large, and attended mainly by Italian lawyers and public authorities from Naples, as well as by participating experts. Welcoming and introductory speeches were presented by *Mr. Giuseppe Tisci* (President, Istituto Forense per la difesa dei diritti umani), *Mr. Francesco De Angelis* (Director, Europe Aid, European Commission), *Mr. Bruno Cathala* (Registrar, International Criminal Court), *Mr. Edmond Wellenstein* (Director General, Task-Force ICC, Ministry of Foreign Affairs, The Netherlands), *Mr. Roberto Bellelli* (Judge and Legal adviser, EU Italian Presidency) and *Mr. Bill Pace* (Convenor of the NGO Coalition for the ICC-CICC). Their interventions, which can be found in the Annexes, have been considered, as appropriate, in the report as they already touch upon key issues discussed in the seminar. The second public session was dedicated to the Implementation of the Rome Statute in Italian Legislation and was introduced by several Italian note speakers.

The experts seminar, restricted to experts, was divided into five sections: a key note speech by the Registrar of the ICC, Mr. Bruno Cathala, introducing "The International Criminal Court: Thematic Priorities"; followed by four sections dedicated to: Strengthening the International Criminal Court; Establishing the system of the Rome Statute; Building an international community of international criminal justice; and Defence counselling. Under the chairmanship of the Registrar of the ICC, Mr. Bruno Cathala, and of the Director for Horizontal Operations of EuropeAid, *Mr. Francesco De Angelis*, experts were asked to present their views in interventions limited to a maximum of six minutes. Following is the summary of all interventions<sup>3</sup>

Experts in general praised the European Commission for organising this conference and the EU for its extraordinary support and commitment to the International Criminal Court.

**Mr. Francesco De Angelis** stressed the strong commitment of Commissioner Patten to the ICC. He further explained the reasons for organising the Naples experts meeting: the Court being now a reality, the EC needs to hear what the thematic priorities are in order to direct its resources in the most efficient manner. He raised the question of non democratic States, and how to support NGOs, and explained how important it is to promote good governance worldwide.

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<sup>3</sup> The summary only reflects the general message contained in the interventions, without prejudice to the inclusion of more detailed information in the executive summary and recommendations.

**Mr. Bruno Cathala** made a distinction between the system established by the Rome Statute and the Court itself, a crucial one when it comes to channelling in the most effective way the assistance provided by various actors. He presented the five thematic priorities of the ICC: to develop the universal aspect of the Court; to implement the principle of complementarity; to educate the public and the Court's 'clients' through communication; to establish special support structures for victims and witnesses; and to strengthen the continuous self-learning capacity of the Court. He stressed that the Court is a judicial organ and that other actors should undertake political actions.

**Mr. Giuseppe Tisci** reported on his organisation's strong commitment to the Court during the negotiation process. He referred to the cold war and to the lengthy but finally successful process of adherence to the Universal Declaration for Human Rights, to express his hope for universal support to the ICC in the future.

**Mr. Edmond Wellenstein** focused on the future role of the EU and the new Common Position. He called for: a structured EU approach with a permanent focal point in continuous dialogue with NGOs; strengthening the ICC, supporting its institutional structures, its universality, full implementation of the Rome Statute, preserving its integrity and preventing abuse of the Security Council's role in relation to the ICC. He praised the impressive work done by parliamentarians and urged the ICC to engage in disseminating information about the Court.

**Mr. Roberto Bellelli** praised the organisers of the conference, stressing the need for coordinated efforts by all. He recalled the EU Common Position on the ICC focused in three areas: preserving the integrity of the Rome Statute and defending it from any direct or indirect tentative to alter its letter or spirit; universality of the Court; and effectiveness of the ICC. The International Criminal Court is enshrined in the values and principles of the EU, and beyond its judicial functions it is a mean to international peace and security, in full accordance with the United Nations Charter.

**Mr. William Pace** showed his satisfaction for what he defined as 'mostly a success story'. The ICC represents a new system of international justice and constitutes a root cause initiative to deter future conflicts. Civil society is the third pillar of the new system; without its support and understanding, the system would fail. There is no other example in history of a more articulated and dynamic network of NGOs worldwide, having created a unique synergy with Governments and International Organisations. He confirmed the CICC's intention to continue its campaign of support. He urged the EU and the European Commission to remain firmly committed and called upon all donors to be coordinated and provide resources in full, in time and without political interference. He praised the Friends of the ICC initiative and urged the Judges and the Prosecutor to also play a proactive role in promoting the ICC. He showed concern about the ASP if more meetings and subsidiary organs are not created. Regional and International Organisations, including the UN, will be vitally important for the Court and should create ICC focal points.

**Mr. Juan Antonio Yañez Barnuevo** focused on the efforts to reach the universality of the Court contributing to its effectiveness and legitimacy. A wider acceptance of the Court would also facilitate the adoption of the Relationship Agreement with the UN. He regretted that the EU had not accomplished its objective to reach one hundred States Parties by spring 2003 and highlighted some of the political (US opposition to the ICC) and constitutional obstacles preventing that achievement. He urged to maintain the complicity between the EU and other actors, in particular the NGO Coalition and its members, and to be more strategic, for which the Action Plan implementing the Common Position shall be very helpful. He welcomed the concept of 'system' as an important contribution from the conference.

**Mr. David Donat-Cattin** speaking of PGA's campaign for universality, mentioned Turkey as an example where the EU was urged to act at the highest level to change the current situation; Japan, where he does not see US opposition as a real problem and where an awareness campaign should help remove obstacles; Dominican Republic, where political pressure shall push forward the ratification; Africa, showing progress in some States, e.g. Burkina Faso; and South Asia where India's position and the pressure of the USA have affected all the region very negatively. The USA position is worrisome and needs attention from all. As a paradox, the ICC is better known 'thanks' to the USA. It will be vital to continue working to defend the integrity of the Rome Statute.

**Ms. Sarah Ludford** (Member of the EP) is a member of the EP informal group Friends of the ICC, aimed at

actively supporting the ICC. She is convinced that USA arguments against the ICC are unfounded. She paid tribute to Commissioner Patten's attitude on the ICC and regretted lack of coherence of Member States at the Security Council, where States (UK and Spain) did not stand together on the non renewal of res.1422. While it could be argued that it was not a breach of the Common Position, yet it was clearly a regrettable situation and caused great concern. She showed EP preoccupation for bilateral agreements, specially defeat of South East Europe, urged the EU to stand more firm, hoping things could change as EU gets more active in peace keeping operations. The USA attitude is deeply concerning and a constructive approach should look at reversing that policy. She would look forward to working with organisations such as PGA.

**Mr. Palmieri** presented the objectives of the Council of Europe: Rule of Law, Human Rights and Democracy. The ICC has been the matter of debate through consultation meetings among its 43 members and observers (including Israel and the USA) in 2000, 2001 and recently in September 2003. At the last meeting, they concluded to: call for universality and support members adherence to the ICC, support the strengthening of the ICC and the integrity of the Rome Statute, foster and support the exercise of complementarity. The Council of Europe offers a space for open exchange of views on legal matters and assistance for members, and has created a website and a network with Member States legislations.

**Mr. Nicco Figa Talamanca** commended the conference as he believes coordination very important. Universality is crucial for effectiveness and legitimacy of the Court, so there is a need to continue with same measures although things have changed. The Arab world should be a key priority region where concerted efforts are highly justified. He urged the ASP bureau to ensure coordination of actions. His organisation, NPWJ, is not worried about the USA attitude against the ICC and hopes for policy change. He presented a project for conflict mapping in the field and hopes the EP will amend the budget to include support for actions in the field.

**Mr. Thomas Verfuss** highlighted the crucial role of Media to communicate the Court's proceedings, especially local journalist from States involved in an ICC case. He commended the efforts of the Advance Team in getting Media ready to work on ICC, which led to the creation of Association of ICC Journalists. The AICCJ has established a good working relationship with the Court and aims at supporting training programs, providing financial means (mentioned the 'prosperity gap' of journalists from LDC) and solving immigration restrictions for journalists that need to cover stories in The Hague and report back.

**Mr. José Antonio Guevara** presented the status in Latin American and Caribbean States, with 19 States Parties, but very few with comprehensive implementing legislation on cooperation and complementarity. The most challenging States are the Caribbean (precisely with the weakest civil society representation), but also Chile and Mexico. A network of around 110 NGOs and national coalitions is actively promoting the ICC in the region, including in Guatemala, where the EC surprisingly funded the creation of a coalition when one already existed. He also gave examples of commonly asked questions in the region regarding victims, reparations, triggering mechanisms, the Prosecutor's choices and publicity of those, etc.

**Ms. Evelyn Serrano** presented the major challenges in Asia: e.g. an under-represented region in the ICC, under strong pressure from the USA (more bilateral agreements than any other region), with urgent needs for translation of materials. Forum Asia is present in 22 States and has launched a broad regional campaign involving grass roots organisations and has targeted strategic States: Japan, India and China. She regretted the EC's rejection of their last project as this is the only Asian NGO working on the ICC. Presented the example of a recent mission to Afghanistan, work in Indonesia and East Timor.

**Mr. Jonathan O'Donohue** presented AI's evaluation on implementing legislation worldwide, with a worrisome quality and quantity deficit. He urged Member States to lead by example, ratify and implement the APIC, fully implement the Rome Statute, and then, provide technical assistance to third States, including translations of legislation. He highlighted the role that local civil society is playing in this process and praised the CICC for its monitoring and coordinating role. He also presented Amnesty International campaign on ratification aiming at 120 States Parties by the end of 2004. He also expressed his concern about the developments to ensure defence counsel and legal representation of victims, since the Rome Statute and the Rules of Procedure and Evidence established a very basic framework for victims' participation in proceedings and further work is needed. He stated that legal aid should not be excluded and separated from

the budget, and that the idea of the Trust Fund was a useful initiative but it should be complementary to the budget and not replacing it. He urged the ASP to ensure funding for that end. Witnesses and Victims Protection will be extremely expensive, yet, he urged States Parties and the ASP to take this issue seriously, since the Court will need to face it from day one.

**Ms. Cristina Pellandini** explained the role of the ICRC and, in particular, of the Advisory Service on International Humanitarian Law in promoting the ICC: providing technical expertise, sharing experiences by other States (included in their Database), raising the ICC in meetings, circulating technical materials and training law enforcement officials. The ICRC focuses on the complementarity principle (taking into account not only the crimes under the Rome Statute but also already existing obligations, treaty or customary law based), States obligations to cooperate with the Court and the need to preserve the integrity of the Rome Statute. Asia and the Middle East are target regions for their ICC work. She identified specific recommendations for the EU.

**Mr. Andras Vamos Goldman** presented the project of the Liu Institute for Global Issues. The next meeting in December will tackle the ‘impunity gap’ gathering experts around a discussion on how to create an effective framework to cope with it, so the ICC can effectively contribute to long lasting peace and security. He urged the ICC community to hold discussions and throughout debates on this topic. He also insisted in the importance for the ICC to prove itself as a professional non political institution, especially at the beginning.

**Mr. Mauro Politi** (Judge at the ICC) expressed that the ICC is committed to inclusiveness and transparency principles. Fostering the universality of the ICC will be essential, and the Judges and the Presidency are already involved in promoting the ICC. He urged States Parties to enact legislation and expressed his concerns about the quantity and quality of States legislation so far enacted. He considered equally worrisome the open questions regarding the impunity gap. He expressed his doubts about the effectiveness of exercising the principle of universal jurisdiction by individual States when there is no link with concrete situations.

**Ms. Jeanne Sulzer** urged the EU to undertake a comprehensive campaign to promote the ICC, using all possible instruments (e.g. human rights clauses). She praised the EIDHR as the only budget line that allows NGOs to receive funding without Government agreement and highlighted that supporting local NGOs is vital as they ensure a legal and political follow up but also contribute to the promotion of the ICC. She recommended keeping the distinction between the institutional building process and the ICC’s own proceedings, where NGOs can play a unique role through their support to the work of the OTP.

**Ms. Tanya Karanasios** focused on the relevance of implementing legislation and presented an evaluation of the worldwide situation that has been undertaken recently by the CICC, containing an analysis of the actors involved, actions and gaps worldwide. She identified local civil society networks and academia as fundamental to fostering this process and Africa as a target region.

**Ms. Géraldine Mattioli** focused on the complementarity nature of the Court and on the concept of ‘international criminal system’. States Parties shall not delegate their primary responsibility to investigate and try those crimes. She raised three key priorities for the EC: reinforcing local capacities, both institutional and judicial; strengthening local civil society organisations (whose experience and knowledge of the political and legal context shall be extremely useful); reinforcing the Court’s administration capacities to carry out very complex investigations. Human Rights Watch urges the EU to: continue defending the integrity of the Rome Statute, essential for the credibility of the Court; and to coordinate a reasonable non biased exercise of universal jurisdiction.

**Ms. Carla Fertsman** presented the priorities identified by REDRESS in building the Court’s capacity for victims: the ICC should seek coordination between actors (in particular local victims groups); support should be given to outreach programs creating and disseminating materials in different languages, with a particular focus on vulnerable groups (children and women); building expertise for local representation for victims (legal and practical expertise), including reparation, before the ICC (the participation of victims in the ICC must be ensured) but also enabling the Court to receive information and evidence from them; support for the Trust Fund for Victims and Witness, the Court should develop policies on protection. She also

urged Member States and the EU to pay special attention to the necessary capacity of states to guarantee protection for victims, including through legislative measures, with a priority to physical and psychological protection; and to start donating funds for the Trust Fund for Victims.

**Mr. Salvatore Zappalá** presented the ETHICS project at the European University Institute, in Florence. The goals of the project are: to train professionals from States Parties and to create self-sustainable networks for States to conduct training courses at national level. The first year a high level course in Florence will be conducted in English and French by high level professionals, while the next two years will focus on four regional workshops in Africa, Asia, Latin America and Eastern Europe. Training materials will be available through the website.

**Ms. Rita Petro** presented the European Law Academy project on the ICC for defence lawyers. International tribunals need a very strong defence. It will mainly focus on a training program for European lawyers (80% from Eastern and Central Europe) and the creation of a legal network for defence lawyers which would include the judicial networks of contact points and the international association of prosecutors.

Ms. Carol Pollack provided an overview of the support given by the Ford Foundation to ICC-related projects. Over the past seven years, Ford has provided approximately \$ 7 million in grants to NGO projects on the ICC and transitional justice. During Ford's most recent round of ICC-related grant-making, it funded three main areas of work. The first of these pertained to general NGO involvement in ICC activities, including participation in ASP meetings, as well as monitoring the activities of the Court, preparation of training materials for Court staff and participation in training processes. The second area focused on the domestic implementation of the Rome Statute and the mobilization of domestic and

local actors both to prepare their own countries for cooperation with the ICC and to be able to try perpetrators of Rome Statute crimes themselves. Finally, the Ford Foundation supported efforts to improve U.S. public and policymaker perceptions of the ICC. This final area of funding is connected to part of a larger push, supported by the Foundation, to encourage U.S. groups to consider the relevance of international human rights to their

domestic work, as well as to get U.S. actors to feel more connected to international institutions such as the ICC.

**Mr. Roland K. G. Amoussouga** (Spokesperson, ICTR) praised the European Commission support for the Ad Hoc Tribunals in Former Yugoslavia and Rwanda. He insisted on the intention of ICTR to fully support the work of the ICC and share experiences and lessons learnt from the ICTR that should guide the strategy of the new Court. A formal framework for cooperation between the two ad hoc tribunals and the ICC should be created. It is of utmost importance that the ICC adopts an agreement with the UN. As the ICTR will finalise its mandate (in 2010), the EU could play a vital role in three areas: archives, lessons learnt, and execution of sentences.

**Mr. Robert Vincent** (Registrar, Special Court of Sierra Leone) expressed deep concern for the Sierra Leone Court from a financial perspective, risking security and protection of victims. He highlighted some key priority areas of work for a successful accomplishment of ICC goals: e.g. outreach programs (also for transparency reasons); involvement of civil society; work in the country where the conflict is present, establishment of a manual of best practices (e.g. especial attention would be needed for Victims and Witnesses, staff rules and regulations, security, etc.); and put in place a good defence structure. He proposed the creation of a community of international administrators and encouraged staff recruitment exchange between international courts.

**Mr. Herman Von Hebel** (ICTY) highlighted some key priorities for the ICC: developing a communications strategy; the ICC should work out the best system on how to provide information and organise education (reality shows that victims have a great difficulty in accessing to information, websites and electronic means are not sufficient); provide access to a data-base of domestic legislation. The ICC should become an intelligent organisation, contributing to create International Criminal Law. In terms of staff recruitment, he insisted on the importance of recruiting staff with different legal systems backgrounds, creating a clerkship program with interns (where the EC support would be very useful) and exchanging experienced staff between international tribunals.

In concluding the seminar, **Mr Bruno Cathala**, thanked the European Commission for organising the seminar and participating experts for their contributions, although time was scarce to tackle all the issues identified in the agenda. The Court alone will not succeed, instead it will need the support from all, Governments, International Organisations, Non Governmental Organisations, Media, etc. He recalled some of the key recommendations that had been raised: complementarity, universality, role of civil society, communications strategy, information sharing and gathering, the rights of the victims, role of parliamentarians, reinforcing national judicial and institutional capacities, sustainable training in conflict areas, translation of materials, ownership by local stakeholders. For a positive accomplishment of the common goals defined, a joint articulation of the various initiatives and projects would be of utmost importance. 'The debate is not over'.

## 2. EXECUTIVE SUMMARY

In spite of very positive trends, starting by the rapid entry into force of the Rome Statute, which has led to the establishment of the Court, the effective functioning of the ICC still faces key challenges. On the one hand, there is a clear need to continue undertaking some of the same successful measures that have led to the entry into force of the Rome Statute (on universality, implementation, raising awareness, etc.). On the other hand, the Court is now at a new stage, and thus, profound adjustments seem inevitable: new resources, the involvement of new actors and further coordination, instruments and policies (e.g. political, legislative, financial, educational, institutional), shall be pulled in to elaborate a wider – holistic – strategy. Firstly, in order to establish an intelligent fully equipped and knowledgeable court ready to undertake investigations itself. Second and more importantly, in order to succeed in attaining the ultimate goal stemming from the Rome Statute: to put an end to impunity for the perpetrators of the most serious crimes of concern for the international community as a whole.

In the words of Bruno Cathala *“The Rome Statute aims at establishing a universal system of international criminal justice which endeavours to that goal”*. The Court is at the heart of that system, yet, other conditions must be met for it to work efficiently: a. that States -prompted by the complementarity nature of the Court and in full conformity with their primary responsibility- ensure that their national legislation enables them to try and punish those crimes; b. that States develop the political will to ensure that they effectively exercise their criminal jurisdiction; and c. that States enact effective measures for cooperation with the Court so the ICC can step in when national jurisdictions are unable or unwilling to act.

There are marked discrepancies between the current status and pace of developments leading to the establishment of the ICC and those that will ensure the functioning of an efficient and meaningful international criminal justice system. As a consequence, it is becoming challenging to manage the general public expectations on the ICC’s real ability to put an end to impunity worldwide. Under these circumstances, it is crucial to keep all actors well informed of the evolving needs and future priorities of the Court. Experts insisted on two key priorities: first, to set up an ongoing consultation process between the Court and actors involved and, second, the development of a thorough communications strategy from the Court, supported by other actors.

Indeed, on the one hand, the International Criminal Court finds itself now in the second phase of its existence, the operational stage, heading towards the commencement of the first investigation of a situation in the near future. The highest officials of the Court have been elected (the eighteen Judges, the Prosecutor -also the Deputy Investigations Prosecutor-, and the Registrar). The Prosecutor has defined his prosecutorial strategy and has announced that, in 2004, the Court would be ready to initiative the investigation over one situation and three cases. By May 2004, two referrals have already been made to the ICC, one from Uganda and the second from the RDC. He has expressed his concern for the massacres occurring in Ituri, Democratic Republic of Congo, and for those in Northern Uganda, which, he said, potentially constitute crimes under the jurisdiction of the ICC. The first investigation team should be fully operational by June 2004. The Presidency is currently working on the elaboration of the Regulations of the ICC, which would enable the Court and the Chambers to be prepared for the first case. To this end, the judges launched a public hearing on the website in order to consult with various experts and benefit from their specialised knowledge before the final adoption of the Regulations of the Court (in particular, on victims and defence). In the process of becoming a fully operational judicial institution, the Court must comply with the highest standards of justice by ensuring the fairness and efficiency of its proceedings. In this regard, sustainable channelled consultations, a representative body of legal counsel and the adoption of a Code of Professional Conduct for defence will be very important. The Court will be confronted with very complex situations in difficult countries, e.g. it could be facing political and legal obstacles when seeking assistance, and its staff shall be well experienced and knowledgeable in specific investigative techniques, treatment of victims with specific needs (inter alia children, women, elderly persons, disable persons, persons with mental disorders and victims of sexual violence), experienced in legal medicine, etc. Moreover, a process for staff recruitment is in place supported by a new budget for 2004, *“a budget built on the assumption that sound, capable and well-informed national jurisdictions are in place”* (Cathala). The ICC budget amounts to € 53 071 846 and is intended to cover major programmes such as the Judiciary, the Office of the Prosecutor, the Registry and the Secretariat of the ASP. Yet, the sound operation of the Court still requires supportive measures.

On the other hand, many states in the international community are still not party to the Rome Statute. Worst, very few States Parties have completed or even started to enact comprehensive legislation to comply with their obligations under the Rome Statute.

Firstly, the Court's legitimacy and potential to efficiently act as a deterrent of conflicts will depend upon the level of acceptance in the international community. The International Criminal Court has a vocation to become universal, yet at present there are ninety-four States Parties. Although the numbers and pace of ratifications are a spectacular accomplishment, it is not enough. Some regions or sub-regions are clearly under-represented, in particular, Asia, Central Asia, North Africa, the Middle East and Caribbean states. The failure to bring to the Court highly populated and influential countries - such as India, the Russian Federation, Japan, Indonesia, China or the United States – could be perceived as a failure of the Court to become a universal institution. Moreover, universality also means that the message about the significance of the Court as well as on its work and proceedings reaches all audiences. The need for coordinated efforts to ensure the universality of the ICC and the creation of an international community of international criminal justice was unanimously expressed.

Secondly, the efficiency of the system will be demonstrated by the effective implementation at the national level of the principles and obligations related to cooperation and complementarity with the Court. *"The Court can only accomplish its mission within the remit of its mandate. The Court has neither ambition nor means to respond alone to all the challenges of international criminal justice"* (Cathala). The Rome Statute incorporates a general obligation of States Parties to fully cooperate with the Court without delay and to provide all forms of cooperation at the request of the Court at all stages of the procedure. The Court will request the assistance of States Parties, inter alia, in the detaining and surrendering of suspects, protecting witnesses and victims, protecting and delivering evidence, etc. States Parties will also need to offer protection and security to victims and witnesses. It is their obligation to analyse and remove the obstacles that may exist in their national procedures. Without appropriate national procedures for such cooperation with the ICC, the Court would fail to conduct its own investigations. The Court could also request the assistance to a non State Party or to an intergovernmental organisation. In this regard, the seminar concluded that it is a high priority to promote and ensure the implementation of flexible and high quality national legislation on cooperation with the Court. Experts also raised great concern about bilateral non surrender agreements<sup>4</sup> that could jeopardise the Court's credibility and independence, creating a two-tier justice system and violating international law, and agreed on the importance of undertaking actions in order to preserve the integrity of the Rome Statute. The EU and NGOs are very supportive and dedicated to this end.

The complementarity nature of the Court is the essence of the new system established by the Rome Statute. According to the Statute, national jurisdictions have primacy over the jurisdiction of the ICC. The ICC would not replace national legal systems or the duty of each state to investigate or try individuals for crimes against humanity, war crimes or genocide. Instead, the ICC will only intervene if the State concerned is unwilling or unable to act. Although the Statute does not impose an obligation to incorporate those crimes in their domestic legislation, the national jurisdictions must be capable and willing to ensure that the State can carry out investigations and a trial if need be. In that regard, States Parties should incorporate the crimes and general principles of international criminal law stemming from the Rome Statute but should also bear in mind the obligations resulting from customary or treaty based international law, including the principle of universal jurisdiction for certain crimes. Experts concluded that it is of utmost importance to make the principle of complementarity a meaningful one, promoting and ensuring that States are able and willing to exercise their primary responsibility to investigate and try those crimes, and evaluating the potential of other mechanisms to put an end to impunity (e.g. hybrid courts, regional tribunals, universal jurisdiction, truth and reconciliation commissions). Building political willingness and enacting national legislation on cooperation and complementarity worldwide is a long commitment job and will require adequate legal expertise.

Experts coincided on the need to strengthen the capacity building of local civil society, to promote and reinforce democratisation processes, and to develop strategic alliances between parliamentarians, NGOs, Governments and experts.

Creating a community of international criminal justice will also be crucial. All actors should be involved in efforts to share experiences, to train and educate law enforcements professionals, but also victims groups and their legal representatives. In this regard, it will be vital for the Court (especially for the Victims and Witnesses Unit and the Victims Participation and Reparation Unit) to build a framework of communications and working relations with NGOs and other actors, thus, contributing to the Court learning process of experts knowledge in these fields.

Against this background, the legitimate feeling of accomplishment, with an existing Court sitting in The Hague, shall not lead to any misconception as to the enormous challenges ahead. Above all, States have the greatest responsibilities to comply with their duties. But also donors and, in particular, the European Commission have their own responsibilities to continue supporting a 'road map' to fight against impunity. The conditions set forth for the system to function still need to be met in an articulated and efficient manner. In order to tackle this complex phenomenon, a wide-ranging and systematic strategy has to be implemented.

Likewise, during the seminar, experts highlighted the priorities, challenges to be met and actions to be undertaken in order to strengthen the ICC itself and to attain an efficient system of international criminal justice. Making the distinction between the two, the sound operation of the ICC itself and the international criminal system stemming from the Rome Statute, will be -in the view of the Registrar-, *"very helpful for channelling in the most effective manner the assistance provided by the European Commission and by other actors, identifying crucial projects"*. In this regard, the Registrar emphasised that those projects should not be dedicated to supporting the core functions of the Court, which are maintained through the ICC regular budget; instead, those projects would be 'complementary' to its effective functioning. It is also important to note that the Registrar stressed that it is not up to the ICC to validate the projects that will be submitted to the European Commission; notwithstanding, the Court cannot be indifferent to the choices made, as they inevitably will have an impact on the work of the Court. *"It is of utmost importance that an ongoing consultation process between the Court and the European Commission be ensured"*.

It must be noted that the ICC clarified that the Court itself might not be ready to provide all answers at present, moreover, even in the future, it might not be for the ICC to provide those answers. Notwithstanding, much thinking is necessary and the creation of think tanks to tackle the impunity gap from a horizontal-vertical 'holistic' approach seems desirable.

In conclusion, and bearing in mind the EU commitment expressed through the adoption of the Common Position on the International Criminal Court and the EC budget available to support the fight against impunity and the ICC, there is a need for a consistent and coherent approach in the EU supported by an adequate strategy, interconnecting systems at all levels, inter alia:

- By the full implementation of the Council Common Position on the ICC: the twenty five Member States of the European Union must remain firmly committed and continue to play a leading role, both as a political leader but also as a financial supporter of the international justice system. Through the continuity and increasing efforts to implement the European Initiative for Democracy and Human Rights, coordinating the EIDHR with Member States' initiatives and identifying the projects that best match the needs/priorities set forth by the ICC. Financial assistance must be done in time, in full and without political interference.
- By supporting the independent role of civil society organisations worldwide.
- Through a continuous consultation process between EU bodies and the ICC, as well as between those and other actors, e.g. the International Committee for the Red Cross, the Council of Europe, non governmental organisations, Academia, and other International Organisations.
- By engaging in a horizontal and vertical transversal/circular/global approach which implies 'mainstreaming the fight against impunity' through, inter alia: legislation review mechanisms, administrative capacity building mechanisms, instruments to strengthen the independence of local civil society, reinforcing good governance, using the conflict prevention and post conflict resolution instruments, as well as the poverty reduction and sustainable developments mechanisms, etc.

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<sup>4</sup> Non surrender agreements' is the term used in the EU GAC Conclusions and Guiding Principles of 30 September 2002. NGOs use the term 'Bilateral impunity agreements'. The United States uses the term 'Article 98 agreements'.

### **3. RECOMMENDATIONS**

#### **TO MEMBER STATES**

- Improve cooperation and coordination of activities among EU bodies through the creation of the position of a permanent full time focal point at the Council Secretariat.
- Intensify partnership between EU bodies and other actors, in particular NGOs, creating synergies, filling the gaps and avoiding overlapping of activities.
- Establish a consultation mechanism with the Court and an open dialogue with third states and NGOs.
- Through silent and public diplomacy continue to: preserve the integrity of the Rome Statute from all direct or indirect attempt to alter its letter or spirit, support the independence and effectiveness of the ICC, and prevent abuses of the UN Security Council role in relation to the Court.
- Continue the campaign for universal acceptance of the Statute, enhancing the legitimacy of the Court.
- Intensify the legal and technical assistance for countries in the process of ratification and implementation, e.g. through a more coordinated and accessible way (improve website and create links to other existing websites), and through an active list of experts.
- Member States should complete the internal process of implementing legislation, so to allow the functioning of the system enshrined in the Rome Statute and to help closing possible impunity gaps. In doing so, member states should take into account all relevant international obligations they must comply with.
- Contribute to the prompt entry into force of the Agreement of Privileges and Immunities of the Court and to the adoption of the Relationship Agreement with United Nations.
- Contribute to the outreach to the public at large, media, academia, victims, legal professionals and parliamentarians.
- Approach and tackle the fight against impunity in a holistic manner, throughout the wide range of European Union policies and instruments.
- Pay in full and in time the assessed contributions.
- Member states should contribute to the development of the Trust Fund for victims.

#### **TO THE EUROPEAN PARLIAMENT**

- Continue and strengthen the EP support to the European Initiative for Democracy and Human Rights.
- Use the EP political leverage - EP resolutions and other parliamentary instruments - to support the full implementation of the Council Common Position on the ICC.
- Contribute, through constructive dialogue, in the process to reverse the USA policy on the ICC.

#### **TO THE EUROPEAN COMMISSION**

General remarks:

- The EC budget should focus on making the system of the Rome Statute work effectively rather than on the ICC core administrative functions (already covered by the regular ICC budget);
- For certain areas of work such as victims and witnesses, external communication and universality, the financial support of the international community should be equally distributed between projects initiated by the Court and those developed by NGOs;
- The EC support should be oriented to programs that contribute to creating a “strategic partnership”, connecting all the actors anchored in the Rome Statute system, a partnership which will best match the resources and means at stake to the needs of the Court;
- The EC shall encourage an active dialogue involving academia, NGOs, the Court and the European Commission with a view to ensuring coherence, usefulness and high quality initiatives related to the Court.
- The EC should continue supporting projects aimed at achieving universal ratification and implementation of the Rome Statute, with a special focus on target countries and regions underdeveloped or underrepresented, in particular, Asia, Central Asia, New Independent States, Middle East, North Africa, Africa and Caribbean

- On training and raising awareness programs, it is recommended to focus on target countries and prioritise national criminal lawyers, prosecutors and judges, but also grass roots organisations, including victims groups, women and children groups and religious groups.
- The EC should consult with existing organisations, EC delegations, the ICC and member states to avoid supporting projects that are already in place, thus avoiding duplicating efforts.
- Implementation of the projects should meet the highest standards of justice and preserve the integrity of the Rome Statute.
- A key component for all projects should be the translation of materials into various languages: projects to ensure materials are adequately translated in different languages.

#### **On supporting the sound operation of the Court**

- Support programs aiming at creating and maintaining a judicial data-base of implementing legislation.
- Support programs aimed at complementing the Victims and Witnesses Unit and the victims Participation and reparation Unit, e.g. campaigns to inform victims and witnesses of their rights in the proceedings before the Court, including the production of materials and the creation and maintenance of a specialised library at the Court and training programs and campaigns to raise funds for the Trust Fund for Victims. Also, the EC should play special attention to ensuring legal representation for victims.
- Ensure an ongoing consultation process between the Court and the European Commission, without compromising the independence of both institutions, nor that of NGOs.
- In a medium-long term perspective, support the creation of a 'best practices' database to share working methods between various international criminal jurisdictions.
- Support projects contributing to strengthen the defence pillar developed by the Court and other parties.
- Contribute to the development of outreach programs, not least through the support of local civil society, in countries where the Court will require assistance from governments.

#### **On developing the universal aspect of the Court**

- Support ratification campaigns focused on target regions or countries (list above mentioned).
- Support projects to ensure an ongoing dialogue, exchange of views and dissemination of information among states and other actors sharing experiences on implementing legislation and means to overcome obstacles to ratification and implementation.
- Support programs to assist and encourage states to meet their legal obligations to fully cooperate with the Court, bearing in mind the need for high quality legislation.
- Support campaigns to research, monitor and inform on developments to preserve the integrity of the Rome Statute.
- Support projects aiming at building sustainable training capacity in conflicting countries, and areas where there is a weak knowledge of International Humanitarian and Criminal Law: sessions and events on the ICC focusing on lawyers, prosecutors, judges and general law enforcement personnel, e.g. supporting regular teaching programs at university level, visiting professors programs or the creation of university networks.
- Support projects monitoring the work of the ASP and of the Court and contributing to a worldwide dissemination of information on the ICC.

#### **On supporting the effective system of the Rome Statute and the principle of complementarity**

- Support the clerkship and visiting professionals programs, that will foster the implementation of the principle of complementarity at the national level.
- Support projects that create strategic alliances between parliamentarians, NGOs, Governments and experts.
- Support projects that contribute to reinforcing national criminal systems, inter alia, by:
  - Strengthening national judicial and institutional capacity.
  - Providing qualified technical assistance to national legislation review in full compliance with the Rome Statute and other existing international treaties.

- Promoting political willingness by governments to exercise their national jurisdiction.
  - Building up Parliamentary political support worldwide, as parliaments are the main institutions involved in fostering and later approving legislation.
  - Preparing legal studies on the compatibility of the constitution and legislation with the Statute, the Rules of Procedure and Evidence and the Elements of Crimes.
  - Producing and disseminating comprehensive teaching materials on International Criminal and Humanitarian Law, practice and theory.
  - Organising experts' seminars in target countries including parliamentarians, officials from relevant ministries, leading local and international NGOs.
  - Creating sustainable networks among faculties of Law.
- Contribute to experts' analysis looking at the root causes of conflicts and crimes, but also at how to cope with the impunity gap from a holistic approach, identifying the needs, gaps, institutions and methodologies necessary for mainstreaming 'justice and fight against impunity' through different policies, linking development aid, human rights, democracy, good governance, justice, foreign policy.
  - Support NGO work in the field, as NGOs will be the first, and sometimes the only, source of information.
  - Support sustainable training courses of law enforcement professionals, national bars and other bodies active in the area of defence, focusing on Africa and Asia.

## **On educating the public**

- Support awareness-raising campaigns aiming at communicating the work and mandate of the Court.
- Support projects that maintain an interactive information exchange between civil society organisations, including grass roots organisations, media, ombudsmen, the public at large and the ICC.
- Support specific targeted campaigns addressed to illiterate populations, media, academia, and state parties in whose territories crimes under the Statute have been allegedly committed.
- Campaigns to train Media in conflicting areas and to ensure their coverage and follow up of the situations before the ICC.

## **On the establishment of special support structures for victims and witnesses**

- An effective campaign should be developed to ensure that procedures are known and acceptable and that victims have access to qualified legal counsel, e.g.:
  - Projects aiming at disseminating the provisions regarding victims rights (e.g. through the ICC 'standard forms') included in the Rome Statute and in the Rules of Procedure and Evidence.
  - Support projects aiming at assisting local victims groups understand and fill the forms produced by the ICC, in a language that they understand, reaching remote villages where modern ways of information (media, electronic forms) are limited.
- Support projects aiming at building a framework of communication and working relations with the Victims and Witnesses Unit and the Victims Participation and Reparation Unit, contributing to disseminating information extensively, particularly through existing NGOs networks, international organisations field offices and the Media, which will assist the court in understanding a conflict situation.
- Support the organisation of experts' seminars to support the work of the Court, including experts from truth and reconciliation commissions and other bodies.
- Support high quality organisations, universities, national bars, NGOs, specialised in conducting training and seminars courses disseminating knowledge on the ICC in areas involving situations of violations, with a particular focus to groups with special needs (inter alia children, women, elderly persons, disable persons, persons with mental disorders and victims and of sexual violence).
- Support campaigns aiming at assisting the Court to raise funds for the Trust Fund for Victims, raising awareness on the importance of voluntary contributions.
- Support programs to develop superior witness protection programs adapted to different environments in which the Court will have to work, at national level.

## C. OTHERS

### 1. CONFERENCE AGENDA

THURSDAY 25 SEPTEMBER

During this first day of the conference a first section was public and took place in the Hall of Busts in Castel Capuano, the XII century building of the civil court of Naples thanks to the kind intervention of the Board of the Bar of Naples.

14:30 **ARRIVAL AND INSCRIPTION**

15:00 **OPENING ADDRESSES, -OPEN MEETING-**

*Chairman: Mr Francesco de Angelis, Director for Horizontal operations-EuropeAid, European Commission*

- **Welcome words**, Francesco Landolfo President of Naples Bar Association
- **Introduction by the European Commission:** description of the goals of the seminar. Francesco De Angelis, Director for Horizontal operations-EuropeAid
- **Introduction by the Istituto Forense per la difesa dei diritti umani**, Giuseppe Tisci, President.
- **Introduction by the International Criminal Court**, Bruno Cathala, Registrar.
- **Introduction by the Task Force of the Netherlands for the ICC (Host country)**, Edmond Wellenstein, Director General Foreign Ministry
- **Introduction by the EU Presidency:** description of the EU position. Roberto Bellelli Italy
- **Introduction by the NGO Coalition:** description of the role of non-governmental organisations in the new phase of the Court. Bill Pace (Convenor of the NGO Coalition for the ICC-CICC)

16:00 **IMPLEMENTATION OF THE STATUTE OF THE COURT IN THE ITALIAN LEGISLATION**

**Mr. Benedetto Conforti**, President of the governmental Commission for the implementation of the Statute of the Court in the Italian legislation

**Mr. Gustavo Pansini**, Member of the governmental Commission for the for the implementation of the Statute of the Court in the Italian legislation

**Mr. Marco Esposito**, Secretary of the Law Institute for the Promotion of Human Rights - Naples Bar Association

17:00 **COFFEE BREAK** offered by the Law Institute for the promotion of Human Rights - Naples Bar Association

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**Closed meeting -restricted to experts-**

17:15 **THE INTERNATIONAL CRIMINAL COURT: THEMATIC PRIORITIES**

*Key note speaker: Bruno Cathala, Registrar of the International Criminal Court*

18:00 **DEBATE**

FRIDAY 26 SEPTEMBER

The conference took place in the Hotel Mediterraneo

09:00

## BEGINNING OF THE SECOND DAY OF THE SESSION

09:15

### PART I. STRENGTHENING THE INTERNATIONAL CRIMINAL COURT

**Speakers** *Bruno Cathala (ICC), Valentin Zellweger (ICC), Sam Muller (ICC), Morten Bergsmo (ICC), Roberto Belleli (Italy-EU Presidency), Juan-Antonio Yanez-Barnuevo (Spain), Representatives of other State Members of the EU, Mr. Wellenstein (Task Force The Netherlands) David Donat Cattin (PGA), B. Ms. Ludford (EP), Niccolo Figa Talamanga (NPWJ), William Pace (CICC), Thomas Verfuss (Media), Jose Antonio Guevara (Latin America&Caribbean CICC), Evelyn Serrano (Forum Asia)*

#### Key topics for discussion:

- a. Dissemination of information and raising awareness to general public.
- b. Setting up the Communications strategy of the Court.
- c. Civil society monitoring work: ASP negotiations, ICC trials.
- d. Ensuring participation of LDC delegations to the Assembly of States Parties meetings, not only from State Parties but also Non State Parties.
- e. Ratification campaigns: strategies.
- f. Ensuring the ICC can reach the victims through well-informed MEDIA.

#### DEBATE

11:00

### PART II: ESTABLISHING THE SYSTEM OF THE ROME STATUTE

**Speakers** *Bruno Cathala (ICC), Valentin Zellweger (ICC), Sam Muller (ICC), Morten Bergsmo (ICC), Representatives of State Members of the EU, Jonathan O'Donohue (AI), Richard Dicker (HRW), Tanya Karanasios (CICC), Giovanni Palmieri (Council of Europe), Cristina Pellendri (ICRC), Andras Vamos (Liu Institute)*

#### Key topics for discussion:

- a. Cooperation legislation (including APIC).
- b. The complementarity principle, monitoring legislation, guidelines.
- c. The impunity gap.
- d. Maintaining the integrity of the Rome Statute.
- e. Building civil society networks worldwide monitoring implementation.

#### DEBATE

14:00

### PART III. BUILDING AN INTERNATIONAL COMMUNITY OF INTERNATIONAL CRIMINAL JUSTICE

**Speakers** *Bruno Cathala (ICC), Valentin Zellweger (ICC), Sam Muller (ICC), Morten Bergsmo (ICC), Representatives of State Members of the EU, Carol Pollack (Ford Foundation), Antoine Bernard (FIDH), Carla Fertsman (REDRESS), Salvatore Zappala (Florence Institute), David Tolbert (Deputy-Registrar ICTY), Roland Amoussouga (Spokesman ICTR), Robin Vincent (Registrar SCSL)*

15:45	<p><b>Key topics for discussion:</b></p> <ul style="list-style-type: none"> <li>• In house training</li> <li>• Internship programs</li> <li>• Courses for Defence counselling</li> <li>• Legal representation for victims: training, how to bring a case to the ICC</li> <li>• Training of law enforcement officials</li> <li>• Strategic discussions</li> </ul> <p><b>DEBATE</b></p> <p><b>PART IV. DEFENCE COUNSELLING</b></p> <p><b>Speakers</b> <i>Bruno Cathala (ICC), Valentin Zellweger (ICC), Sam Muller (ICC), Morten Bergsmo (ICC), Representatives of State-Members of the EU, Fiona McKay (LCHR), Jeanne Sulzer (FIDH), Carla Fertsman (REDRESS), Rita Petro (ERA), Jonathan O'Donohue (AI)</i></p> <p><b>Key topics for discussion:</b></p> <ul style="list-style-type: none"> <li>• An international representative criminal law structure</li> <li>• Court structures for the defence</li> <li>• Dissemination of information: Communications with victims and their participation in the proceedings</li> <li>• Experts Seminars</li> <li>• Legal representation for victims: Trust fund on legal aid for victims</li> <li>• Protection and security</li> </ul> <p><b>DEBATE</b></p>
17:30	<p><b>CONCLUDING REMARKS</b></p> <ul style="list-style-type: none"> <li>• By the Registrar of the ICC, Bruno Cathala</li> <li>• By the EU Presidency, Roberto Bellelli</li> <li>• By the European Commission, Francesco De Angelis</li> </ul>
18:30	<p><b>END OF DEBATE</b></p>

**SATURDAY 27 SEPTEMBER**

**Participants were kindly invited to stay at the hotel to continue an informal and fruitful exchange of views and networking, on Saturday morning.**

## LIST OF PARTICIPANTS

FIRST NAME	NAME	ORGANISATION	COUNTRY
Irune	Aguirrezabal Quijera	Tea Cegos Consortium	Belgium
Roland K.G.	Amoussouga	External Relations and Strategic Planning Section (ERSPS)	Tanzania
Antonio	Aresu	Ministero degli Affari Esteri	Italy
Peter	Ashman	EC - EuropeAid Cooperation Office - Human & Democracy Unit	Belgium
Olivier	Barrat	EU Member State - Ministry of Foreign Affaires - legal department	France
Roberto	Bellelli	EU Member State	Italy
Morten	Bergsmo	International Criminal Court	Netherlands
Laviero	Buono	Academy of European Law Trier	Germany
Hans Werner	Bussmann	EU Member State	Germany
Bruno	Cathala	International Criminal Court	Netherlands
Francesco	de Angelis	EC - EuropeAid Cooperation Office	Belgium
David	Donat Cattin	PGA	Italy
Marco	Esposito	Istituto Forense per la Difesa dei Diritti Umani Ordine degli Avvocati di Napoli	Italy
Carla	Fertsman	Redress	UK
Niccolo	Figa Talamanca	NPWJ	Italy
Jose Antonio	Guevara	WFM-Institute for global policy on behalf of the Coalition for the ICC - Office for Latin America and the Carribean	Mexico
Bosse	Hedberg	EU Member State	Sweden
Tanya	Karanasious	WFM	USA
Mohamed	Kebe	CEJED	Senegal
Sarah	Ludford	European Parliament	Belgium
Sari	Makela	Ministry of Foreign Affairs	Finland
Geraldine	Mattioli	Human Rights Watch (HRW)	Belgium
Alexander S	Muller	International Criminal Court	Netherlands
Jonathan	O'Donohue	Amnesty International	UK
William	Pace	WFM-Institute for global policy on behalf of the Coalition for the ICC	USA
Giovanni	Palmieri	Council of Europe Directorate General of Legal Affairs	France
Cristina	Pellandini	ICRC	Switzerland
Rita	Petro	ERA	Germany

FIRST NAME	NAME	ORGANISATION	COUNTRY
Mauro	Politti	International Criminal Court	Italy
Carol	Pollack	Ford Foundation	USA
Franck-Olivier	Roux	EC - EuropeAid Cooperation Office - Human & Democracy Unit	Belgium
Evelyn	Serrano	Forum Asia WFM-Institute for global policy on behalf of the Coalition for the ICC	Philippines
Jeanne	Sulzer	FIDH	France
Heram	Von Hebel	ICT Yugoslavia	Netherlands
Andras	Vamos Goldman	Liu Institute for Global Issues	Canada
Philippe	Van Amersfoort	EC - DG External Relations	Belgium
Paul J.J.	Van Voorst	Ministry of Justice, Directorate General for Law Enforcement	Netherlands
Thomas	Verfuss	Association of ICC Journalists (AJCPI)	Netherlands
Robin	Vincent	ICT Sierra Leone	Sierra Leone
Edmond H.	Wellenstein	MFA	Netherlands
Juan Antonio	Yanez-Barnuevo	EU Member State - Ministry of Foreign Affairs	Spain
Salvatore	Zappala	European University Institute	Italy
Valentin	Zellweger	International Criminal Court	Netherlands



# ANNEXES

## I. Overview of measures and actions undertaken for the establishment of the ICC.

The European Union is the major donor to the ICC, not only through the Member States assessed contributions, directed to the ICC budget (+/- 75% of total budget), but also through the EC EIDHR funds, directed mostly to Non Governmental Organisations (NGO) but also to the Ad Hoc Tribunals and to the ICC itself. Member States also contribute to the ICC by way of supporting NGO activities and campaigns, as well as through the implementation of measures under the Council Common Position on the ICC (CFSP/444/2003). It is the goal of the EC to maximise the EIDHR having a high impact in the ICC future work, its universality, effectiveness and integrity.

On 28-29 January 2002, the European Commission/EuropeAid Cooperation Office (hereafter EuropeAid) organised the Conference on *“The European Commission’s support for the establishment of the International Criminal Court”* in Brussels. Experts were gathered for a two-day conference to discuss the main challenges for the establishment of the ICC. The conclusions and recommendations<sup>5</sup> of the conference provided with a constructive input for the implementation of projects and activities during the period of 2002-2004.

Along the past two years, the process of establishing the ICC has evolved rapidly. The ICC has entered into a new phase once the Rome Statute came into force and the Court has become fully operational with the election of the eighteen Judges, the Prosecutor and the Registrar. Yet, a variety of indispensable efforts might still be necessary to support the universality, efficiency and integrity of the ICC, while there is a growing need to manage the high expectations already created amongst those involved in the fight against impunity.

It is in this regard that EuropeAid has decided to organise a follow up seminar of experts in Naples on September 25-27 to discuss this new phase, the new challenges and how to best direct the Commission’s efforts towards the ICC priorities, maximising the results of the European Initiative for Democracy and Human Rights (EIDHR). The conclusions of the conference shall assist EuropeAid to assess the EC’s future contribution to the ICC process and develop a 3 years strategy on the implementation of the EIDHR.

The current document, **“Measures and actions undertaken for the effective establishment on the ICC”**, presents information about the numerous and worldwide actors that have been working on the effective establishment of the ICC, their plans and suggestions about how to best coordinate all those measures:

- A. European Commission
- B. Council Secretariat
- C. EU Member States
- D. New EU Member States and Associated Countries
- E. Other States
- F. International Organisations
- G. Non-Governmental Organisations
- H. Foundations
- I. Media Organisations

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<sup>5</sup> See the Report of the conference including the background papers, the conclusions and recommendations, at: [http://europa.eu.int/comm/europeaid/projects/eidhr/conferences\\_cpi\\_en.htm](http://europa.eu.int/comm/europeaid/projects/eidhr/conferences_cpi_en.htm)

The information herewith reproduced is a summary of the replies obtained following a detailed questionnaire that focused on (1) coordination of information amongst different actors and, in particular, with the ICC, (2) ratification and implementation of the Rome Statute –initiatives in third States and status of the internal procedure-, (3) the effective establishment of the ICC and (4) activities undertaken to raise awareness on the ICC.

It should be noted that this document does not pretend to be a comprehensive compilation but an indicative document on the recent and forthcoming activities in this regard by the numerous and worldwide actors working on the effective establishment and well functioning of the ICC.

*NOTE: The European Commission would like to express its gratitude to all those who kindly and patiently replied to the questionnaire that was sent in 2003. Only a summary of those answers is reproduced herewith and we hope that the information will be found useful.*

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#### **A. EUROPEAN COMMISSION: MEASURES IN THE FRAMEWORK OF THE EUROPEAN INITIATIVE FOR DEMOCRACY AND HUMAN RIGHTS (EIDHR)**

The European Commission (EC) has been supporting the campaign led by civil society in favour of the establishment of a permanent and independent International Criminal Court (ICC) since 1995 through the European Initiative for Democracy and Human Rights (EIDHR). The EC contribution to its creation and to its effective establishment has increased significantly year after year. In 2002, at the initiative of the European Parliament, 5 million Euros were allocated for 2002. For the period 2002 to 2003 the EC will support financially 11 projects, which amount to more than 8 million Euros.

This initial section seeks to describe the projects granted by the European Commission for the period January 2002-June 2003.

##### GRANTS FOR JANUARY 2002-JUNE 2003

**Academy of European Law (ERA), Treves, Germany:** "The ICC from the perspective of defence lawyers"  
*Activities:* Seminars to collect experiences and prepare formation for lawyers before the ICC. Development of a website where publish this formation  
*Target groups:* Defence lawyers from Central and Eastern Europe, EFTA, and, by the information posted on the website, all over the world  
*Location:* Global project, in particular countries from Central and Eastern Europe and Member States of the EFTA  
*Estimated duration:* 2 years  
*Grant:* € 980.000

**Association internationale des avocats de la Défense (AIAD), Canada:** Creation of an International Bar Association for the ICC  
*Activities:* Organisation of a Conference in Montreal, June 2002, by Bar Associations from European, Asian and African countries -in particular those that have ratified the Rome Treaty- to discuss a draft constitution for an International Bar Association for the ICC with rules of conduct for advocates representing defendants before the ICC, criteria for recognising competence and other aspects of professional rights and duties. This constitution will be submitted to the ASP in September 2003. The EC finance will mainly cover the costs of participants from developing countries  
*Target groups:* Advocates appearing before the ICC from around the world  
*Location:* Canada  
*Duration:* 9 months  
*Grant:* € 150.000

**Carnegie Stichting Foundation**, The Netherlands: [Advanced Team for the establishment of the ICC](#)

*Activities:* Set up of a general coordinator function, handled by a high-profile expert, and creation of experts positions for the systems needed (legal support -civil and common law-, human resources; ICT; information, financial control and security)

*Target group:* The International community by the ICC

*Location:* The Netherlands

*Estimated duration:* 5 months

*Grant:* € 427.770

**European University Institute**, Italy: [European Training in Higher International Criminal Sciences \(ETHICS\)](#)

*Activities:* High-level training programme on national and international aspects of international criminal justice for legal professionals, including officials from less affluent countries (making available scholarships for them), consisting in the preparation of training materials in various formats, a training course at the EUI and workshops in different countries to present the teaching materials.

*Target groups:* Professionals of the international criminal justice system, experts of national institutions, students, interested citizens

*Location:* Worldwide

*Estimated duration:* 3 years

*Grant:* € 900.000

**FIDH, Fédération Internationale des Ligues des Droits de l'Homme**, France: ["Programme of formation and support of national NGOs for the promotion and effective implementation of the ICC"](#)

*Activities:* Formation and support of NGOs working on promoting the ratification of the Rome Statute and the effective implementation of the ICC by lobbying before national authorities, contributing to the legal work and supporting victims

*Location:* Principally, North Africa, Middle East, South and Central Asia,

*Estimated duration:* 3 years

*Grant:* € 1 092 800

**Gustav Stresemann Institut (GSI)**, Germany: ["Information and Ratification Campaign on the ICC in Central Asian Countries and Mongolia"](#)

*Activities:* Raising military and civil awareness on the ICC establishing an NGO network to accelerate the ratification and implementation of the Rome Statute by supporting legal experts drafting implementing legislation, enabling national authorities to try suspects of international crimes before their own courts, ensuring an effective co-operation of national justice systems with the ICC, strengthening the role of the grass roots movement and major parts of the executive branch in promoting human rights and ending impunity for war criminals

*Target groups:* Armed Forces, Civil Society representatives, Legal professionals

*Location:* Kazakhstan, Kirghiztan, Tadjikistan, Turkmenistan, Uzbekistan, Mongolia, with coordination in Germany and the Netherlands

*Estimated duration:* 18 months

*Grant:* € 518 619

**La Morada**, Ecuador and Chile: [Social, political and juridical engagement of Latin American women for the strengthening of the ICC and gender justice](#)

*Activities:* Launch of an awareness-raising campaign on the ICC and gender justice and capacity-building initiatives for judges, public attorneys, civil servants, parliamentarians, journalists and NGOs; publication of technical-juridical documents, reports and training manuals ICC and gender justice related; establishment of a regional network of women NGOs.

*Target groups:* Women organisations, parliamentarians, civil servants, judges, lawyers, journalists and the public opinion in general

*Location:* Ecuador, Chile

*Estimated duration:* 2 years

*Grant:* € 448.370

**Movimondo**, Italy: “Reinforcement of the fight against impunity and promotion of the ICC in Guatemala”

*Activities:* Lobby for the ratification of the ICC, review the legislation in force to draft proposals, training and awareness-raising, study on the ICC and crimes against women, co-ordination of efforts (constitution of a Guatemalan Coalition for the ICC), launch of a documentation centre, reinforcement of the local partner.

*Target groups:* Judges, lawyers and other judicial personnel, civil police, representatives of MFA and Presidency, Deputies, civil society representatives.

*Location:* Guatemala (principally), El Salvador, Honduras, Nicaragua

*Estimated duration:* 3 years

*Grant:* € 895.909

**NPWJ, No Peace Without Justice:** “Towards the Universality of the Jurisdiction of the ICC”

*Activities:* Encourage ratification in target regions by conferences for decision-makers, independent experts and general public and other measures, as publication of material on ICC-related issues, to raise public awareness, and consult experts for technical legal cooperation

*Target groups:* Governmental representatives, legislators, international negotiators, local NGOs, media, the ICC itself, the public opinion in general

*Location:* Worldwide, mainly in Asia, Middle East and Africa

*Estimated duration:* 2 years

*Grant:* € 1 500 000 Euro

**PGA, Parliamentarians for Global Action**, USA: “A Parliamentary Campaign for an effective, fair, independent and universal ICC and for the promotion of the Rule of Law”

*Activities:* Country specific (regular briefings to targeted countries, including in Asia, CIS, Middle East, with the objective of generating political leadership in support of the ICC) and global (2 annual sessions for the establishment of a "Parliament for the ICC", expert feasibility report concerning a "Consultative Assembly of Parliamentarians for the ICC"; follow-up Ibero-American Conference on the ICC, 3 strategy meetings on the ICC)

*Estimated duration:* 2 years

*Grant:* € 876.784

**WFM, World Federalist Movement-Institute for Global Policy on behalf of the Coalition for the ICC**, USA: “The NGO Coalition for the ICC. Phase IV, Part IV – “From Entry into Force to a Fully Functioning Court”

*Activities:* Actions of judicial research (regular synthesis on the ICC news), communication and media, sensibilisation of NGOs on the nomination and election procedure of the ICC bodies, electronic and paper information (as the Coalition’s website), coordination of NGOs, actions towards the creation of local NGOs.

*Target groups:* governmental representatives, over 1000 local NGOs, international organisations and national functionaries in need of formation concerning the ICC

*Location:* Worldwide

*Estimated duration:* 2 years

*Grant:* € 1 500 000

**B. COUNCIL SECRETARIAT**Coordination of information:

The Public International Law Working Group (a group that meets in Brussels regularly composed of MS representatives, the Council secretariat and the European Commission) created an ad hoc sub-group, called COJUR Sub-area ICC, dealing exclusively with ICC matters where representatives from MS, the Council secretariat and the Commission, at experts level, have the possibility to exchange views and co-ordinate positions on the ICC. These positions are then transmitted to other relevant Council bodies, and, in particular, to the PSC (Political and Security Committee), COREPER and Council. The Council is - in last instance - the competent body to define the EU positions on the ICC as in other Common Foreign and Security policy (CFSP) matters.

The Council Secretariat works mainly on the basis of UN documents, apart of other relevant information from MS, Commission, NGOs, etc. Information and EU positions on the ICC, apart of other docu-

ments (as the Rome Statute, the EU Action plan and several Council statements) is available to general public in their website<sup>6</sup>. However, in order to cope with the mandate stemming from the new Common Position, it is suggested to increase the exchange of information, by holding meetings more frequently, as well as by reinforcing the council secretariat with more human resources (e.g. a full time focal point on the ICC). Finally the Secretariat considers that it would be welcome to meet more frequently with the ICC staff, eventually by joining some of the COJUR-ICC meetings.

Ratification and implementation of the Rome Statute:

By third countries: Since the adoption of the June 2001 Council Common Position on the ICC, the EU has carried out several demarches in third countries to encourage ratification and implementation of the Rome Statute and, at a later stage, to present the EU Conclusions and Guidelines on the ICC of 30 September 2002, concerning the conclusion of non-surrender agreements with the US. In particular, demarches to encourage the ratification and implementation of the Rome Statute have been developed under the Spanish Presidency (first semester of 2002) in 41 countries; under the Danish Presidency (2nd semester 2002), in 53 countries either to encourage the ratification and implementation of the Rome Statute or on the conclusion of non-surrender agreements; and under the Greek Presidency (1st semester 2003) demarches concerning 37 third countries took place either to encourage the ratification and implementation of the Rome Statute or on the conclusion of non-surrender agreements. The Italian Presidency (started 1 July 2003) has already made some demarches in the follow-up to the initiatives taken by previous presidencies.

Raising awareness on the ICC:

The Council as such does not support activities or organisations developing activities in the field. None the less, the presidency and representatives of the Council secretariat have at several occasions participated in different initiatives concerning the ICC and the EU presidencies.

## C. EU MEMBER STATES

EU Member States have been fully engaged in the setting up of the ICC, launching or supporting a wide range of activities aiming at the effective establishment of the ICC. At EU level, the Council of the Union adopted the Common Position 2003/444/CFSP that renews the Union's commitment on the ICC and a detailed follow-up Action Plan to implement the Common Position.

### AUSTRIA

Coordination of information:

Information is exchanged regularly between the Ministry of Foreign Affairs –MFA- and the Ministry of Justice –MJ-. Academics are also consulted and coordinated on specific issues. Developments are followed through the Council's ICC, the Coalition for the ICC –CICC- and the United Nations –UN- websites. Cooperation between the Austrian Government and the ICC is carried out by the MFA as a focal point<sup>7</sup>. In their opinion, in terms of coordination of information amongst the EU, improvements could be sought at the Council Secretariat.

Ratification and implementation of the Rome Statute:

By third countries: Austria has supported the initiatives and country strategies outlined at EU level and contributed to the EU list of experts submitting a list of three experts whose availability will be decided on a case-by-case basis. In bilateral negotiations with third states and following the EU Common Position, Austria includes the ICC ratification and implementation as part of a political dialogue.

Internal procedure: The Rome Statute has been already implemented and consultations with NGOs are taking place on a regular basis.

<sup>6</sup> Council website: <http://ue.eu.int/pesc/icc/default.asp?lang=en>

<sup>7</sup> Paragraph 8, Austrian Federal Law on cooperation with ICC Federal Law Gazette I No. 135/2002

**BELGIUM**Coordination of information:

Both the MJ and MFA are responsible for coordination of actions with the EU counterparts and with the ICC. Developments are followed through the UN, ICC and CICC websites. Belgium believes that coordination could be improved by launching a more dynamic website within the Council Secretariat aimed at facilitating exchange of information between EU members on their respective actions as they implement the Common Position.

Ratification and implementation of the Rome Statute:

By third countries: In accordance with the Common Position, Belgium has raised ratification and implementation of the Rome Statute in its bilateral negotiations with third states. It has supported several initiatives mainly in Central Africa (Congo, Rwanda, Burundi) and Central and Eastern European countries, and contributed to the legislative work with technical expertise, responding to requests by the ICRC, especially in Egypt, Slovenia, Slovakia, Hungary, Russian Federation and CIS Countries. Ensuring information is fluidly exchanged amongst EU MS about their activities would be beneficial (idea launched during the Belgian Presidency and currently not in use).

Internal process: Belgium was one of the first states to ratify the Statute already in 1998. The Law on cooperation with the ICC was adopted on 29th of March of 2004. The crimes under the statute were incorporated in the new penal code on 5th August 2003, in the last revision of the 1993 Law on Genocide, replacing the latter and all its amended versions.

Effective establishment of the ICC:

Belgium has contributed by payments to the Trust Fund. It has also supported training projects through funding to Avocats sans frontieres and the International Union of Magistrates.

Raising awareness on the ICC:

Belgium has included the ICC within the training program for Belgian magistrates and collaborates with the Red Cross and the French Speaking Bar Brussels Bar by offering experts for a training program for barristers. Belgium has been active in supporting or organising conferences<sup>8</sup>, meeting in a monthly forum with non-governmental organisations -NGOs- and releasing press statements.

The Minister of Foreign Affairs often meets with Media to explain the impact of the ICC and RS and insisting on the necessary universality of the ICC.

**DENMARK**Coordination of information:

The focal point for all coordinating measures with the ICC and within Denmark is the Department of Public International Law at the MFA in close coordination with the MJ and M of Defence. The Hague Embassy acts as a liaison with the ICC but the main contacts are carried out by the capital. The MFA is on a regular basis in close contact with national parties, being the Danish Governmental Red Cross Committee the main channel of communication between ministries, governmental agencies and the Danish Red Cross Society. Alongside, the MFA has an informal network with NGOs. To follow developments, they consult the Council's ICC website regularly.

Ratification and implementation of the Rome Statute:

By third countries: In accordance with the Common Position, the universal adherence to and implementation of the Rome Statute is promoted by Danish Government officials in all relevant negotiations and political dialogues with third States and in international political organisations. During the Danish EU Presidency in 2002 a number of demarches were presented to third States calling for support to and ratification of the Rome Statute. A EU delegation consisting of representatives from the EU Presidency, Germany, Greece, France, the Netherlands, the UK and the Commission went to Tokyo for an expert meeting (December, 2002), but also for other meetings bringing together EU experts, scholars, government officials and broader public. Representatives made presentations on the history of negotiations of the ICC Statute, national implementation legislation and constitutional aspects of ratification and challenges in the establishment of the Court, and participated as panellists in a public seminar on the final day.

Internal procedure: On 3 May 2001 the Danish Parliament ("Folketinget") adopted the Danish Act on the ICC, which led to ratification of the Statute on 21 June 2001. A draft version of this Act was consulted prior its adoption with public authorities and NGOs. No translation into UN languages of the Danish legislation is available.

#### Effective establishment of the ICC:

Denmark contributed in 2002 Euro 119.854 to the ICC and Euro 29.729 to the Working Capital Fund of the ICC. Denmark's general contribution to the ICC in 2003 was Euro 356.550. They have also contributed to the work of the NGO Coalition for the ICC in 1996 with 20.000 USD, in 1997-98 with 30.000 USD, in 2000 with 200.000 DKR in 2000, in 2001 40.000 USD in 2001 and in 2002 with 40.000 USD.

#### Raising awareness on the ICC:

National awareness of the establishment and future role of the ICC is high among politicians, governmental authorities, NGOs, journalists, other opinion makers and the general public. The Danish Government will continue to promote the general awareness of the Court, informing about major developments through the MFA website, and to organise seminars and training activities on the practical implications of its work.

### **FINLAND**

#### Coordination of information:

The Public International Law Unit of the MFA is in charge of the coordination functions with EU institutions, Member States and other actors. The MJ shall have the authority to receive and execute requests for cooperation from the ICC. Additionally, the ICC may contact competent Finnish authorities directly or through the International Criminal Police Organization or any other appropriate regional organization. It is still unclear whether a new Hague position will be created but the capital will remain in charge of most contacts. Finland welcomed the creation of the COJUR Sub-area ICC meetings and considers the role of the Presidency as a crucial one in preparing timely meetings between partners. The supporting role of the Council secretariat is important. The conference on the "Commission Support for the ICC" in Brussels on 28 and 29 January 2002 provided an opportunity to discuss the allocation of EC funds and future meetings of this kind would be useful.

Developments are followed through the ICC, UN, CICC and, occasionally, the Council's ICC websites.

#### Ratification and implementation:

By third countries: Finland encourages ratification and implementation principally through political dialogue with third states Finland has submitted a list of experts for a potential technical assistance on these matters. A more efficient use of the existing mechanisms (COJUR, EU list of experts) and the ideas identified e.g. in the EU Plan of Action could improve the results of the actions envisaged.

Internal procedure: The Statute has been implemented adopting two Acts<sup>9</sup>. The ratification was preceded by more than two years of preparatory work carried out with the help of an ad hoc advisory working group created for assisting the Ministries involved –MJ and MFA–, consisting of representatives of other relevant ministries and independent experts from the academic community. Information was available for comments by academics, lawyers and NGOs. Also, as a part of this procedure, the MFA and the Foreign Affairs Committee of Parliament organised a Seminar on the Establishment of the ICC<sup>10</sup>. Relevant parts of earlier implementing legislation and the two new Acts in their entirety have been translated into English and are available for consultation by others e.g. on request from the above mentioned contact persons at the MFA or on the website of the Council of Europe –CoE<sup>11</sup>. The unofficial translations will also soon be available in the FINLEX Data Bank<sup>12</sup> updated by the Finnish MJ.

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<sup>8</sup> Colloquium "Belgium and its international commitments (the legislation of implementation)" organised with AI, Barristers without Borders, Belgian Red Cross, CICC, Institute for International Law (University of Leuven), French and Dutch Speaking bars of Brussels, December 2001; Conference on "the fight against impunity for the gravest crimes" organised by the CICC in Brussels, March 2002. The Ministry of Justice, AI and CICC are planning to organise a new Colloque de Bruxelles to explain the Law on cooperation with the ICC around May 2004

<sup>9</sup> The so-called Implementing Act, and the Act on the amendment of the Penal Code

<sup>10</sup> Participation of international and national high-level experts, and attended by MPs, government officials, representatives of NGO's, scholars and journalists among others.

<sup>11</sup> Link to the document:

[http://www.legal.coe.int/criminal/icc/docs/Consult\\_ICC\(2001\)/ConsultICC\(2001\)13E.pdf](http://www.legal.coe.int/criminal/icc/docs/Consult_ICC(2001)/ConsultICC(2001)13E.pdf)

<sup>12</sup> Link to the FINLEX Data Bank: <http://www.finlex.fi/english/>

Effective establishment of the ICC:

Finland has contributed with 16700 euros to the Trust Fund for the Participation of the Least Developed Countries in the works of the PrepCom on the establishment of an ICC and the Diplomatic Conference of Plenipotentiaries, and with 75000 USD to the Trust Fund to support the establishment of the ICC.

Raising awareness on the ICC:

Apart of the aforementioned activities, several seminars have been co-organised by the MFA together with the University of Helsinki. The MFA has granted financial support to the campaign of the NGO Coalition for the ICC in 1998, 2000, 2001 and 2002.

**FRANCE**Coordination of information

The MFA is responsible for coordination of actions with the EU counterparts and with the ICC. Information is exchanged regularly between the MFA, MoJ and MoD. The French Embassy in The Hague acts as a liaison with the ICC but the main contacts are carried out by the capital. To follow developments, MFA, MoJ and MoD consult the Council's ICC website regularly.

Ratification and implementation of the Rome Statute

In accordance with the common position, the universal adherence to and implementation of the Rome Statute is promoted by French governmental officials in all relevant negotiations and political dialogues with third States and in international political organisations. An EU delegation consisting of representatives from the EU presidency, France, Germany, Greece, The Netherlands, UK and the Commission went to Tokyo for an expert meeting (December 2002) and meetings with a broader public. France will participate in the Chinese Society of International Law's symposium on comparative study of International Criminal Law and the Rome Statute to take place in Beijing on 15 to 17 October 2003.

Internal procedure

France was the 12th State to implement Rome Statute on 9 June 2000 (Parliament' Act of 30 March 2000). Cooperation between France and the ICC is settled by Law of 26 February 2002. Interministerial Committee is set up to incorporate exact definitions of crimes falling under jurisdiction of the ICC in the penal legislation and a bill will be presented to the Parliament by early 2004. The bill concerning the approval of the agreement of immunities and privileges of the ICC has just passed through the State Council's procedure and will be discussed at the Parliament soon.

Training is also an important element of the implementation of the Rome Statute. In The Ecole nationale de la magistrature (Magistrates' State School), International criminal law is a matter of the program.

Effective establishment of the ICC

France has contributed to the ICC and the NGOs promoting ICC issues. France has supported the ICC in many ways, i.e. in encouraging ratification of the Rome Statute through demarches and in striving for the protection of its integrity. France has established strong links with other States having in common the same legal tradition and system in order to cooperate on the implementation of the ICC Statute. France took an active role in the organisation of seminars in Cameroon, Senegal, Congo, Mauritius and Peru. France also largely contributed to the introduction of a special fund for victims and Mrs. Simone Weil has been elected as a member of its board.

Raising Awareness on the ICC

The French Government has contributed to raise awareness through NGOs actions and seminars, publishing information and has planned training activities through academic institutions as the Ecole nationale de la Magistrature. France played a significant role while SC resolution 1422 was and voted (including its renewal). France is a member of the " Friends of the ICC ".

**GERMANY**Coordination of information:

The main body responsible for ICC matters is the ICC task Force at the MFA. Information is shared on a case-to-case basis, by formal (COREU) and informal (e-mail, telephone, meetings) channels. Further coordination by a more regular exchange of information via COREU would be welcome. Developments are followed through the UN and the ICC websites, and occasionally, the Council's ICC link. The MJ is responsible for judicial cooperation. The legal adviser at The Hague Embassy is also in close contact with the ICC.

Ratification and implementation of the Rome Statute:

By third countries: Germany has supported demarches launched by the EU and on a bilateral basis, co-financed and participated in various governmental and non-governmental meetings and contributed to the legislative work with legal advice and translating its implementation legislation<sup>13</sup>.

Internal procedure: The Rome Statute was ratified by the Ratification Act and by way of amending the Constitution, art 16. The implementation was completed with the adoption the ICC-Cooperation Act and the Code of Crimes against International Law. During this process, the Government consulted expertise of academics and universities and worked with national and international NGOs. The legislation has been presented in several fora, including the Prep Com-CICC organised meetings.

Effective establishment of the ICC:

The Government has supported the ICC in many ways, inter alia by sending an IT-Consultant to the advanced team, by launching a Seminar for ICC-applicants through the MFA. The Government is of the opinion that the ICC is a crucial tool for international justice, but that excessive expectations will not be helpful.

Raising awareness on the ICC:

Germany has made available extensive documentation on the ICC<sup>14</sup>, and followed an open and proactive information policy to the interested public, including regular contact with media, NGOs and other relevant institutions. Germany has supported the campaign of international NGOs, including by funding certain activities. The so called 'German lunch', a regular meeting of the Like Minded Group of States and NGOs in New York during the negotiations, has also contributed to raising awareness and fostering ratification and implementation and enhancing coordination of ICC activities amongst participants.

## GREECE

Coordination of information:

As holder of the EU Presidency during the first semester of 2003, Greece has taken a leadership role in adopting the new Common Position at EU level for achieving further developments on the ICC, apart of promoting other issues of interest to the early establishment and good functioning of the Court.

Ratification and implementation of the Rome Statute:

Internal procedure: Following the ratification of the Rome Statute<sup>15</sup>, the MJ has set up an inter-ministerial committee to elaborate implementing legislation on cooperation with the Court and to incorporate those crimes falling under the jurisdiction of the Court not already provided for in the penal legislation<sup>16</sup> -mainly war crimes and crimes against humanity-. None the less, provisions concerning cooperation with the Court will be shortly styled taking into account the legislation implementing the Statutes of the ad hoc criminal Tribunals on former Yugoslavia and Rwanda<sup>17</sup>. The Commission for the Implementation and Dissemination of the International Humanitarian Law –IHL-, an inter-ministerial committee established in 2000 with a subdivision focused on the ICC, also makes recommendation on implementation issues.

Effective establishment of the ICC:

Greece has contributed financially to the first meeting of the Assembly of States Parties –ASP- and to the NGOs promoting ICC issues.

Raising awareness on the ICC:

The Greek Government, in cooperation with the academic community, organized on September 2000 a Colloquium in Santorini under the title: "International Criminal Court. A new dimension in international justice. Questions and prospects for a new humanitarian order"<sup>18</sup>. The academic community on its own has organized several seminars and conferences regarding the ICC for the benefit of its members, judges and legal practitioners.

<sup>13</sup> Link to the Max-Planck-Institute website: [www.iuscrim.mpg.de](http://www.iuscrim.mpg.de)

<sup>14</sup> Link to the Federal Foreign Office website: [www.auswaertiges-amt.de](http://www.auswaertiges-amt.de)

<sup>15</sup> Greece signed the ICC Statute on July 17, 1998 and ratified it by Law 3003/2002 (Official Gazette, A\_ 75/2002).

<sup>16</sup> Article 8 of the Greek penal code already provided universal jurisdiction of the Greek courts for, inter alia, crimes dealt with in international agreements signed and ratified by Greece.

<sup>17</sup> Reference of this legislation: Law 2665/1998, Official Gazette A\_ 279/1998

<sup>18</sup> The proceedings of this colloquium were published in 2002 (Ant. N. Sakkoulas Publishers).

**IRELAND**Coordination of information:

The main body for coordination and exchange of information is the Legal Division of the Department of the MFA and an officer in the Permanent Representation to the UN. The Joint Department of FA/NGO Standing Committee on Human Rights maintains regular exchanges of views and information with civil society (meets at least four times/year). NGOs with a specific interest can communicate directly with the Department of FA. Developments are followed through the ICC, the Council's ICC and the CICC and HRW websites.

Ratification and implementation of the Rome Statute:

By third countries: Ireland has supported initiatives at EU level, as it believes that these are the most effective means of enhancing support for the Court. In addition, the ICC is a regular item in bilateral discussions, in which Ireland's commitment is stressed, and similar commitment of its interlocutors is encouraged.

Internal procedure: The ICC Bill 2003, implementing the Rome Statute and the Agreement on the Privileges and Immunities of the ICC, was published in August 2003. The text has been available<sup>19</sup> to NGOs and other interested bodies, some of which have made comments on it. The Bill has been drafted in English and it is not envisaged to translate it into UN languages.

Effective establishment of the ICC:

Ireland has financially contributed to the participation of a delegate from a developing country to the meeting of the ICB in March 2003 and to a wide range of activities under the Human Rights and Democratisation (HRD) scheme<sup>20</sup>, by way of small projects that contribute to the capacity building of grass-roots organisations in developing countries. In July 2003 it contributed €50000 to the Institute for International Criminal Investigations, a body which provides training to persons involved in the investigation of possible war crimes. In December 2003, Ireland made a contribution of €20.000 to the budget of the Sana'a Intergovernmental Regional Conference on Democracy, Human Rights, and the Role of the International Criminal Court, organised by No Peace Without Justice and the Government of Yemen.

Raising awareness on the ICC:

Its involvement began early 2001 when, in the context of a referendum on the ratification of the Rome Statute, information was made available to the public. Since then, the Government has continued providing information including through the website of the Department of FA and through the media. With regard to training activities, a presentation and discussion of the ICC was included in the National Prosecutors Conference in May 2003.

**ITALY**Coordination of information:

No Task force on the ICC has been created; co-ordination of information is sought by a focal point on the ICC at the MFA. An expert's position in The Hague will be created. Developments are followed through the ICC and CICC websites. However, in their opinion, meetings should be arranged on a routine basis (at least once every semester) and when contingency measures suggest it, and the initiative in this field should rest on Member States, supported by the Commission in co-ordination with the Presidency with a view to enhancing the EU support to the ICC.

Ratification and implementation of the Rome Statute:

By third countries: Italy engaged in bilateral missions in 2001 with Japan and India and has contributed to the elaboration of a EU list of experts. Italy considers that, following the Plan of Action the EU could elaborate country and region specific strategies to be adopted by Council Decisions. Strategies should include co-ordination with the Commission actions, including financial support, in order to draft specific agendas to be negotiated with relevant Third States and regional organisations.

Internal procedure: An ad hoc Commission is still working within the MJ and is likely to complete a draft by June 2003<sup>21</sup>. No consultations with NGOs have taken place yet.

Raising awareness on the ICC:

The Government has contributed to raise awareness through NGO actions and seminars, publishing information and has planned to develop training activities through Academic institutions, in particular by the Consiglio Superiore della Magistratura, and seminars and conferences.

## LUXEMBOURG

### Coordination of information:

The MFA is in charge of exchanging information with EU institutions and Member States, and meets at least once a year with NGO's to discuss Human Rights issues including ICC matters. The MFA works in close contact with the MJ, Developments are followed through CICC, HRW, AI, The International Human Rights Law Institute and DePaul University websites.

### Ratification and implementation of the Rome Statute:

By third countries: This issue is a regular item on the agenda of the political dialogue following the EU guidelines and the EU common position.

Internal procedure: Luxembourg ratified the Rome Statute in September 2000.

### Effective establishment of the ICC:

The government has contributed to the "Trust Fund to Support the establishment of the ICC" and financially supports the CICC.

## THE NETHERLANDS

### Coordination of information:

The Task Force ICC, within the MFA, is in charge of co-ordinating all ICC actions and information, with Governments, the EU, ICC contracting parties, the ICC, the ASP, but also with NGOs and journalists. Developments on the ICC are followed through the websites of: the Council, ICC, CICC, HRW and AI. To improve co-ordination of information, The Netherlands has suggested: a. holding more frequent meetings of COJUR in order to intensify communication, notably in activities on support for the ratification and implementation process in third states; b. the creation of a permanent focal point in the Commission or the Council; c. to intensify the exchange of information between EU institutions, between the institutions and member states and between region-based working groups (COWEB, COLAT, COASI).

### Ratification and implementation of the Rome Statute:

By third countries: They encourage a long-term campaign and have elaborated specific approaches in Southeast Asian countries for ratification, and in Africa, the Middle East and Central America concerning implementation. Their policy seeks to: increase the number of States Parties to over 100 in 2003; achieve the full implementation of the Statute by the largest number of States Parties; to make the ICC effective by providing financial support to Least Developed States and NGOs; to send experts in IHL law to third states in demand of assistance; to raise the ICC by undertaking bilateral demarches, supporting the adoption by international or regional fora of statements and interventions in favour of the ICC. Representatives of the MFA and MJ have assisted, inter alia, Jordan, Andorra, Laos, Turkey and Japan. They would welcome more co-ordination among EU partners and to wholly implement the EU Action Plan.

Internal procedure: The Netherlands signed the Statute on 18 July 1998, ratified it on 17 July 2001, implemented it through the ICC (Implementation) Act, the Amendment Act and the International Crimes Act -a board of external experts, mainly scholars, was approached for consultation to the first draft- and will sign and ratify the Agreement on Privileges and Immunities of the Court soon. Both national Acts have been translated into English.

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<sup>19</sup> At the Government publication's Office and at the Oireachtas (Parliament) website -

<http://www.gov.ie/bills28/bills/2003/3603/default.htm>

<sup>20</sup> The objective of the HRD scheme is to assist the development of democratic processes and institutions and the promotion and protection of human rights in developing countries, done mainly through support for small-scale projects, which contribute to training and capacity building in these areas.

<sup>21</sup> The proposal at stake can be consulted in:

<http://www.senato.it/bgt/ShowDoc.asp?leg=14&id=00037567&tipodoc=Ddlpres&modo=PRODUZIONE> or  
[http://www.camera.it/\\_dati/leg14/lavori/stampati/sk3000/frontesp/2724.htm](http://www.camera.it/_dati/leg14/lavori/stampati/sk3000/frontesp/2724.htm) (Italian version)

Effective establishment of the ICC:

As host country, they bear a special responsibility for the effective functioning of the Court. The Netherlands has participated and supported the Advance Team and has provided financial support for the participation of delegates from LDCs at the Intersessional experts meeting in March 2002 and at the Inaugural Session of the Court. In addition, the Netherlands has granted 300000 USD for the ASP. After the unexpectedly rapid entry into force of the Statute and the early establishment of the Court they believe that if the Court is not able to manage the (unrealistically) high expectations created, it runs the risk to become perceived as irrelevant. They push for a prosecution and media strategy and encourage NGOs to continue their campaigns.

Raising awareness on the ICC:

The Netherlands has involved numerous influential people to disseminate information on the ICC; encouraged the development of national and international seminars and conferences; prepared a fact sheet on the ICC regularly updated and translated in Dutch, English, French and Spanish; supported a seminar in Chile in 2003, as well as in Burkina Faso, Zambia, Jordan, with parliamentarians, high ranked governmental and military officials; held conferences for national and international media; supported several Model United Nations conferences (LIMUN, MINUSH, THIMUN) ELSA activities and contributed financially to support the NGO Coalition..

**PORTUGAL**Coordination of information:

Information is exchanged via an Inter-governmental WG, coordinated by the MFA that includes people from MJ (GRIEC -Office for International, European and Development Relations and GPLP-Office for Planning and Legislative Policy) and the General Attorney. Developments are followed through the ICC and Rome Statute websites.

Ratification and implementation of the Rome Statute:

By third countries: In bilateral contacts and when possible they have been lobbying in favour of the Tribunal and against agreements that they believe distort the spirit of the Statute.

Internal procedure: After ratification of the Rome Statute, they are working in the implementation process. Consultations with NGOs are taking place, namely with the participation of AI.

Raising awareness on the ICC:

Activities undertaken by the Government have included involving influential people, encouragement of seminars and conferences organised by the Law Society and the Centre for Judicial Studies and foundations, and publishing general information and on the negotiations and the setting up process in *Diário da República* (Official journal) and *Boletim do Ministério da Justiça*. (a publication of the MJ). The Law Society and the Centre for Judicial Studies and foundations have promoted training activities.

**SPAIN**Coordination of information:

An Ambassador on ICC issues is responsible for coordination of information and activities related to the ICC. Besides, within the MFA, the UN Department is also closely involved in ICC issues. An inter-ministerial working group (Foreign Affairs, Justice, Defence, Interior, Attorney General's Office, etc.) facilitates coordination of international criminal justice issues. Cooperation and judicial assistance with the ICC will be assumed by the MJ. A diplomat is already based in The Hague Embassy dealing with international courts. Developments are followed through the ICC, UN, CoE, Council, CICC and PICT websites. Spain suggests the appointment of a focal point –in the Council Secretariat– to coordinate the flow of information and to follow-up to the decisions taken by the Council.

Ratification and implementation of the Rome Statute:

By third countries: The government has organised or supported several activities –Ibero-American Encounter on international criminal justice (Madrid, May 2000), Euro-Mediterranean Conference on the ratification and implementation of the Rome Statute (Seville, February 2002), Ibero-American Conference on the ratification and implementation of the Rome Statute (Mexico City, March 2002) and Euro-American Conference of Parliamentarians on the ICC (Madrid, June 2002)- and has included this issue in political dialogues with third countries, mainly Ibero-American, bilaterally and in the context of the Spanish Presidency of the EU (2002). Contribution to the legislative work has been provided by information and documents to countries that have requested so, mostly Ibero-American and Central-Eastern European countries. In their opinion, the EU should coordinate with the CoE to avoid duplication of work in compiling implementation laws and drafts and in assisting countries in the larger European region in preparing their implementing legislation.

Internal procedure: The Rome Statute is part of the Spanish legal order. The Law on Cooperation with the ICC “Ley Orgánica 18/2003 de Cooperación con la Corte Penal Internacional (was published in the B.O.E. on 11/12/2003. The penal code was amended and the crimes under the Rome Statute were included, in particular, crimes against humanity. The new reform was adopted by the law, Ley Orgánica 15/2003, modifying the LO 10/1995.

The NGO Spanish Platform for the ICC and other involved NGOs are kept informed and the MFA holds regular exchanges of views with NGOs since 1998. The relevant legislation is being translated into English.

Effective establishment of the ICC:

Spain has supported the Advance Team and developed training programmes through EU funds, as well as supported conferences and meetings. They have also tried to inform the public, parliamentarians and relevant professional circles, about the real possibilities and limitations of the initial activity to be expected from the ICC, especially in the first years.

Raising awareness on the ICC:

The Government has funded many activities on this regard, especially since 1998 cooperating with public and private institutions, These activities have taken place in various Spanish cities and towns (including Madrid, Barcelona, Seville, Bilbao, Málaga, Zaragoza, Santander, Huelva and others), through the cooperation with a number of public and private institutions, mainly universities, lawyers’ societies, the Spanish Red Cross, military academies, human rights associations, the NGO Platform for the ICC, etc.

## SWEDEN

Coordination of information:

A team of diplomats and other experts (from the MFA and MJ) work on ICC issues in close coordination, exchanging information. A diplomat is also based in The Hague Embassy, supporting their work. Developments are followed through the ICC, Council, UN and CICC websites. Sweden proposed to appoint a focal point for ICC within the EU –currently under consideration-.

Ratification and implementation of the Rome Statute:

By third countries: Sweden has supported ratification and implementation efforts

in many ways, through conferences abroad<sup>22</sup> and internally, but also by sending experts and contributing to the legislative work of thirds states, mainly on legal- technical matters<sup>23</sup>. Nordic cooperation has also been important on these matters. They have contributed to the EU list of experts. Nevertheless, in their opinion, ensuring coordination among the organisations involved in similar projects should be a priority since there is an obvious risk of overlapping efforts and double work, for example in the production of background material. One experience from these initiatives is that effective discussions on ratification and implementation respectively might require different target groups, preferably policy makers and interests groups in some cases and legal experts in other cases. The practical set-up for a meeting should possibly also be different, e.g. a conference setting for policy discussions and a round table format for legal-technical issues. Acknowledging the importance of public meetings, yet, closed sessions might be more conducive for frank discussions regarding more legal technical aspects of ratification and implementing legislation. Many events, however, have had mixed ambitions and were therefore probably not as effective as they could have been. Maybe a division of labour in respect of more policy oriented and more law oriented efforts should be considered and meetings be designed differently depending on the target group and the aims, although nothing hinders that meetings are held at the same place and time (e.g. for logistical and financial reasons). In general, coordination of efforts of this kind is hard to achieve but there are still good reasons for making such attempts. In this regard, the NGO Coalition is playing an important role. Nevertheless, States should also promote coordination in their support, individually and collectively, to ratification and implementation initiatives.

<sup>22</sup> Conferences on ICC in Ghana (2003), China (2005) and the Philippines (2004)

<sup>23</sup> Meetings in e.g. Romania (2005), China (2005) and Germany (2004)

Internal procedure: Sweden has already adopted the Cooperation with the ICC Act (2002:329) and amended other related acts<sup>24</sup>. Additionally, the Cooperation with the ICC Ordinance (2003:69) was also adopted. During this process, NGOs have been consulted. Both Acts and other pieces of legislation also relevant to the Court have been translated into English.

Effective establishment of the ICC:

Sweden has engaged in awareness-building efforts with the National Court Administration, the Prosecutor General's Office and the Swedish Bar Association. These efforts include information on career opportunities in the Court and on the establishment with the International Criminal Bar. The Swedish Government has provided some financial support to international initiatives aiming towards the development of training programmes.

Raising awareness on the ICC:

Provided financial support for training programmes, published information about the ICC, the Rome Statute and the EU and Swedish view on the MFA web site and on the Government's special human rights web site. Experts from the MJ and the MFA have provided lectures in universities and military academies, as well as for the public and NGOs. Sweden is financially supporting the CICC and the Institute for International Criminal Investigations.

#### **UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND**

Coordination of information:

Information is exchanged through the United Nations Department (War Crimes Section) of the Foreign & Commonwealth Office and the British Embassy in The Hague. Developments are followed through the Council, ICC, CICC and other websites. Information received through COREU is satisfactory.

Ratification and implementation of the Rome Statute:

By third countries: The UK has supported conferences and training<sup>25</sup> initiatives: Wilton park Conferences 2001/2003; financial assistance to and participation in NGO fora e.g. Tokyo Conference 2002, Beijing Conference 2003<sup>26</sup>, Sanaa Conference 2004; Training initiatives with UK Bar Association (2002/3); Nottingham University - a course in June 2003 for legal officials (mostly from Africa and Eastern Europe) involved in drafting implementing legislation. The UK intends to build on this by co-funding a similar course in South Africa this summer and is working with the Commonwealth Secretariat on a project to produce and disseminate model ICC implementing legislation.

The UK would encourage further co-ordination, based on type of judicial system, in setting up training programmes to help third countries complete their legislation. We would also encourage non-EU states who have completed domestic legislation to conduct their own assistance programmes.

Internal procedure: The Rome Statute was enacted by the ICC Act in 2001 before the UK ratified the ICC Statute, and during this process, consultations with NGOs were extensive. The Act is available with explanatory booklet as a public document.

Effective establishment of the ICC:

The UK has supported the participation of delegates from LDC in the first meetings of the ASP, the advanced team in The Hague<sup>27</sup>, a Bar Association Conference on Code of Conduct for Prosecutors (2002) and a Redress Conference (later in 2003) on Advisory Guidelines for Board of Directors, Victims' Trust Fund.

Raising awareness on the ICC:

They have involved influential people, published a handbook 'UK and International Humanitarian Law' (2001), released media briefings and informed NGOs on the negotiations and setting up process.

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#### **D. NEW EU MEMBER STATES AND OTHER ASSOCIATED COUNTRIES**

The EU Accession countries or soon new member States are playing as well an important role in the effective establishment of the ICC, launching and supporting Conferences and seminars on ICC-related issues, meanwhile they continue drafting and examining draft laws for implementing the Rome Statute into their domestic legislation.

#### **CYPRUS**

(Not available)

## Czech Republic

Ratification and implementation of the Rome Statute:

Internal procedure: The Czech Republic has aligned to the EU Common Position, although it remains the only EU Member State not a State Party to the Rome Statute. The Czech Parliament shall include the issue of the ICC in its agenda and decide on a possible amendment to the Constitution in 2004. Implementation of the Substantive Law will have to wait for the re-enactment of the Criminal Code, anticipated to come into force on January 1, 2005.

## ESTONIA

Coordination of information: The Legal Department of the MFA is in charge of the overall ICC related issues, being its Deputy Under-Secretary the focal point to coordinate measures and exchange information with EU, CoE, NGOs etc. The Legal Department of the MFA works in close contact with the MJ, in charge of the implementation of the Rome Statute.

Ratification and implementation of the Rome Statute:

By third countries: There was extensive exchange of views in the process of ratification in the Central and Eastern European countries. More regionally, the MFA of Estonia and Latvia have had extensive exchange of information in the ratification as well as in the implementation phase and expect to participate more in these activities as a EU member state.

Internal procedure: Estonia has adopted the implementation legislation simultaneously with the ratification of the Rome Statute; therefore it is now part of the Code of Criminal Procedure.

Effective establishment of the ICC: Due to limited resources, they take part in these activities in the framework of the EU, at present as accession countries and from May 1, 2004 as member states.

Raising awareness on the ICC: There have been several seminars and conferences on the ICC during 2003, especially organised by university students and sponsored by the Government. Topics related to the ICC, although in relation to art 98 Agreements, were extensively at the attention of the media, which conversely has significantly raised the awareness of the public on ICC.

## HUNGARY

Ratification and implementation of the Rome Statute:

Internal procedure: The MJ has elaborated a legislative portfolio, to be submitted to the Parliament by the end of July on:

- Amendments to the Constitution, concerning the implementation of the Rome Statute, the delegation of constitutional competences and the status of the president -his immunity does not exclude his responsibility for crimes under the jurisdiction of an international court recognized by Hungary.
- Promulgation of the Rome Statute including a clause on judicial co-operation in criminal matters with the ICC.
- Amendments of Public Prosecution; State Audit Office; Status of Members of Parliament; Ombudsman; Armed Forces and Administration and Organization of the Courts Acts<sup>28</sup> concerning immunities and special procedural rules.

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<sup>24</sup> Act (1994:569) on Sweden's Cooperation with the International Criminal Tribunals for Crimes Against International Humanitarian Law, the Immunities and Privileges Act (1976:661) and the Secrecy Act (1980:100)

<sup>25</sup> University of Nottingham, UK Bar Association (2002/3)

<sup>26</sup> Tokyo Conference 2002, Beijing Conference 2003

<sup>27</sup> Two way visits, dialogue on specific areas, as technical security, visits by UK experts e.g. Legal Librarian

<sup>28</sup> The referred laws are: Act V of 1972, Act VIII of 1989, Act LV of 1990, Act LIX of 1993, Act CX of 1993 and Act LXXVI of 1997

**LATVIA**Co-ordination of information:

Accordingly to the Article 4 of the Law accepting the Rome Statute of the International Criminal Court, adopted in 20 June 2002, Latvia has designated the Ministry of Justice as the authority, which internally and externally co-ordinates necessary measures for ensuring the commitments arising from the Rome Statute. Thus, co-ordination activities also involve co-operation with other ministries and authorities mainly - General Prosecutor's Office and the Ministry of Foreign Affairs.

Ratification and implementation of the Rome Statute:

Latvia in 2001 began ratification process of the Rome Statute. According to the Latvian legal system the Rome Statute gained force of law after passing the law in parliament (Saeima) accepting the Rome Statute. The law adopting the Rome Statute generally integrated it into the whole legal system and was adopted in 20 June 2002 and the Statute entered into force in respect of Latvia on July, 2002.

Ratification of the Statute created necessity of amendments of the national legislation. Amendments were made in the Code on Criminal Procedure, supplementing it with Chapter 12 "International co-operation in criminal matters", determining basic principles of international co-operation in criminal matters, particularly regulated surrender of persons to international courts, procedural protection e.c. Other legislative provisions as the substantive norms of the Criminal law generally were found as aligned with the Rome Statute.

Effective establishment of the ICC:

- a) The judicial training centre and the Prosecutor Office organise seminars and lectures for judges and prosecutors on the theme of the International judicial co-operation, mentioning in the set of lectures the theme on the ICC;
- b) Information is published in the law journals, as well discussions on the implementation of the Rome Statute, its conformity with national legislation, correspondence with EU institutions, EU Member States, donors and NGOs facilitate raising awareness of the ICC.

**LITHUANIA**Coordination of information:

Information is exchanged with EU institutions and Member States through the European Council Working Groups (on Public International Law and on the ICC), UN Working Party and Working Party on Human Rights, and with NGO representatives through national officials. The MJ and the General Prosecutor's Office are in charge of international co-operation and judicial assistance. Developments are followed through UN and CICC websites. Lithuanian representatives attended two consultation meetings on the implications for CoE Member States of the ratification of the Rome Statute<sup>29</sup> and in a Regional conference on the implementation of the Rome Statute<sup>30</sup>.

Ratification and implementation:

Internal procedure: The Rome Statute was ratified on 1 April 2003 and the instruments were deposited on 12 May 2003. Prior to the ratification national legislation has been harmonised with the provisions of the Statute<sup>31</sup>.

Effective establishment of the ICC:

The MJ organise a Conference on the "International Criminal Justice" for judges, prosecutors, officials and counsels hold in Vilnius on 7 March 2002.

**MALTA**Coordination and exchange of information:

The main channels to exchange information are the MFA and, on legal issues, the Office of the Attorney General. Developments are followed through the UN, ICC, CoE, CICC and LCHR websites.

Ratification and implementation of the Rome Statute:

By third States: Malta supported the efforts of NPWJ to promote the ratification of the Statute and associated itself with EU positions on the subject.

Internal procedure: Principal legislation on assisting the Court has been enacted, in November 2002<sup>32</sup>, and further implementing regulations are in preparation.

Raising awareness on the ICC:

The Department of Information published a press release on the 27th July, 1998 (No.1345) under the heading "The MJ signs the Statute of the Permanent ICC" and another press release 2nd December, 2002 (No.1686) under the heading "Malta ratifies the Rome Statute of the ICC", indicating that 29th November, 2002 the Malta's Permanent Representative in New York deposited the Instrument of

Ratification. The local media followed and reported on the events regarding the entry into force of the Rome Statute, 1 July 2002, and the subsequent establishment of the ICC. Alongside, ICC vacancies were given publicity.

## **POLAND**

### Coordination of information:

The central authority responsible for exchange of information with EU is Office for the Committee of European Integration (Urząd Komitetu Integracji Europejskiej), which distributes, if necessary, relevant information to the MFA and MJ -in charge of requests from/to the ICC-. Developments on the ICC are followed through the ICC, the CoE and the CICC websites

### Ratification and implementation of the Rome Statute:

By third countries: After signing the Rome Statute Poland prepared a strategy for the subsequent steps to ratify and implement the Rome Statute.

Internal procedure: The draft on the co-operation with the ICC is subject to consultations<sup>33</sup>. Under analysis are the substantive criminal law provisions of the Rome Statute.

## **SLOVAKIA**

### Coordination of information:

The main channels of communication with the EU are the MJ -Private International Law and International Judicial Assistance Division, Section of Criminal Law, the MFA -International Law Department-, General Prosecution Office and the Slovak Bar (Counsel) Association. Developments are followed via the UN, CoE the Council's ICC and the ICRC websites.

### RATIFICATION AND IMPLEMENTATION:

Internal procedure: The Rome Statute has been implemented by the Laws No. 253/2001 (effective as of 1st August 2001), on extradition or surrender Slovakian citizens if this obligation stems from the international treaty or the binding decision of the international organization, and 421/2002, that amend the Penal Code. Among other provisions, the later Law considers that "acting under lawful orders" will not constitute full defence in case of genocide and crimes against humanity; introduces the universal jurisdiction principle also for crimes against humanity; allows to impose sentences of life imprisonment under certain conditions in case of crime against humanity; includes the responsibility of military commander (including "should have known" responsibility) and other superior for war crimes, crimes against humanity and crime of genocide. On the other side, the Code of Criminal Procedure (Law No. 422/2002) has been amended to include the ICC among the Foreign Authorities to cooperate with in case of receiving a request of extradition. Nevertheless, there is an ongoing process to recodify substantive and procedural penal law including new drafts of the Penal Code and the Code of Criminal Procedure.

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<sup>29</sup> Organised by the CoE in Strasbourg in May of 2000 and September 2001

<sup>30</sup> Held in Budapest on 6-8 June 2002.

<sup>31</sup> The new Criminal Code of the Republic of Lithuania (adopted on 26 September 2000) provides punishment for all crimes over which the ICC has jurisdiction. The new Code of Criminal Procedure (as of 14 March 2002 articles 67, 71 and 77)

<sup>32</sup> The ICC Act providing assistance to the Court is Nr XXIV of 2002 (Chapter 453 of the Laws of Malta), also available at <http://www2.justice.gov.mt/lom/>

<sup>33</sup> This information was provided in July 2003

**SLOVENIA**Coordination of information:

Information is exchanged with EU and its Member States through the Government Office for European Affairs, and with NGOs directly. Developments are followed through the UN, CICC, HRW and AI websites among others.

Ratification and implementation of the Rome Statute:

By third states: Slovenia has participated at conferences and seminars organised by NGOs and States on the exchange of information on implementation process (Zagreb, Budapest) and contributed to legislative work exchanging information when asked.

Internal procedure: Procedural part of cooperation the ICC is regulated in a special law -Cooperation between the Republic of Slovenia and the ICC Act<sup>34</sup>-. Substantive part of the Rome Statute's regulation will be adequately implemented in Slovene Penal Code, by changing the definition of criminal offences against humanity and international law. These amendments could be presented by the end of September.

Effective establishment of the ICC:

Training of judges and prosecutors is carried out in the framework of Centre for training of judiciary, established by MJ, Supreme Court, Supreme State Prosecution Office and Constitutional Court, and performed in yearly schools of criminal, civil etc. law.

Raising awareness on the ICC:

After ratification of the Statute, representatives of the MJ, professors of criminal and international criminal law have participated in public debates, radio and television broadcasts, to draw public attention to the importance of an independent ICC. Before proposing the Cooperation Act to the Parliament, the Government held a press conference to introduce its draft to journalists. After the first USA proposal of a "non surrender agreement" in 2002, Slovene Government stated its standpoint before journalists remarking their commitment for a strong and independent ICC and that USA proposals were not in accordance with the Rome Statute and the provisions of their Constitution.

**BULGARIA**Coordination of information:

Information is exchanged via the Bulgarian embassies in the Member States, the Permanent Mission to EU in Brussels and the embassies of Member States in Sofia and attending to meetings between Ministers of FA and representatives of the European Commission on issues related to the ICC. Developments are followed through Bulgarian Permanent Mission to the UN in New York; the Embassy in The Hague and emails sent by the European Coordinator of the ICC. In their opinion, information should be directly sent to experts who are national contact points on the ICC.

Ratification and implementation of the Rome Statute:

The MFA has prepared expert opinion to promote the ratification of the Rome Statute and its implementation. In their opinion, information about the implementation of the Rome Statute in other states and about seminars and regional conferences should be shared amongst States.

Effective establishment of the ICC:

Representatives of the MFA participate in the sessions of the ASP.

Raising awareness on the ICC:

Bulgaria has promoted awareness on the ICC publishing information and informing civil society and key journalists on the developments of the negotiations and the setting up process.

**ROMANIA**Coordination of information:

Exchange of information and coordination of measures is carried out via the MFA and the MJ, also in charge of receiving requests, their sending to competent national judicial bodies and communicating the requested answers and documents to the ICC.

Developments are followed through the UN, ICC, ICJ, CICC, HRW, LCHR websites.

Ratification and implementation of the Rome Statute:<sup>35</sup>

By third states: In May 1999, HRW promoted, in co-operation with the Romanian Supreme Court of Justice and ICAR Foundation, the signature and ratification process, through meetings with lawyers from MJ, Constitutional Court, Chamber of Deputies, Senate, MFA and the Presidency.

Internal procedure: The Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treaties it is a party. Regarding other regulations: the Draft of the Criminal Code,

under Parliament debates, criminalized in Chapter I, entitled Crimes against humanity, the genocide, cruel or inhuman treatments and crimes against humanity committed in war time which includes also the detonation of nuclear weapons or nuclear devices; law 296/2001 on extradition states that in case of a national surrender request based on special international acts such as international tribunals statutes, the national surrender for the prosecution and trial by such a tribunal will follow a special legal procedure designed by the MJ.

Raising awareness on the ICC:

Romania hosted the Conference on ICC Implementation in Central and Eastern Europe organized by International Criminal Law Society in Bucharest from 9-11 May 2003.

#### **TURKEY**

Turkey has not signed and has not acceded the Rome Statute, nor has the Government aligned to the EU Common Position. Yet, an amendment to the Constitution could lay the grounds for Turkey's accession to the ICC.

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### **E. OTHER STATES**

Apart of the EU Member States, several third countries have also played an important role in the effective establishment of the ICC, and continue developing initiatives aiming at achieving the ratification and implementation of the Statute by other countries. Recently, an Argentine, Mr Luis Moreno Ocampo was elected the first Prosecutor of the ICC.

#### **ARGENTINA**

Since 1993 Argentina has been involved in the setting up process occupying chairmanships in the Ad Hoc Preparatory Committee, in the Diplomatic Conference and in the PrepCom and taking part of the Like Minded Group. They have already expressed their continued commitment in this next stage.

Exchange of information:

Information is exchanged with EU, Member States diplomats and officials and NGO's involved (CICC, HRW, AI) through its Missions in New York, The Hague, Washington, Brussels and participating in meetings<sup>36</sup>. Developments are followed through the ICC, UN and CICC websites. Nevertheless, they highlight that the EU should be more involved to achieve a better information sharing and cooperation taking into account the opposition of the US.

Ratification and implementation of the Rome Statute:

By third countries: Argentina has organised a Regional Seminar in 2001, with the participation of Representatives of Governments and civil society from all Latin American countries and experts from European countries and two seminars<sup>37</sup> addressed to Members of Parliaments. Since Argentina was the first Latin American country to draft implementing legislation, it has been taken as an example by other countries (e.g., Ecuador, Uruguay, Brazil), and has published it in collaboration with NGO's. The draft implementing legislation has included provisions for NGOs bringing cases to the ICC –special procedure to refer cases falling outside the jurisdiction of Argentina's judiciary- and supporting victims - appointment of recognised experts-They appoint to improve coordination of actions to enhance awareness of the need of ratification and implementation, and the approval the necessary legal reforms, among Members of Parliaments organising seminars and similar events, and lobby on these questions. Official documents can be found only in Spanish. They have given the possibility of offering expertise on legal and forensic fields.

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<sup>34</sup> Published in the Official Gazette of Republic of Slovenia, No. 96/02, November 14, 2002.

<sup>35</sup> Law 111/2002 on the ratification of the ICC Rome Statute, published in the Official Monitor 211/2002

<sup>36</sup> Inter sessional meeting of the ICC PrepCom in Syracuse, Italy, February 2000, hosted by the ISISC and financed by Italy; Regional Seminar for Latin America, in Buenos Aires, June 2001, organised by Argentina's MFA and MJ, HRW and CICC and partially funded by France.

<sup>37</sup> Supported by the MFA and organised one by PGA, November 2001, and the other by the ICRC, September 2002

Raising awareness on the ICC:

The Government has informed civil society by press releases, organised seminars and similar events, consulted academic institutions and NGO's in the drafting of the implementing legislation, etc. People involved in the implementation process<sup>38</sup> have participated in events in different countries to expand the awareness of the need of implementation.

**CANADA**Exchange of information:

Communications are conducted primarily through the Legal Bureau of the Department of FA and International Trade -also liaison officer with other donors and NGOs-, in the UN, Human Rights and Economic Law Division. Development are followed through the ICC, the Council's ICC and the CICC websites

Ratification and implementation of the Rome Statute:

By third countries: In 2000, Canada launched an ICC Campaign to provide funding to projects, especially in under-represented regions and also on the effective function of the Court; and to conduct education and outreach focusing on national-level training. To date, Canada has provided legal expertise and over C\$2,000,000 to over 50 projects on the ICC, including some 20 regional and national ratification and implementation seminars and workshops, and has sponsored country-specific ICC ratification and implementation work by civil society<sup>39</sup>, among them the ICC Global Campaign-CICC (2000-01); the ICC Ratification and Implementation Workshop: Caribbean Countries – Jamaica (2001-02); the Conference on the creation of an ICB before the ICC – ICDA (2002-03); or Regional Campaign Towards More Ratification and Effective Implementation of the ICC Statute in Asia - Forum Asia (2003-04) The ICC Campaign also assists interested countries to draft implementing legislation providing funding and legal expertise. The Canada implementing legislation is distributed and consulted at these events. They proposed to establish a more formal, permanent focal point through which monitor ICC projects to strategize efforts before projects are approved and undertaken.

Internal procedure: The Crimes Against Humanity and War Crimes Act was adopted in June 29, 2000. Representatives of civil society (AI, HRW, LCHR, Women's Caucus for Gender Justice, World Federalists) submitted their comments before the House of Commons Standing Committee on FA and International Trade, which were incorporated into the Act. This Act is available in English and French<sup>40</sup>.

Effective establishment of the ICC:

Canada has funded participation of representatives of civil society during the preparatory negotiations of the Rome Statute, a comparative study on the Victims and Witnesses Unit and style ICC workshops for members of local and regional legal professions and has helped finance the recent ICC judges' orientation in the amount of C\$50,000. Also they have sponsored experts' consultations on the Privileges and Immunities and Financial Rules and Regulations of the ICC. Currently, they are examining means to increase the participation of developing nations in the ICC process. Canada is aware of the need to manage expectations on the Court, especially during the crucial initial period of its operation, and discussed on this issue during the Vancouver Dialogue held in Spring 2002

Raising awareness on the ICC:

Apart of the abovementioned activities, they have involved influential people as the Honourable Bill Graham, and President Philippe Kirsch, developed training activities (recently in the University of Nottingham), published information (Manual on the Ratification and Implementation of the Rome Statute), set a website on the ICC<sup>41</sup>, sponsored civil society to deliver the ICC Public Awareness Program in 2001-02 to further Canadians' awareness of the Court, launched Education campaigns in Canada and the Middle East, and informed NGOs and key journalists on the negotiations and setting up process.

**MEXICO**Exchange of information:

The Government holds informal consultations through the MFA and remains in close contact with the Mexican CICC. Information on ICC is available upon request to the Office of the Legal Counsel, MFA. Developments are followed through UN, ICC, CICC, NGOs (AI, Lawyers Committee for Human Rights) and, occasionally, the Council of Europe's ICC and European Commission websites.

Ratification and implementation of the Rome Statute:

By third countries Mexico has actively promoted ICC issues<sup>42</sup>, including it in bilateral consultations and State visits, and promoted a common position to support the Court within the Rio Group, GRU-

LAC and UN. It is currently supporting the convening of a Conference of Experts on the Rome Statute and its impact in national legislations of Latin-American countries<sup>43</sup>. In their experience, supporting national processes of ratification of the ICC Statute require more than political contacts with the Executive Branch: Efforts need to be more coordinated among Governments, NGOs and individuals pursuing the same goal to avoid a waste of resources being Media campaigns fundamental to create awareness among public. They have also remarked the important and useful support given by the EU to act in this issue.

Internal procedure: Priority is given to the ratification process; however, they are also planning the implementation phase.

Effective establishment of the ICC:

The Government has been very clear in explaining the Court's role and challenges to avoid expectations among civil society and political actors. Moreover, media does not follow ICC issues remaining public perception very low.

Raising awareness on the ICC:

Apart of the abovementioned activities Mexico has participated in academic gatherings, involved influential people, published information and launched media/education campaigns.

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## F. INTERNATIONAL ORGANISATIONS

International governmental organisations contribute to the effective establishment of the ICC organising seminars conferences and workshops, as well as supporting Member States legal departments in drafting the implementing legislation to adequately introduce the provisions of the Rome Statute within domestic dispositions.

### Council of Europe -CoE-

The CoE started its involvement in this issue in 1992 adopting the Recommendation 1189 on the establishment of an international court to try war crimes. In the next stage of the ICC, they will continue to foster co-operation and exchange information on the ICC.

Exchange of information:

Information is exchanged with the EU institutions through consultation meetings where the EU Commission participates as observer, and with the 25 EU Member States, all of which are also members of the CoE. Developments are followed through the ICC, UN's ICC websites and the list serve of CICC and by attending to meetings<sup>44</sup>. Assessment on the ICC is provided through its website<sup>45</sup>. However, they suggest that the EU should appoint an ambassador-at-large for the ICC.

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<sup>38</sup> A contact list of the persons involved could be provided if requested

<sup>39</sup> Due to the lengths of the granted projects, herewith are indicated some projects. For further information: ICC Campaign Coordinator, Mike Perry: (613) 944-8004 / [mike.perry@dfait-maeci.gc.ca](mailto:mike.perry@dfait-maeci.gc.ca).

<sup>40</sup> Copies of the Act are available through the Queen's Printer and on-line through the Department of Justice (<http://laws.justice.gc.ca/en/C-45.9/> / <http://lois.justice.gc.ca/fr/C-45.9/index.html>) and on Canada's ICC website ([http://www.dfait-maeci.gc.ca/foreign\\_policy/icc/crimes-en.asp](http://www.dfait-maeci.gc.ca/foreign_policy/icc/crimes-en.asp) and [http://www.dfait-maeci.gc.ca/foreign\\_policy/icc/crimes-fr.asp](http://www.dfait-maeci.gc.ca/foreign_policy/icc/crimes-fr.asp)).

<sup>41</sup> Link to the website: [www.icc.gc.ca](http://www.icc.gc.ca)

<sup>42</sup> Regional expert meeting to promote ratification of the ICC Statute, co-organized with the Spanish Presidency of the EU and NPWJ, Mexico City, March 2002

<sup>43</sup> Organized by a private centre of criminal studies it will be held in Mexico City, from 18 to 22 August 2003

<sup>44</sup> The CoE has attended to meetings of Europe Aid, ICRC, ICB and NGOs

<sup>45</sup> Link to the website devoted to the ICC: [www.coe.int/tej](http://www.coe.int/tej) (English and French version)

Ratification and implementation of the Rome Statute:

The CoE has launched European Consultation meetings on “the implications of the ratification of the Rome Statute in the domestic legal order of Member States” in 2000, 2001 and 2003 contributing this way to the legislative work and its bodies hold various activities in this regard:

- The Committee of Legal Advisers on Public International Law (CAHDI)<sup>46</sup> periodically reviews developments concerning the Rome Statute and the ICC and in their meetings has participated, among others, ICC Judge Kourula<sup>47</sup>, equally President Kirsch participated in the meeting in September 2003.
- The Parliamentary Assembly has organised debates at its plenary Sessions and adopted several Recommendations and a Resolution on this issue<sup>48</sup>.

Apart of its Member States and observers (Canada, Holy See, Japan, Mexico, USA), other observers and organisations participate in specific committees and/or activities<sup>49</sup>.

In their opinion, the most effective means to implement legislation are generally expert assistance, seminars and ICC constituencies. However, a clearer distribution of tasks/roles of different organizations should help to improve the current functioning.

Effective establishment of the ICC:

The CoE has attended to ASP meetings, supported the Advanced Team, contributed to victims support through assistance to Member States and replied queries/organised awareness raising activities to differentiate the ICC from the ECHR.

Raising awareness on the ICC:

The CoE has launched and supported activities involving influential people, developing training activities, publishing information and informing NGOs on the development of the negotiations and the setting up process.

**International Committee of the Red Cross -ICRC-**

The ICRC has supported the establishment of the ICC since the beginning and has actively contributed as expert in IHL. In this new phase, the ICRC will continue to incentive States to ensure that national courts have jurisdiction to try persons suspected of genocide, crimes against humanity and war crimes and to review their national criminal law, to ensure it provides for punishment of all serious violations of IHL.

Exchange of information:

The Advisory Service on IHL is the body in charge of exchanging information and providing assessment in the framework of its bilateral contacts and advisory activity to the concerned national authorities. Where countries have set up specific national committees or similar advisory bodies for IHL<sup>50</sup> the information is primarily shared through these Committees and experts conferences, national or regional meetings or seminars<sup>51</sup>. This Service has also prepared and circulated materials on obligations flowing from ratification of the ICC Statute and on adopted or draft implementing laws and on criminal legislation to punish crimes of international law, in particular war crimes<sup>52</sup>. Contacts with EU institutions have been developed with the Council of the EU "Judicial Commission" and, more particularly, with its Subgroup on the ICC. Developments on the ICC are followed mainly by regional or national events<sup>53</sup> and the official information circulated by the ICC itself, UN, regional organizations and NGOs, in particular CICC.

Ratification and implementation of the Rome Statute:

By third States: Among other initiatives<sup>54</sup> the ICRC has promoted or supported:

- Presentations and raising of questions during bilateral contacts
- Technical/legal advice on Member States obligations and legislation to repress international crimes
- Sharing of information on the implementing legislation by different States
- Inclusion of questions related to the punishment of war crimes in agendas of national or regional meetings, seminars and workshops
- Preparation and circulation of technical materials (i.e. ratification kit) to particularly small States with small legal departments and minimal expertise
- Providing or financing translations of official documents on a case-to-case basis and upon request. As most effective means to support implementing legislation, the ICRC has identified the sharing of information on already adopted measures and on practical and technical solutions to specific questions arising from obligations for States party. However, in their opinion, coordination might be improved reinforcing exchange of information on action/initiatives taken/planned and materials published.

#### Effective establishment of the ICC:

The ICRC has supported training programmes for judges, prosecutors and legal staff in countries that have domestic criminal legislation to punish violations of international humanitarian law<sup>55</sup>. Victims of serious violations of international humanitarian law and other crimes of international law will be supported in accordance with its mandate through humanitarian action in countries torn by armed conflict, of international or non-international character, or in other situations of internal violence. Expectations are usually managed through information of the mandate and activities of the ICRC.

#### Raising awareness on the ICC:

Governments are their target audience. Therefore no public campaign was undertaken in relation to this topic, though it is regularly raised and discussed in the framework of activities conducted for other publics, such as academic circles and journalists.

### **International Criminal Court -ICC-**

Information concerning the activities of the Court, public documents and events taking place in their instances, as conferences, experts meetings among others, is provided through the ICC website<sup>56</sup>.

The different organs of the Court maintain regular dialogues with High Dignitaries and Ambassadors, as well as Representatives of International organisations, NGOs involved and other relevant actors.

### **Special Court for Sierra Leone**

After beginning its operations in late July 2002, the Special Court has become involved at an official level since the first ASP. In the new phase they will continue to work and share experiences.

#### Exchange of information:

No official channel of communication has been established with the EU except with its Delegation in Freetown, concerning funding issues. However, the Court would warmly welcome to establish a relationship in view of the public endorsement by the EU. The Court maintains contacts with the donor states, among them UK and Netherlands, and with the ICC Registry<sup>57</sup> and Prosecutor's Office. As sources of information, the Court consults news and Internet. The only events attended, due to its recent creation, are the Swearing in Ceremonies for the Judges, the Solemn Undertaking of the Prosecutor and the first ASP, with an observer status. They will also attend the second meeting of ASP in September 2003.

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<sup>46</sup> For further information, consult their website: [www.coe.int/cahdi](http://www.coe.int/cahdi)

<sup>47</sup> 26th Meeting, Strasbourg, May 2003

<sup>48</sup> Recommendations 1408 (1999), "ICC"; 1300 and 1581 (2002), "Risks for the integrity of the Statute of the ICC"; Resolution 1336 (2003), "Threats to the ICC"

<sup>49</sup> EU, Australia, Israel, New Zealand, The Hague Conference on Private International Law, NATO, OECD and UN and its specialized agencies are entitled to send representatives to CAHDI activities on the ICC.

<sup>50</sup> IHL National Committees or similar bodies exist in: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Sweden, UK as well as in Croatia, Hungary, Lithuania, Slovenia, Slovakia.

<sup>51</sup> Universal Meeting of Representatives of National Committees on IHL, Geneva, 25-27 March 2002; First Regional Central European Conference on the Implementation of the Rome Statute of the ICC, Budapest, 6-8 June 2002; Regional Meeting of National Commissions for the Implementation of IHL, Ljubljana, 6-7 March 2003; Second Regional Central European Conference on the Implementation of the Rome Statute of the ICC, Tallinn, Estonia, 2 - 5 October 2003.

<sup>52</sup> Information concerning their constitutionality can be found in the ICRC Database on National Measures Implementing IHL (for the electronic version: <http://www.icrc.org/ihl-nat>)

<sup>53</sup> Last event attended: Conference "ICC: implementation in Central and Eastern Europe", held in Bucharest from 9-11 May 2003 and organized by four NGOs.

<sup>54</sup> For further information consult: [www.icrc.org](http://www.icrc.org)

<sup>55</sup> As for example training courses organized by the Belgium Red Cross Society in cooperation with the Ministry of Justice in 2000 and 2001

<sup>56</sup> Link to the ICC website: <http://www.icc-cpi.int/php/show.php?id=home&l=EN>

<sup>57</sup> Recently Mrs. Silvia Fernandez de Gurmendi, Chief of Staff at the ICC OTP, visited the Special Court and they hold discussions on the effective running of the administration of Tribunals

## G. NON-GOVERNMENTAL ORGANISATIONS

NGOs have continued playing an important role in the setting up process of the ICC carrying out a wide range of activities aiming at helping States to draft implementing legislation, following and monitoring the ASP, launching or supporting projects to raise awareness on the ICC and to make the Court universal, developing training activities and organising seminars and conferences.

### Academy of European Law -ERA-

Recently awarded a training project on the ICC, ERA will work on this field only during the length of its project (from May 2003 to May 2005).

#### Exchange of information:

In this area, ERA is mainly developing direct contacts. Developments are followed through the UN, CoE, ICC and CICC websites. In their opinion efforts in training should be better coordinated, an informal network of training institutions should be created and further information in this respect should be included in the website of the EuropeAid. ERA has recently participated in an expert's meeting on the challenges for the European Commission for the entry into force of the ICC and in the coordination meeting of the Commission with all NGOs and Institutes granted with the EU budget related to ICC for the period 2003-2004.

#### Ratification and implementation of the Rome Statute:

Contribution by the project granted, in collaboration with the Council of Bars and Law Societies of the EU (CCBE) providing training for Central and Eastern European defence lawyers to act before the ICC by 5 day courses and developing a web with documents on international criminal law and access to the teaching materials, that could be used later as basis of local training activities.

#### Raising awareness (on the aforementioned project):

ERA will try to invite influential speakers during their training activities (especially for the opening ceremony); publish the relevant information in both institutions websites and issue press releases -an article on the project will be published on the Eastern European Forum Newsletter-

### Amnesty International -AI-

#### Exchange of information

Amnesty International communicates information to a broad range of institutions and organisations on international justice issues. Information is transmitted to individual governments via the organizations national sections and structures. In addition, Amnesty International seeks to exchange information with as many intergovernmental bodies as possible by sending delegations and materials to meetings on international justice, these including, EU-COJUR, the Assembly of States Parties of the ICC, the United Nations, the organization of American States, the Francophonie, the Commonwealth, the Community of Portuguese-Speaking Countries and also includes international and regional parliamentary bodies, including, the European Parliament, the Inter-Parliamentary Union, the Consultative Assembly of Parliamentarians for the International Criminal Court and Rule of Law. Amnesty International exchanges information with IOs and civil society organizations via the channels established by the Coalition for the International Criminal Court.

#### Ratification and implementation of the Rome Statute

AI is very active in the universal ratification campaign launched on 17 July 2003. Together with members of the civil society around the world we are working to re-establish momentum towards ratification by all states, including launching a monthly website action (coinciding with national campaigns) for countries to ratify. The project is a long-term initiative of the organization. AI is working on implementation of the Rome Statute as a high priority. We have issued a Checklist for Implementation to all states parties and other states in Arabic, English, French, Portuguese, Russian and Spanish. The organization aims to comment on draft legislations from a broad range of countries applying its Checklist. Amnesty International will in the next months launch a website database of legislations (article by article) and Amnesty International's comments. For more information about these and other initiatives please see Amnesty International's international justice website: [http://web.amnesty.org/pages/int\\_jus](http://web.amnesty.org/pages/int_jus)

#### Raising awareness

AI has created a number of awareness materials, including fact sheets on the ICC, which the organization distributes as widely as possible. National AI sections and structures in some cases hold awa-

renewed raising seminars and other events about the ICC for different audiences, including, parliamentarians, lawyers, academics, students and the general public.

#### **Association International d'Avocats de la Défense -AIAD-**

Since its inception at the Conference of Montreal, June 2002, many European Bars and Law Societies are involved in the process of setting up an effective International Criminal Bar. After electing its first Council and Executive Committee<sup>58</sup>, they wish to be recognized as an "independent representative body of counsel or legal associations"<sup>59</sup> and continue the work of its Committees and its semester newsletter.

##### Exchange of information:

The ICB relies mainly in websites (UN, ICC and CICC), has appointed Mr. Hans Bevers as Focal Point and in brief will count on two lawyers at its Headquarter in The Hague to work on issues of interest to the legal profession. Coordination of actions at EU level could be improved by sending regularly a newsletter to inform organisations about Union's activities and programmes.

##### Ratification and implementation of the Rome Statute:

Apart of pleading its members in their own countries for an international criminal justice supporting and organising education campaigns and informing civil society on the latest developments in this field, the four Coordinators for regions less represented at the Council and Executive Committee -Asia, South America, Sub-Saharan Africa and the Arab World- establish regional networks to improve existing works and strengthen actions on this issue. These activities should be organised, in their opinion in countries that have not ratified or implement the Rome Statute<sup>60</sup>. Its documents are translated into French, English and Spanish.

##### Effective establishment of the ICC:

They have attended ASP meetings, UN Conference of Plenipotentiaries and its Committee on Ethics has drafted and presented a Code of Conduct and Disciplinary Procedures to the Director of Common Services. In the next stage, they will work to ensure that lawyers for the victims are highly qualified, launching a membership campaign in April 2003 and meeting regularly with officials of the ICC to express its concerns and needs for the legal profession.

##### Raising awareness on the ICC:

They have involved influential people<sup>61</sup>, developed training activities<sup>62</sup> and a website<sup>63</sup>, publish a newsletter, plan to organise seminars and conferences and have met with Medias.

#### **Carnegie Stichting Foundation**

The Carnegie Foundation, an independent institution basically financed by the Ministry of Foreign Affairs and by the UN for the use of the Peace palace by the ICJ, has inter alia the aim of supporting the international judicial institutions in The Hague: most prominently the ICJ, but also the ICC.

##### Effective establishment of the ICC:

In this sense, the foundation has been helpful in the setting up of the ICC working on the building of the Advanced team, in charge of prepare the courts for their first period, with the financial contribution of several institutions, amongst the EU. This is the only project carried out on this area.

##### Raising awareness on the ICC:

The Foundation has promoted or supported the organisation of several events focused in ICC related issues during the past years. The most recent have been: June 2002: Conference on the "Global Ethics for a Humane World", to strengthen and reinforce ethical resources, with the participation of researchers, scientists, NGOs, UN agencies, policy-makers and the private sector; October 2002: External programme of The Hague Academy of International Law in Mexico, with the participation of law professors from various American regions in courses and seminars on the "Responsibility of States in Protecting Common Interests and Values". 2003-2004: Exposition on "The Hague, capital of justice and peace" co-organised by the OSCE and the Dutch MFA, to show the developments in the struggle for peace and international justice by different pieces memories of historical periods and persons who have fought for this aim. Starting in Vienna, it will travel to Santiago de Chile, Geneva, and Saint Petersburg to finish in The Hague.

### **European Law Students Association International -ELSA International-**

ELSA started its involvement with the UN ad hoc Committee on the establishment of the ICC, 1995, in the next stage; they will continue its work through seminars, conferences and legal research.

#### Exchange of information:

Information and assessment are provided through the State Party representatives to the ASP and the government representation at regional and local conferences. Developments on the ICC are followed by different websites: ICC, UN, CoE, PrepCom, Dutch MFA, CICC and ELSA's online archive among others. Apart of this, ELSA has attended to meetings organised by EU, EU Member States and NGOs in cooperation with states. To improve coordination at EU level, they appoint to the need of more updated information at EU websites, the improvement of online archives and the separation of ICC related information from other types.

#### Ratification and implementation of the Rome Statute:

ELSA has launched various initiatives to promote the ratification/ implementation of the Statute: local seminars and conferences at Law Faculties in Europe, local panel debates with NGO/governmental representatives, an International seminar on the ICC (Helsinki and Würzburg 2003), a Summer School on International Criminal Law (Dubrovnik, Coimbra and Salzburg) and a Project on ICC National Implementation Legislation<sup>64</sup>. In particular, its legal research project on ICC Implementation is focused in most Central and Eastern European countries and governmental representatives are invited to attend seminars at law faculties in Central and Eastern European countries. As other activities, they have been consulted prior to the ratification of the Rome Statute by some countries and have published the ICC PrepCom and ASP reports, and legal researches (currently only in English, though in a future the PINIL project could translate them). In their opinion, the most effective mean to support implementing legislation is organising regional conferences with high governmental representation and NGO/Governmental legal expertise. To improve coordination of actions they suggest a stronger EU common policy and an increased focus among individual EU states on ratification and implementation.

#### Effective establishment of the ICC:

ELSA has sent delegations to the ICC PrepCom and ASP in the past and will continue to do so. During ELSA lectures and seminars, it has been emphasised that expectations may be too high and a down-to-earth approach has been communicated to the student community.

#### Raising awareness on the ICC:

Apart of the aforementioned activities, they have also developed training programmes, published reports/articles in European magazines to inform civil society and key journalists on the negotiations and setting up process and forwarded information to media local networks.

### **European University Institute -EUI-**

The Institute has started its involvement in the ICC in 2003, with recently awarded project by the European Commission, focused in training for ICC officials and Member States experts to make national criminal justice for international crimes effective.

#### Exchange of information:

The exchange of information and provision of assessment on the project is carried out by direct contacts, reports and a website<sup>65</sup>. Developments on the ICC are followed through the ICC and the CICC websites. The only meeting they have attended has been the Coordination meeting in Brussels 27 June 2003 due to the recent launching of their project (June 2003).

#### Ratification and implementation of the Rome Statute:

The Institute is in process of elaborating country specific strategies focused on training and could envisage in a next future works for translating official documents. The Institute itself has made no contribution to legislative work for the ratification and implementation of the Rome Statute, but some of the members involved in the project have cooperated with other organisations in this issue. In their opinion, the most effective mean to support implementing legislation is technical assistance at some stages, but this is a political problem that depends on each country's decision. To improve coordination of actions they advocate for organising regular meetings among organisations and individuals working in this field, including scholars, and with state officials and political leaders.

#### Raising awareness on the ICC:

As part of their strategy they involve influential people, organise workshops to allow trainees to become trainers, publish information on various formats, launch education campaigns focused in professionals on the criminal and international criminal law and judicial cooperation, and, in a future, they do not exclude providing interested journalists with a general background on international criminal justice system.

## **Fédération Internationale des ligues des droits de l'Homme -FIDH-**

Recommendations on this issue were released for the first time in 1950. In September 2003 they will start a three-year program to send international experts missions to assess ratification and implementation processes in Asia and North Africa; provide technical assistance; create an Interface with representatives of national HR NGOs and victims groups; organise training sessions.

### Exchange of information:

Information is exchanged with EU institutions and Member states via the FIDH Permanent Representation in Brussels and at meetings -HR Contact Group, EU Annual Forum on HR, European Commission consultation meetings, EU COJUR ICC-related meetings, and parallel meetings to PrepCom or ASP sessions-. The organisation is involved in an initiative called "Friends of the ICC" aimed at creating a momentum around MEPs and other representatives of EU institutions and EU member States. Developments are followed through ICC, UN and CoE websites, national and international press, general list-serves and specific ICC-related issues list serves, and organisations websites -CICC, HRW, AI and LCHR-. However, they suggest to appoint an EU Focal point on the ICC and to launch a specific website containing the Rome Statute, relevant instruments in EU languages and domestic legislation, to improve coordination.

### Ratification and implementation of the Rome Statute:

FIDH has developed several activities worldwide -International Justice Regional Conference for NGOs of CIS, Russia, Eastern Europe and the Balkans; a celebration for the entry into force of the ICC in Paris, and regionally -in Africa, included this issue in the African Commission for HR and regional Conferences, and published open letters and press releases to promote the ratification or acceptance of the ICC; in South America, included in two country reports this issue, published press releases and participation in civil society activities during the meeting of the Organization of American States, first international HR organization to include a workshop on the ICC at the III World Social Forum-.

FIDH has also contributed to the legislative work of Senegal and the Democratic Republic of Congo. However, they believe that still in too many countries there is a complete lack of transparency and consultation with civil society. In their opinion, building or strengthening national coalitions and working groups in coordination with International NGOs is important as outside technical assistance means cooperation and coordination with local actors and relevant institutions. States should explain their process of ratification and implementation and assess potential legal, constitutional or political obstacles.

### Effective establishment of the ICC:

Apart of being involved in monitoring the Rome Conference, the PrepCom and the ASP, they will send specific information to the ICC Prosecutor having already started to work on potential cases to be brought, and will support victims facilitating their coming to The Hague to follow training sessions, currently working in clarifying the limited scope of the ICC to interested victims.

### Raising awareness on the ICC:

FIDH has involved influential people; launched on the eve of the entry into force of the ICC in July 2002 a TV campaign named "Impunity soon under arrest"; sends out regularly position papers, open letters and press releases on the ICC worldwide campaign for ratification and implementation and the development of the negotiations related to the ICC and works closely with journalists on the ICC<sup>66</sup>.

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<sup>58</sup> The elected Co-President are Mrs. Elise Groulx and Mr. Paul-Albert Iweins

<sup>59</sup> Item included in the Agenda of the forthcoming ASP, September 2003

<sup>60</sup> A list of available experts could be presented if required

<sup>61</sup> Regular meetings with the President of the ICC, members of the Registry, ASP Delegates and governmental representatives

<sup>62</sup> The Committee on Training organized with the NACDL, the ICDA and TMC Asser Institute at Leiden University its first Training session for lawyers who will practice before the Court, 5 and 6 July 2003, in The Hague.

<sup>63</sup> Link to its website: [www.bpi-icb.org](http://www.bpi-icb.org)

<sup>64</sup> Further information in [www.elsa-pinil.org](http://www.elsa-pinil.org)

<sup>65</sup> Under construction when the information was sent (July 2003)

<sup>66</sup> See <http://www.fidh.org/justice/news.htm>

**FORUM Asia**

Forum Asia started its involvement through a consultation with its regional partners in June 2000, launching a Project on Promoting the ICC in Asia in 2001. Its participation has increased via the Thai working group and legal associations.

Exchange of information:

The organisation has been supported by several Governments and Embassies and by the EU –with a contribution to its Project and the participation of European Commission Officers in Bangkok to their Conferences and meetings-. In exchange, Forum Asia has participated in the 8<sup>th</sup>-10<sup>th</sup> Preparatory Commission Sessions and submits periodic reports on its Project to the EU. Developments are followed through their Regional Affiliates, UN, EU institutions and CICC websites, newspapers, local media, global civil society and academics. However, they have been able to attend a limited number of EU-ICC Conferences abroad due to budget limitations, and would welcome further information on decisions and EU Common Positions, the organisation of regional events by the Union to exchange information between ICC working groups in Asian countries and European organisations, material support for disseminations and the launch of a website on the EU's efforts for the ICC.

Ratification and implementation of the Rome Statute:

Forum Asia conducted regional coordination meetings from 2000-2003 involving ICC working groups in seventeen Asian countries. Together with CICC-Asia, the Asian HR Commission, and the Asian Network for the ICC, it has lobbied these governments to ratify the Rome Statute; and, with this aim; translated the Rome Statute and related materials into their languages and organised national seminars. Press Conferences are held to popularise the need for ratification in Asian countries. Campaign posters, bookmarks and stickers have been produced and distributed. ICC working groups continue to be organized and formalized. On the other hand, they have started to consider the possible assistance to implementing countries. Apart of experts from Thailand, Bangladesh, the Philippines, Indonesia, Hong Kong; they have initiated contacts with Canada, US, Australia, Switzerland and France via the CICC. In the next phase they will continue regional coordination meetings, lobby missions in target countries, ICC conference and will work on an Asian ICC Campaign website. The election of Judge Song is considered helpful to see an 'Asian face' within the ICC and to dispel the myth of the ICC being a European Court.

Effective establishment of the ICC:

They monitor the ASP by their network and the CICC, support participants from LDC when resources are available; organise meetings for lawyers in targeted countries; are organizing a workshop for the Thai Parliament, and will support victims by their grassroots programmes.

Raising awareness on the ICC:

They have involved Thai politics, media, ICC authorities, as Judge Song, and popular academics; developed training activities for the Thai parliament, NGOs, Academics and will promptly launch the "Asian Parliamentarians for the ICC" through the initiative of a supportive Thai Senator; held Study Sessions, sponsored lectures, hosted and contributed to Conferences; published books, newsletters and CDs; supported Media campaigns, as the Postcard campaign launched in July 2003 to pressure governments to resist BIAs and to ratify the Statute; and informed civil society and key journalists on the negotiations and the setting up process.

**Human Rights Watch -HRW-**

After the crimes committed in the conflicts of the former Yugoslavia and Rwanda and in recognition of the need to establish a broader and more permanent judicial system than temporary criminal tribunals, HRW has actively participated in the campaign to create an ICC.

Exchange of information:

Information is exchanged mainly through list serves and at meetings. With mainly multi-lateral organizations, the contact is less formalized mainly through officials with whom they have a direct relation since years.

Ratification and implementation of the Rome Statute:

HRW has engaged in a worldwide campaign travelling to meet senior government officials, parliamentarians, media and civil society; and has worked in pressing intergovernmental and regional organizations, as EU, CoE, OAS and Southern African Development Community, to raise awareness of the importance of the ICC, make it a policy priority, offer technical assistance where needed and urge individual states to assist each other, on a bilateral basis.

Effective establishment of the ICC:

Prior to and during the July 1998 Rome conference, HRW prepared analyses of the issues at stake, as the Resolution 1422 and the exemption agreements, and advocated its views with government delegates involved in negotiations. After the Rome Conference and the PrepComs, HRW has continued to play a high profile role at the ASP highlighting important issues in the court's development and efficacy, conducting extensive legal research and drafting commentary on how to create the most effective court while maintaining its impartiality and independence, and worked very closely with government delegations to achieve these goals and the adoption of the Rome Statute.

**International Centre for Criminal Law Reform and Criminal Justice Policy -ICCLR-**

Since 1992, the Centre has been involved in the fight against international crimes and supported the creation of a permanent ICC<sup>67</sup>. In the forthcoming stage ICCLR will continue its work.

Exchange of information:

To follow up developments on the ICC, they consult the ICC, UN, CICC, AI, International Committee for Human Rights (ICHR) and HRW websites among others. As a UN affiliate, ICCLR has the right to appoint a representative to the European Committee on Crime meetings of the CoE.

Ratification and implementation of the Rome Statute:

They have participated in several meetings<sup>68</sup>, collaborated with various organizations EU funded (NPWJ, PGA and Forum-Asia) and cooperated with Canadian partners in regional sessions in the Pacific Islands (2000), Central Africa (2001), Caribbean (2001), Southern African Development Community (2001), and Cote d'Ivoire (2002). Currently, with the Liu Centre for Global Studies in Vancouver, ICCLR is engaged in a project to support the implementation of the Victims and Witnesses Unit of the ICC. Forthcoming projects will continue the country-specific implementation assistance work previously undertaken (conferences<sup>69</sup>, seminars, workshops<sup>70</sup> and consultations with governments<sup>71</sup>). The Department of Foreign Affairs has provided country specific ICC technical assistance in Philippines, Cambodia and Laos. The multi-phase approach is considered the most effective mean to support implementing legislation.

Effective establishment of the ICC:

ICCLR has participated in the Diplomatic Conference of Plenipotentiaries on the Establishment of the ICC and the ASP meetings, developed an introductory guide for criminal justice personnel on cooperating with the ICC (March 2003), and participated in the "Vancouver Dialogues" (May 2003).

Raising awareness on the ICC:

Supported public lectures involving dignitaries, organised conferences<sup>72</sup> and published documents<sup>73</sup>, reports and seasonal newsletters.

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<sup>67</sup> After the International Meeting of Experts on the Establishment of an ICC, March 2001, a final report was transmitted to the UN Legal Office in New York and was used in the design of the ad hoc ICTY.

<sup>68</sup> Ghana meeting for West African States, organized by NPWJ and the Government of Ghana (Jan. 2001), Philippines meeting for Asian and Pacific governments, organized by NPWJ and the Philippines government (Oct. 2001), the Cote d'Ivoire ICCTAP/ICRC meeting, and the Lesotho ICC session

<sup>69</sup> Two days conferences with senior government officials and civil society in Gabon

<sup>70</sup> With government officials, the legal community, civil society and media in Thailand, co-organised with the Cambodian Human Rights and Development Association (ADHOC) (January 2003), and in Tanzania, co-organised with the Southern Africa Human Rights Non-Governmental Organisations Network (SAHRINGON) (January 2003)

<sup>71</sup> With Thai government officials, by Forum-Asia, Thailand, and the Asian Network for the ICC (ANICC) (September 2002); with Cambodian government and court officials; Tanzanian government officials, Gabon senior government officials, legal community and academics and civil society, co-organised with the Government of Gabon (March 2003).

<sup>72</sup> *The Changing Face of International Criminal Law* Conference, held in Vancouver in June 2001

<sup>73</sup> Manual for the Ratification and Implementation of the Rome Statute, available in English, French, Portuguese, Spanish, Russian, Arabic, Georgian and Chinese, Rules of Procedure and Evidence - Relationship with the Articles of the Rome Statute; Checklist of State Obligations under the Rome Statute; An Overview of the Establishment of the Permanent ICC, and The Potential Impact of the ICC on Correctional Service Canada

**Irish Centre for Human Rights -ICHR-**

Created early 2000, this institution is following closely developments regarding the establishment of the ICC. It has included the ICC in its studies program.

Exchange of information:

The evolution of the Court is followed through various websites and list serves. The director of the Centre and focal point of the organisation, Professor Scabs has participated in many activities concerning the ICC, including PrepComs before and after the Rome Conference, and has been consulted by Parliamentarians of Canada and Burundi prior to the adoption of the implementing legislation. Other members of the Centre, including some PhD students, have also attended these gatherings. Since 2000 the Centre has held a one-week course in July aimed at giving a detailed training in the work of the ICC and the Rome Statute and in 2002, hosted a one-day international conference to mark the entry into force of the Rome Statute.

Raising awareness on the ICC:

The Centre has also involved influential people, published information and informed civil society and key journalists on the negotiations and setting up process

**Japanese National Coalition for the ICC - JNC for the ICC**

The Japanese Coalition for the ICC started its involvement in 1997. In the next phase, they will continue with their advocacy work and compiling information for raising public awareness.

Exchange of information:

Information is exchanged via the CICC and, within the MFA, with the Legal Affairs Division (Treaties Bureau). The organization has participated in a panel discussion session with the EU delegation, "Significance of the ICC and its impact on international order", held in 2002 in Tokyo. Developments are followed through the CICC website. However, they consider that closer cooperation could be achieved if the EU downward injection and propagate them accurate information in a more timely manner; if established closer cooperation particularly regarding implementation procedures and a cooperative framework to formulate concrete steps for national legal framework-building. This information could persuade lawmakers and government alike with a more objective approach.

In Japan the groundwork to promote strong civil involvement in the ICC affairs is still weak, mainly because of the limited organizational and financial capacity of the organizations involved in ICC affairs. It is very difficult for a civil network to be acknowledged as a full-fledged NGO by the government as the government only approves NGOs that are directly involved with humanitarian issues. Capacity building of frail civil networks is therefore a must in order to promote early accession to the Rome Statute in Japan.

Ratification and implementation of the Rome Statute:

They are persuading the national Diet members to facilitate early accession to the Rome Statute, but also, due in their opinion of the effectiveness of Seminars to support implementing legislation, they are preparing a panel discussion session and plan to invite the Korean ICC Judge and other internationally well-known Japanese figures such as Mrs. Sadako Ogata (currently chief of JICA and Government Representative for Reconstruction of Iraq) and the Honourable Judge Hisashi Owada of ICJ. In parallel, they are deeming hosting legal experts meeting on implementation of the Rome Statute to support the advocacy effort.

They would need clear background information on the level of implementation in the EU member states as Japan is considered to be the latter, which may require significant level of legal review and scrutiny. However, JNC is pursuing another venue in which they may proceed with a more phased approach of implementation that, in case of being vindicated, the accession to the Rome Statute would likely to be accelerated significantly. They have translated the Rome Statute and all other ICC-related documents available from the web.

Effective establishment of the ICC:

The organisation monitors the ASP and will consider supporting the parties involved in a case brought before the ICC if cases are brought to their attention.

Raising awareness on the ICC:

The activities carried out have comprised involving influential people, developing training activities, organising seminars and conferences, publishing information, launching or supporting Media campaigns and informing civil society and key journalists on the negotiations and the setting up process.

## Justice

Though not currently conducting work in relation to the ICC, apart of education and training<sup>74</sup> on the Court's role and jurisdiction, the organisation could explore the interaction between the UK's domestic human rights obligations and the use of force in international contexts and, in any case, will contribute with expert legal analysis on the functioning of the Court, the prosecution of serious international crimes and the existence of a real effective remedy for victims.

### Exchange of information:

Developments are followed through the AI, ICC, Global Issues and UN websites, and the Universal Jurisdiction mailing list. In their view, coordination at EU level could be improved by releasing an annual paper on the EU activities, sending a questionnaire to relevant organisations that may contribute to the better working of the Court, demanding candidate countries to sign the Rome Statute as a prerequisite to consider their applications, to further encourage the adoption of measures to ensure the Court's independence from the UN Security Council, to seek a regularly review the list of applicable offences, and to adopt jurisdiction over offences of slavery, sexual exploitation of children, and large-scale environmental crimes.

## La Morada

La Morada has been involved since 1998 in the process for the establishment of the ICC.

### Exchange of information:

In their opinion, the efficiency of the Court and the implementation of the advances included within the Statute require permanent actions at regional level supported by other geographical areas, in particular, by the European Community. Therefore seminars, meetings and encounters should be promoted and the European Community should get information via ad hoc documents on the national and regional process to incorporate the advances of the Statute on gender justice.

### Ratification and implementation of the Rome Statute:

After the entry in force of the ICC, La Morada has pushed for a process at regional level focused in promoting the ratification of the Statute and developing implementation actions. In this regard, a Regional Seminar was organised at the end of 2002 with the participation of Representatives of Women and Human Rights organisations from Brazil, Argentina, Uruguay, Chile, Peru, Bolivia, Ecuador, Colombia and Guatemala. As a result it was created the Latin American Collective for Gender Justice, committed to support in their countries a working plan for guaranteeing that Latin American countries implement the advances of the Statute on gender justice. Recently, a campaign on the Rome Statute has been launched in Chile, with the participation of AI, CODEPU, FASIC, DOMOS and La Morada, and seminars and colloquies have been organised in the Universities of Santiago, Concepción and La Serena to stress the advances of the ICC on gender justice.

### Effective establishment of the ICC:

The organization has carried out a regional leadership focused in promoting the involvement of women organizations and Latin American expertise in the effective establishment of the Court and the introduction of gender justice within the Statute, the Crimes Elements and the Procedure and Proof Rules. . These actions were materialized in the designation of Elizabeth Odio and Silvia Steiner, as Judges, and Silvia Fernández as Cabinet Chief of the ICC Prosecutor Office.

### Raising awareness on the ICC:

La Morada has recently started a regional project –Social, Political and Judicial Actions of Latin American women for the strength of the ICC and the Gender Justice- funded by the EU and NOVIB, aiming at: 1) Creating a public opinion in favour of the ratification and implementation process of the ICC, in particular on the advances in gender justice; 2) Creating technical-political capacities for women in key sectors to strengthen the process of ratification and implementation; 3) Promoting the introduction of international standards in sexual aggression, procedure and proof., victims and witnesses treatment in the regional and national process and campaigns of implementation; and 4) Creating a permanent net of women NGOs in the region to monitor the introduction of the advances in gender justice and the ratification and implementation process.

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<sup>74</sup> Session on the ICC at the 5<sup>th</sup> annual HR Law Conference

## Mongolian National Coalition for the ICC - MNC for the ICC

### Exchange of information:

No channel to contact EU institutions and organisations on this issue has been established. However, due to the problem that involves the lack of information, the MNC and the Mongolian government are looking for this exchange with the EU institutions and the ICC, after having already established contact with Asian activists and Coalitions on ICC. The Mongolian Government and other organizations have not participated in meetings or conferences organized by EU institutions.

Since its establishment, MNC has received ICC related materials and information through AI's Mongolian Coordinating Committee, Forum Asia and CICC.

### Ratification and implementation of the Rome Statute:

The MJ of Mongolia has launched a working committee to introduce amendments to the Mongolian Criminal Code (January 2003) and the Mongolian Criminal procedure law in correlation with the Rome Statute (June 2003).

They consider key points provision of technical assistance (especially for lawmakers) and financial support (because of the lack of financial resources MNC can not actively push the government on the implementation process, organize seminars for legal experts of Mongolia, lawyers).

### Effective establishment of the ICC:

Mongolian government has been involved in monitoring the ASP, and in 2002; with the civil society, supported Mr. J. Enkhsaikhan as candidate for judge of ICC. The MNC has organized several seminars and training on the ICC and HR for judges (November 11, 2002), prosecutors (December 12, 2002) and judges of the High Court (January, 2003). The organisation will be involved or support other NGOs in bringing cases to the ICC and will support victims in the field.

### Raising awareness on the ICC:

Apart of the aforementioned activities, international experts; representatives of the Mongolian government, international lawyers from law schools of Mongolia and scholars have been involved in an international conference on HR and ICC, organised by the Mongolian HR and Development Centre, and the MNC ICC has published information (a book called "ICC. Questions and answers"); co-organized in cooperation with AI some TV programs; and published some articles in newspapers and magazines

## Movimondo

Since 1998, Movimondo Guatemala has focused its work in support to victims of some crimes included in the Rome Statute, starting this way its involvement to achieve the ratification of the Statute by the widest number of States.

### Exchange of information:

Apart of the exchange of information with the European Commission official for justice and human rights, Mr Hugo Queisat, and the Myrna Mack Foundation and Movimondo Italy, the Mesodialogo, in particular its Sub commission on Justice affaires, holds further discussions between government, NGOs, civil society from Guatemala and European countries, officials and delegates of the European Commission. In their opinion this mechanism should be institutionalised as facilitates coordination, exchange of technical information, political and strategically dialogue, monitoring and follow-up. Developments on the ICC are followed through the CICC, AI, ELSA, Asociación Pro Derechos Humanos, Comisión Internacional de Juristas and Women Caucus for Gender Justice websites. They would like to arrange interchanges with Italian universities and receive technical support, monitoring and follow up.

### Ratification and implementation of the Rome Statute:

The project recently granted by the European Commission includes experts' interchange, technical assistance; seminars and forums, reports and draft laws, research activities in different targeted countries. Their contribution to legislative work is based on the following guidelines: inter institutional and intersectoral coordination; support to the existing projects, regional vision of the problems at justice level, focus on gender and indigenous. However, coordination of actions could be improved launching a coordination platform, short-term traineeships with officials of different judicial systems and by applying the strategy of analysis with a regional focus. Its counterpart, Myrna Mack Foundation, has participated in consultations by government prior to the final adoption of implementing legislation its counterpart to draft analysis on the compatibility of the Rome Statute and the ICC with the legal system of Guatemala and its Constitution

#### Effective establishment of the ICC:

The ASP is followed through official reports, documents and resolutions published by the ICC and through CICC reports. Their project includes training programmes, interchanges, seminars and forums addressed to judges and prosecutors from the countries targeted. The organisation is also supporting NGOs involved in assistance to victims, in particular its counterpart Myrna Mack Foundation, and by the European Community programme on rehabilitation psychosocial and integral attention to violence and torture victims in the departments of Alta and Baja Verapaz of Guatemala.

#### Raising awareness on the ICC:

Launch and support of meetings, forums and workshops with decision-makers, State institutions and civil society representatives; publish information and reports on seminars and forums, education and media campaigns, information to civil society and key journalists on the negotiations and the setting up process.

### **No Peace without Justice -NPWJ-**

NPWJ started its involvement in 1994.

#### Exchange of information:

NPWJ normally contacts government missions in New York and, when possible, in capitals. They attend to meetings organised by the European Commission ICC-related. Developments are followed via Canadian, CoE and CICC websites. They suggest the appointment of an information point to promote cooperation among NGOs and Governments through an information point.

#### Ratification and implementation of the Rome Statute:

Several regional Conferences have been organised, as, among others, the IV Anniversary of the adoption of the Rome Statute Establishing the ICC and its Entry into force (Italy, July 2002) and the Ratification/Accession and Implementation of the Rome Statute—A Follow-up Conference in Southeast Asia and the Pacific (Cambodia, October 2002). They have carried out initiatives on regions where ratification/implementation are still lacking, providing memos upon a study on their Constitutions and Penal Codes, materials as a Manual for Legislators and in some cases –Lesotho, Sierra Leone and East Timor- by sending legal experts. Once established good contacts, a legal expert is provided to assist them in the drafting of the Bill and for organising a seminar involving all the officials, civil servants, NGOs related. In their opinion, NGOs and Governments should consult each-other in occasion of ICC related meetings and be in contact through e-mail and other communication channels.

#### Effective establishment of the ICC:

NPWJ is fully involved in monitoring the ASP through the participation of its representatives and the provision of pro-bono legal advisers to small delegations. In June 2003, it co-organised with the University of Nottingham, supported by the British Foreign and Commonwealth Office, the Human Security Program of the Department of FA (Canada) and the European Commission, an international training course for national civil servants and officials.

#### Raising awareness on the ICC:

NPWJ has involved influential people, published updates on the ratification status worldwide -available in its website- and a newsletter ICC-related, launched/supported Media and education campaigns and informed civil society and journalists on the negotiations and the setting up process.

### **Parliamentarians for Global Action -PGA-**

PGA started its involvement in 1989 when the Programme Convenor of International Law and HR presented a resolution at the 44th General Assembly requesting the establishment of the ICC. In the next future they will continue to promote political leadership and national legislation to implement the complementarity principle, to ensure full cooperation of states with the ICC, and to safeguard the integrity of the ICC.

#### Exchange of information:

The main channels of communication with the EU are the European Coordinator, the PGA EP group and by participating in events as the Conference organized by the European Commission/EuropeAid on the ICC (2002), the coordination meeting with NGOs and institutions receiving EC grants on the ICC (2003) and meetings between EU member states and NGOs, as well as the website [www.pgaction.org](http://www.pgaction.org). However, communication with the Council of the EU may be improved in their opinion by having a focal point on the ICC in the Secretariat and, before the EP, by a more timely and substantial sharing of information between NGOs on their initiatives. Information is gathered from States Parties, national parliaments, ICC, other institutional sources, and by collaborating with NGOs, academic experts and media.

Ratification and implementation of the Rome Statute:

PGA has launched a global campaign for the entry into force of the Statute following its adoption and a global strategy for legislators to contribute to an independent, fair and effective ICC. The most important Plan of Action currently guiding the work of PGA is the "Ottawa Plan of Action on the ICC", approved at the first session of the Consultative Assembly of Parliamentarians for the ICC and the Rule of Law (Nov. 2002). In approximately 25 States Parties their contribution may be assessed as essential to the accomplishment of the national ratification on the basis of relevant media reports and the record of parliamentary proceedings as well as communications with relevant Governmental and NGO experts. PGA members contributed to 52 ratifications/accessions, out of the current 92 States Parties. An example of the way PGA works is provided by the recent ratification of Georgia, where PGA members facilitated a bipartisan agreement between majority and opposition that contributed unanimous legislative support for the ratification and the consequent implementation of the Statute in the national legal order. All this work has been based on Plans of Actions and country-specific strategies elaborated by Parliamentarians, assisted by the PGA expert team and the ICC programme advisors. National strategies have been devised with the input of local politicians. In connection with the aforementioned strategies, PGA has organised Conferences worldwide.

Effective establishment of the ICC:

PGA has participated in the UN PrepCom, the Rome Diplomatic Conference, the Ad Hoc Committee and the ASP. In the next phase, they will update its members on the latest developments and encourage states to take all necessary measures to cooperate with the Court, including through measures aimed at arresting and surrendering suspects to the ICC as well as generating voluntary contributions to the ICC Trust Fund for Victims.

Raising awareness on the ICC:

The organisation includes among its members influential people as Prime Ministers, Cabinet Ministers, and Chairs of Finance, FA, Legal Affairs, Population, Health, and Defence Committees. As main activities, they organise sub-regional, regional and international conferences and briefings<sup>75</sup>; publish information –brochures "Project: Justice & Rule of law" and "A Parliamentary Assembly for the ICC and the Promotion of the Rule of Law"-; and launch and support media campaigns.

**Philippines Coalition for the ICC - PCICC**

The Task Force Detainees of the Philippines (TFDP) was one of the most active organizations that established the PCICC, which started its campaign in November 2000. The PCICC immediately lobbied for the signing of the Statute by former President Estrada, achieving this aim 28 December. In the next phase, TFDP and the PC-ICC will continue campaigning for the ratification of the Rome Statute and the withdrawal from the BIA with the US.

Exchange of information:

TFDP and some PCICC members have direct communications with some EU Ambassador and Embassy officials, inviting them to their activities and informing them of their awareness and lobby efforts. Some members of the PCICC participated in meetings of the Like Minded Countries and continue to be involved in meetings with the EU. Developments are followed through meetings, CICC materials, list serves and the UN, ICC, CICC, HRW and AI websites. Nevertheless, they suggest that a regular review and monitor by EU officials of the country HR situation including the status of ratification or implementation of the Rome Statute may help improve sharing of information and possible cooperation related to ICC.

Ratification and implementation of the Rome Statute:

Information activities have taken place nationwide and a resolution passed by the Davao Council endorsing the ratification of the Rome Statute. Cards endorsing the ratification of the Rome Statute were also mailed to President Arroyo and Senators. The lobby work done in 2002 helped pressure the Department of FA to reconstitute the documents/instrument of ratification and endorsed them to the President in June 2002. To push the process of ratification, TFDP and the PC-ICC, in cooperation with 2 Philippine legislators and some individuals, have filed a petition mid-2003 for the executive department to transmit to the Philippine Senate the instruments of ratification. The petition is pending at the Philippine Supreme Court. They have also written to lawyers groups, associations of judges, law students and college students of to send a card or letter to the President and senators regarding the ratification of the Rome Statute. This lobby work resulted to several resolutions in the Philippine House of Representatives and the Senate supporting the ratification of the Rome Statute.

Effective establishment of the ICC:

PCICC monitors the ASP indirectly through the CICC. In the future, they will support other NGOs in bringing cases to the ICC and will support victims, though the form or support has not been discussed yet as the organization is still very much into ratification efforts.

Raising awareness on the ICC:

They have visited and discussed with Deputies, Senators and government officials; lobbied the Departments of Justice, FA, Commission on HR, the Supreme Court and the office of the former President, registering all their support to the ratification of the ICC; drafted a module on the ICC; included the ICC in basic courses of international HR and Humanitarian Law; organised seminars and workshops; launched the Philippine Campaign with a primer on the ICC; distributed experts' papers; prepared press releases on the developments of the Court and the need for Philippine ratification; made press Conferences to respond to government action or inaction over the Statute; publish a TFDP publication, Philippine HR Update.

**ProNGO (GSI)**

Since 1995 they have participated on the launch of the ICC and will go on their works to promote the ratification and implementation worldwide.

Exchange of information:

The used channels to exchange information are the project works and reports. To follow developments on the ICC, the organisation uses all media including Internet and has participated in various events. They propose to have more detailed information about the results of the various projects to improve coordination at EU level.

Ratification and implementation of the Statute:

By third States: Hundreds of events have been launched<sup>76</sup>. Since April 2003 they have started to elaborate country specific strategies and an inception mission will start meetings with relevant ministries in August-September 2003.

Effective establishment of the ICC:

They have followed the ASP, developed training programmes for judges, prosecutors, officials and counsel since 1995 with different organisations and contributed to legislative work organising seminars for the military, NGOs and legal experts in 2000 in several countries, among other activities<sup>77</sup>. In some of these countries they had never seen documents like the Rome Statute before, being this way, the first to inform and equip them with the relevant material, translated in Russian, Belarussian, Uzbek, Romanian and Ukrainian. To improve the coordination of actions, the organisation proposes the use of best practise examples.

**Redress**

Initiating its works before the Pre Roma Conference, the organisation is focused on the legal and procedural framework of the victims' rights. In the new phase they will intend to provide memoranda and options papers on victim participation and reparations, to assist the Court to develop operational capacity; to ensure contribution of other victims experts in a coordinated and structured way by the Victims Rights Working Group, to present amicus briefs and to represent victims in early proceedings.

Exchange of information:

The consulted websites to follow developments on the ICC are the CoE, ICC, CICC sites, and list serves as VRWG.

<sup>75</sup> Upcoming Seminars and Conferences for 2003-2004: September 12-13, 2003: "A Consultative Assembly of Parliamentarians for the ICC and the Rule of Law" – II session, UN, New York; December 2003: "Ibero-American Conference on the ICC – II session", Parliament of Chile, Santiago; Fall/Winter 2003-04: Strategy Meeting on the ICC: special session for parliamentarians and leading international lawyers; July, August or September 2004: Strategy Meeting on the ICC: analysis of current obstacles to ICC effectiveness and possible solution; September, October or November 2004: "A Consultative Assembly of Parliamentarians for the ICC and the Rule of Law" – III session; November or December 2004: Final Strategy Meeting on the ICC: the parliamentary contribution to the international rule of law.

<sup>76</sup> Their project with GSI is focused in Central Asian Countries: Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan and Mongolia

<sup>77</sup> Among other activities, public campaigns, distribution of printed information material, reports in the media, lectures at Universities.

Ratification and implementation of the Rome Statute:

They have provided assistance in a number of conferences/seminars dealing with ratification to advise on victims' rights, commented the inclusion of specific provisions on state cooperation to facilitate the implementation of the Court's mandate towards victims, being consulted by UK prior to the final adoption of the implementing legislation, followed the ASP and provided specialist expertise to certain training programmes on victims' issues.

Raising awareness on the ICC:

REDRESS has worked with other organisations to produce handbooks for victims of crimes within the jurisdiction of the Court and started an outreach campaign to those coming into contact with victims in the field (front-line workers).

**WFM-Institute for Global Policy on behalf of the Coalition for the International Criminal Court**

The Coalition began its works in 1995, having increased significantly its capacity and influence over the years. After the Rome Conference, the Coalition developed a more elaborated set of goals to ensure the establishment of a fair, effective and independent ICC as quickly as possible.

Exchange of information:

A European Office in Brussels maintains direct contacts with officials and follows events and actions related to the ICC at the EU level. The Coalition acts in close coordination with the EU Presidency, Member States and Union's institutions, and facilitates meetings between, on the one hand, the Coalition and its members, and on the other with Member States during the COJUR Sub-area ICC meetings and the EU-CICC meeting at the ASP sessions in New York. The Brussels office also monitors developments through the HR Forum, the EIDHR Programming document, the budget dedicated to the fight against impunity, decisions by the Human Rights Management Committee, debates questions, resolutions, etc. put forward by the European Parliament, and also by supporting the work of the MEPs group "Friends of the ICC". In its opinion, more resources within Member States and the Council Secretariat would be necessary to ensure the mandate provided for in the Common Position and to set up a EU institutional framework on the ICC ensuring coordination of the three pillars in relation to the ICC. (See recommendations issued by the Coalition at the COJUR Sub-area ICC meeting on 6 June 2003). Apart from the information posted in its own website, the Coalition relies on the websites of the ICC, steering committee members<sup>78</sup> and on list serves.

Ratification and implementation of the Rome Statute:

The Coalition has developed multi-faceted initiatives focused on targeted countries aiming at:

- *Achieving universal ratification of the Rome Statute:* a wide range of activities is developed with the support of the Coalition Secretariat, to (i) outreach to and cooperate with Governments and Parliamentarians by meetings with like-minded governments to discuss common strategies and share information, place the ICC on the agenda of bilateral and multilateral inter-governmental and parliamentary meetings; (ii) provide technical support to Government Representatives and Parliamentarians (for example, organizing side events at inter-governmental meetings to provide an overview of the ICC process, the Rome Statute and specific issues related to ratification of the treaty).
- *Countering the US Anti-ICC Campaign:* activities are focused in (i) making information and analyses available to CICC members and directly to governments about BIAs sought by the US; (ii) working with UN Security Council members to counter US efforts to obtain immunity from the ICC; (iii) cooperating with governments expressing concerns about the ICC Treaty.
- *Increasing the number of countries with comprehensive ICC implementing legislation:* by (i) providing capacity-building for civil society about the technical legal requirements of implementation of the Rome Statute, making tools available to assist in the drafting process -as overviews of the principal legal issues arising from implementation, ICC implementation checklists in all published languages, completed and draft ICC legislation, NGO analyses of ICC legislation, and articles on ICC implementation-; (ii) providing financial, logistical and other forms of support to Coalition members organizing national and regional meetings with governments to discuss implementation

WFM will devote more resources to expand its presence, mainly in Africa and Asia, providing technical expertise and training in implementing legislation, media development, and public education campaigns.

Effective establishment of the ICC:

The Coalition Secretariat will carry out several activities regarding the effective establishment of the ICC(i) general support -research and consultations in cooperation with those charged with the tasks of developing the rules and regulations for the key functions of the Court, considering the need for the

development of a foundation for the Court,...-; (ii) external relations -continuing to liaise officials of the current ad hoc tribunals and the Dutch planning unit and Court officials and encouraging strong relations between supportive States and the ICC...-; (iii) public information and outreach -conducting a focused and strategic media campaign, working closely with the communications staff at the ICC and in the Office of the Prosecutor (OTP), providing information about key developments and ensuring that accurate information is being disseminated; (iv) victims -providing support for the creation of the Victims and Witnesses Unit, the Victims' Participation and Reparation Unit, and the Trust Fund for the benefit of victims, and coordinating the Coalition's Victims' Rights Working Group (VRWG) to increase the effectiveness of civil society actors with expertise on victims issues; (v) defence and independent counsel -supporting efforts to ensure the establishment of an ICB that is as inclusive as possible and the creation of an effective legal aid program for all counsel-; (vi) investigations and prosecutions -facilitating contact between civil society groups and the OTP, helping to ensure that basic, public background information on potential situations reaches the OTP-; (vii) work of the Presidency and Chambers -maintaining relations with the Court's President and providing input as the goals of the Presidency are developed and implemented, encouraging public hearings or other measures of transparency in setting and implementing the goals of the Presidency-. The Coalition will work closely with the judges, the OTP, the registry, the president of the ASP and the host country (The Netherlands). The Coalition will also need to perform many of the same types of coordination and service provision roles already undertaken during the PrepCom fostering the setting up of the ICC: drafting a road map about the priorities to set up the Court, supporting the advance team, ensuring that NGOs can participate as effectively as possible in the ASP meetings, etc. With this aim the Coalition Secretariat will develop (i) logistical activities (facilitating NGO accreditation to the ASP meetings and NGO access the Host State, facilitating meetings, providing financial and logistical support to ensure the participation of NGOs from the global south and countries with economies in transition in each of the meetings); (ii) substantial activities -providing comprehensive orientation to issues and procedures of the Assembly to members of the Coalition, monitoring and providing input into the plans for an ASP; organizing and chairing daily NGO strategy sessions during the ASP meetings to allow NGOs to share information about developments and coordinate common positions where possible; making information available on the CICC website and print resources in several languages, including official UN and government documents from the meetings, NGO and academic papers on key issues and providing a final report of each session. "Management of expectations" will remain a high priority during the start up years of the ICC. WFM has been very concerned with this issue and has raised its preoccupations to Governments and officials in order to deal with this crucial question.

#### Raising awareness on the ICC:

The CICC has been supporting a wide range of worldwide actors and has facilitated the creation of an informal network of high profile individuals supportive of the ICC named "Friends of the CICC". As main activities, the Coalition provides informational and training materials; releases the ICC Monitor, with articles written by members of the Coalition and governments on ratification and implementation issues, the ICC Update on ratification and implementation efforts, and other press releases; informs civil society and key journalists on the negotiations and the setting up process through paper and electronic resources. Information is translated into Spanish, French, Arabic, Russian, German, several Asian languages and Eastern European languages.

Since the entry into force of the Rome Statute, the Coalition Secretariat has been working closely with its members and other experts to prepare NGOs, officials of the Court and law enforcement and legal professionals in ratifying countries to fulfil their obligations towards the ICC. As these efforts require extensive expertise and resources, it is essential that appropriate bodies in as many countries and regions as possible agree to develop, translate and distribute materials, develop and deliver training programs, and incorporate information into existing professional courses. The Coalition Secretariat serves as a catalyst, supporter and coordinator of these efforts in a wide range of activities in this regard.

<sup>78</sup> AI, Asociación Pro Derechos Humanos, ELSA, FIDH, HRW, International Commission of Jurists, LCHR, NPWJ, PGA, Rights e3 Democracy, Women's Caucus for Gender Justice and the WFM-IGP.

## H. FOUNDATIONS

Donors have played an increasingly important role in the last years on the effective establishment of the ICC supporting financially an important number of events and initiatives concerning ratification and implementation of the Rome Statute, organisation of seminars, conferences and training activities among other issues. Their participation has contributed significantly to the effective establishment of the ICC.

### Ford Foundation

The Foundation started its involvement in 1996 giving a grant to the nascent CICC. In this next phase they will continue to support civil society groups' work on implementing legislation, first casework, victims' support and gender justice.

#### Exchange of information:

As there is no organised channel to exchange information with EU institutions informal contacts can take place during the celebration of ICC related events. Developments on the ICC are followed through list serves (CICC, Universal Jurisdiction Info) and their grantees, attending to events –organised by them or official events as the inauguration of the ICC and meeting with ICC staff members. However, they advocate for the organisation of donors meetings with EU, relevant public European founders and private US foundations.

#### Ratification and implementation of the Rome Statute:

By third countries: The Foundation has granted projects undertaken by civil society groups' -CICC, Lawyers Committee for Human Rights, HRW, PGA and the Women's Caucus for Gender Justice<sup>79</sup> - in different regions -Chile, Brazil, Kenya, Indonesia, and India-.

#### Effective establishment of the ICC:

They have attended NGO meetings during the ASP, provided financial support for the participation of delegates from LDC in the meetings of the ASP through grants to the CICC and currently support at least one NGO working on victim support. In the forthcoming phase, they will continue granting implementation work to facilitate complementarity and, in particular, the Ford Field offices that decide so, will support NGOs that undertake casework and victims work. In their opinion, the ICC lacks a proactive communications strategy.

#### Raising awareness on the ICC:

They have funded a wide range of projects to involve influential people, developed training activities, organised seminars and conferences, published information, supported media and education campaigns and informed civil society on the negotiations and the setting up process.

### Liu Institute, Vancouver, Canada

#### Exchange of information:

Communication with EU and its Member States has taken place through participation in events as the Vancouver Dialogue process<sup>80</sup>. With ICC practitioners, exchange of information will be carried out by a website and its forum. Developments on the ICC are followed through various websites and news<sup>81</sup>. Though there will be no coordinator in The Hague some of the Vancouver Dialogue key meetings are planned to be holding there.

#### Ratification and implementation of the Rome Statute:

By third countries: The CEO and Director of Liu Institute will meet CARICOM Ambassadors to Canada to outline ways in which the Canadian governments and the Liu Institute can provide support (technical, political and financial) to assist countries whose aid has been suspended by the US to still promote participation in and implementation of the Statute of Rome. Other initiatives undertaken concern the organisation of a meeting of Political Decision Makers on Articles 98 Agreements for the fall of 2003, the Vancouver Dialogue, the Plan of Action and Liu Institute Discussion Paper Series -8 documents (including strategy documents) on the best promotion of complementarity through domestic criminal legal reform and multilateral technical support project on implementation- Though they have received requests for technical assistance with implementation, drafting assistance, requests for secondment of expertise, legal opinions, they have not been able to attend these requests due to the lack of resources. The significant obstacles in the current work of implementation have been outlined in their International Justice Strategies Forum concept paper and a brief Action Plan has been produced for domestic implementation of the Statute of Rome in conjunction with domestic criminal law reform.

#### Effective establishment of the ICC:

The Institute has attended to all ASP meetings, and, as part of their project to provide an Operational Guide for ICC officials on Victims and Witnesses issues, they have worked with Judge Kourula and Gilbert Bitti of the VPRU to assist the VWU/VPRU and the ICC more generally. A Group of Experts meeting in The Hague co-hosted by the ICC in October 2003 will review this Operational Guide and create an ongoing resource forum on this area. The Institute has also recently attended to the Public Hearing of the Office of the Prosecutor releasing a Submission Paper.

Management of expectations were considered during the first Vancouver Dialogue meeting entitled The Expectation Gap, and in several position papers. They are currently working on the creation of more networks between the ICC, other tribunals and domestic governments through their International Justice Strategies Forum; on a prosecutor's network -under discussion with the International Association of Prosecutors, the International Bar Association, the ICDA, and national prosecutors-; and have developed a plan for an Association of Court Administrators.

#### Raising awareness on the ICC:

The Director of the Institute has delivered dozens speeches, attended dozens of conferences and provided many media interviews on ICC and international justice. The Director of the International Justice Program, Robert Adamson, has written and delivered speeches on ICC and others international justice issues and has been interviewed on several occasions by Radio Canada Internationale. Andras Vamos-Goldman acts as the Liu Institute's New York based liaison with the diplomatic community, including UN<sup>82</sup>. The Institute, in conjunction with the University of British Columbia, offers a course on Human Security that includes components on the ICC and international justice<sup>83</sup>.

### **Macarthur Foundation**

The Foundation began to support the establishment of the ICC in 1997. Since then, they have responded to requests from governmental agencies and NGO and will continue so.

#### Exchange of information:

No regular channel is established to exchange information with EU institutions and Member States. Developments on the ICC are followed through NGO list serves, information bulletins and communications with UN delegates.

#### Ratification and implementation of the Rome Statute:

By third countries: Consultations with experts is considered as the most effective mean to support implementing legislation.

#### Effective establishment of the ICC:

They have followed the ASP and financially supported the participation of delegates from LDC in these meetings. In the next future they will possibly support NGOs in bringing cases to the ICC.

#### Raising awareness on the ICC:

They have involved influential people; developed training activities and media/education campaigns; organised seminars/conferences; published information; informed civil society and journalists on the negotiations and the setting up process.

### **Open Society Institute**

The Open Society Justice Initiative, an operational program of the Open Society Institute, pursues law reform activities grounded in the protection of human rights and contributes to the development of legal capacity for open societies. The Justice Initiative joins empirical practice and legal advocacy with the dissemination of knowledge in its areas of core concern: national criminal justice, international justice, freedom of information and expression, equality and citizenship, and anticorruption.

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<sup>79</sup> The names of country specific experts could be provided by their grantees.

<sup>80</sup> Various EU Member state governmental representatives and two members of the European Commission were invited to the first meeting in New York, April 23-24 2003, and participated -except the latter who declined the invitation-

<sup>81</sup> Listed under resources in the Liu Institute general website and its Interactive Resource Guide to the ICC

<sup>82</sup> All the speeches and publications are available on website and disk. The Liu Institute has published many oped pieces in the Globe and Mail, Le Monde and other newspapers on international justice issues

<sup>83</sup> Robert Adamson lectured on these subjects last year and will offer shortly a course with the Law Faculty on International Justice and International Criminal law.

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## I. MEDIA

The support of media is crucial for spreading general knowledge on the current state of the setting up process and for raising awareness on the ICC, but due to lack of resources, many news agencies cannot afford a permanent representative in The Hague, not only from European countries but also mainly from developing countries.

Special mention has to be made to the work carried out by the Association of ICC Journalists, developing an important task: reporting on the ICC works to their respective agencies.

### Association of ICC Journalists

The Association started its works at the inception of the ICC. Most of its members have been specialised in IHL for years, covering ICTY, ICJ and ICC, and intend to continue their work reporting about the court for their respective media organisations

#### Exchange of information:

Information and assessment are provided through the Embassies in The Hague and the Dutch MFA. Developments on the ICC are followed through the Court's and the CICC websites. Recently, they participated at the EFJ annual meeting in Prague. To improve coordination at EU level they propose to give a role to the EU bureau in The Hague and highlight the helpfulness of the EU sponsoring organisations like SENSE, IWPR and Internews in their ICC work.

#### Ratification and implementation of the Rome Statute:

As independent journalists the Association does not engage in campaigns for ratification though they may support them as private citizens. However, they drop the attention to the situation of the media organisations of war-torn countries as, due to their lack of means and also to the severe existing regime on visa and residence permit in the Netherlands, it will be difficult to send a permanent correspondent to cover the relevant trials.

#### Effective establishment of the ICC:

They monitor the ASP mostly through the CICC, are involved or support NGOs bringing cases to the ICC, and support victims, if justified, reporting activities. They will work on management of expectations despite the Dutch visa regime.

#### Raising awareness on the ICC:

They try to involve influential people, publish information; and in particular one press release on their foundation, and inform civil society and key journalists on the negotiations and the setting up process.

## II. CONFERENCE SPEECHES

### 1. BRUNO CATHALA, REGISTRAR OF THE INTERNATIONAL CRIMINAL COURT

Ladies and Gentlemen,

It is my pleasure to address today's Conference on the International Criminal Court.

I would like to begin my contribution by introducing a necessary distinction, one partly included in the preparatory document for this conference: the distinction between the system established by the Rome Statute, and the Court itself. This distinction will be helpful not only for the purposes of today's discussions, but also for channelling in the most effective manner the assistance provided by the European Commission and other actors.

Let me clarify this distinction in a few words.

The Rome Statute establishes a global system which endeavours to "put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole". This system provides for the primary duty of States in exercising criminal jurisdiction over the perpetrators, the complementary nature of the Court, and the enactment at national level of effective measures for cooperation with the Court. While various actors, such as national jurisdictions, the Court, etc. are called upon to work closely towards the achievement of the ultimate goal - creating a universal system of international criminal justice - the Court remains at the heart of this system. At its core, the Court must achieve and maintain the highest standards of justice by ensuring the fairness and efficiency of its proceedings, ultimately contributing to the establishment up of a credible, transparent, effective, articulate and accessible Court.

In the last few months, the International Criminal Court has become a reality. The Court is no longer an aspiration, it is a tangible and functioning institution built on the system founded by the Rome Statute. The Court is now at the operational stage with judges elected and sworn-in, the Presidency in place, the Prosecutor and the Registrar already in office.

This was made possible mainly due to the financial support of the European Commission, through the European Initiative for Democracy and Human Rights, which has enabled the establishment of the Advance Team. I would also like to take this opportunity to express my gratitude to the Member States of the European Union which have effectively sustained this initiative. The Advance Team has proved to be essential in establishing initial structures, policies and mechanisms to prepare the Court for the arrival of its first officials and to establish the Division of Common Services, which has managed the administration of the Court in the first few months of its existence.

This process has continued with the preparation of the 2004 Budget Programme, adopted by the Assembly of States Parties in September this year. The Budget was designed to sustain a flexible, well-proportioned and cost-effective Court able to respond intelligently to events as they unfold.

On this topic, allow me to remind you that the budget has been built on the assumption that sound, capable and well-informed national jurisdictions are in place. As you know, the mandate of the Court is to prosecute the most significant perpetrators. Therefore, the responsibility of other perpetrators will have to be considered by other instances, particularly in national courts, in order to avoid any 'impunity gap'.

The Court can only accomplish its mission within the remit of its mandate. The Court has neither ambition nor means to respond alone to all the challenges of international criminal justice. The strong commitment expressed by the international community and civil society throughout the process of the establishment of the Court should continue. Now, more than ever, the Court and the system established by the Rome Statute need the steady support of States Parties, NGOs and other international organisations.

This support is closely linked to the needs of the Court and the system established by the Rome Statute through additional budgetary resources which allow crucial projects to go ahead. These projects are desi-

igned to strengthen the system created by the Rome Statute and to contribute to the sound administration of the Court. These projects are not part of the core functions of the Court, maintained through the regular budget, but are complementary to its fundamental activities.

I would like now to share with you the thematic priorities around which voluntary contributions of various partners in the international arena (States Parties, NGOs, European Commission and other international organisations) could be gathered to strengthen the “strategic partnership” and connect all the actors anchored in the Rome Statute system, a partnership which will best match the resources and means at stake to the needs of the Court.

The Court has identified five thematic priorities. They are the outcome of a thorough internal reflection process which included the Judiciary, the Prosecution, and the Registry and are in complete agreement with the position adopted by the Member States of the European Union in June 2003.

### PROPOSED THEMATIC PRIORITIES

The five thematic priorities are as follows:

- 1) To develop the universal aspect of the Court;
- 2) To implement the principle of complementarity;
- 3) To educate the public and our ‘clients’ through communication;
- 4) To establish special support structures for victims and witnesses;
- 5) To strengthen the continuous self-learning capacity of the Court

It should be noted that under each thematic priority concrete projects have already been developed, while others are about to be developed: some by the Court, some by other bodies (NGOs, States Parties, etc.). It is important to note that for certain areas such as victims and witnesses, external communication and universality, the financial support of the international community should be equally distributed between projects initiated by the Court and those developed by NGOs.

#### 1) *Development of the Universal Aspect of the Court*

As I previously said, the success of the International Criminal Court is directly linked to complete and prompt cooperation with States Parties, who will need to assist the Court. Therefore, high quality of implementing legislation is essential. In this respect, the Court endeavours to create a database of implementing legislations. The Court will also encourage an active dialogue between States Parties to ensure that the objectives of the Statute are met and reflected accordingly in respective legislation as this will certainly be a long and difficult process. It is vital that the prevailing legislation facilitates the work of the Court.

The strong and constant support of States has been essential in establishing the Court. As the Court has now entered a new phase, the operational phase, this support has to be reinforced, bearing in mind the fact that the universality of the Court is dependent on the ratification and acceptance of the Rome Statute by as many States as possible.

In this area, governments and NGOs have played an essential role, and their efforts must be recognised. The Court, mindful of the need for the practical, political and moral support of States, urges civil society to continue campaigns for ratification. Moreover, civil society should continue to provide assistance to countries throughout the drafting of implementing legislation.

Against this background, it is of the utmost importance that constant support of the European Commission be ensured for activities and projects directed towards the universality of the Court.

#### 2) *The implementation of the principle of complementarity*

As I have already said, it is up to the States to try their own criminals. The principle of complementarity is central to the work of the Court and its mandate.

A sound and competent national structure is the only guarantee that perpetrators of crimes contained in the Rome Statute will be duly punished at the national level, thus further reducing the “impunity gap” and validating the effectiveness of the International Criminal Court.

Giving life to the principle of complementarity also entails continuous awareness-raising campaigns aimed at communicating to the world the work and mandate of the Court.

So that judiciaries can function properly, a crucial role is to be played by defence. In giving support and assistance to bar associations, the system established by the Rome Statute will be strengthened to guarantee a fair trial without undue delay, while the protection of the rights of the accused will be ensured both at the national level and before the Court. By investing funds in bar associations and other bodies active in the area of defence, expert knowledge will be gathered which will ultimately serve national jurisdictions and/or the Court, and hence reinforce complementarity. However, it is necessary for this support to go well beyond European bar associations and be directed towards other continents (Africa, Asia).

In its endeavours to implement the principle of complementarity and communicate better to the public at large, the Court has developed an internship project aimed at members of national judicial systems. The project will enable different nationals from all over the world (especially from the least developed countries in Africa, Asia and Latin America) to participate in the work of the Court and thereby obtain an in-depth theoretical and practical knowledge of the workings of the Court. Upon completion of their period at the Court they will become valuable assets for their countries of origin and will further contribute to creating sound national systems that will strengthen the complementary statutory nature of the Court. Moreover, the project will contribute to the creation of strong advocacy capacities at the national level through the dissemination of knowledge. Here, I must express my concern regarding the delay in the development of this project which is essential for the implementation of both the principle of complementarity and that of universality.

From a medium and long term-perspective, the International Criminal Court envisages building up infrastructural support for international justice in the broader sense. In this respect, the establishment of a “best practices” database will create the capacity to share working methods between various international criminal jurisdictions and will establish viable mechanisms to learn lessons.

### 3) *Educating the public and ‘clients’ through communication*

Setting up an effective external communication strategy is vital for the functioning of the Court. Such a strategy should be adapted to the phase in which the Court now finds itself. For the operational phase, the Court has drawn up a simple explanation to communicate “what the Court is and what it is not”.

The Court is a judicial institution that belongs to all the world’s citizens. Therefore, an interactive information exchange between civil society, the media, victims’ groups and the public at large should be maintained. The role of NGOs and journalists’ associations will continue to be critical both with respect to collecting information worldwide for the benefit of the Court and to disseminating information about the Court. It is essential that the campaigns led by NGOs provide information on the work of the ICC for the public at large and persons who may become involved in trials, without raising unrealistic expectations.

The Court will shape its communication strategy with a view to addressing special groups such as victims and largely illiterate populations as well as the media, academia and those States Parties in whose territories crimes under the Rome Statute have allegedly been committed.

In addition, the Court will have to work in various regions around the world and it will have to rely on specialised help and local initiatives in the field. The role to be played by NGOs and the media in this respect is essential as it will help the Court in getting its message across in line with the culture, language and customs of the regions concerned. Therefore, a key priority identified for the present is keeping the media informed of fundamental issues related to the mandate and the mission of the Court.

### 4) *To establish special support structures for victims and witnesses*

The Rome Statute and the Rules of Procedure and Evidence have established a system which ensures full protection of the rights of all parties. However, the participation of victims in the proceedings before the Court and the possibility of reparations represent a novelty for the international criminal law. Victims are able to participate not only as witnesses, but also in the active defence of their own rights. In addition, the system provides for a range of reparations for victims of genocide, crimes against

humanity and war crimes. One of the challenges lying ahead is bringing this system into operation.

The Court has developed several projects aimed at improving the capacity of the Court to support victims' rights. However, we need support to implement these projects. The projects are directed at launching an information campaign for potential victims and groups working with them regarding what the Court's mandate provides for the victims and what it does not provide, thus contributing to a clearer conception of how the Court and national legal systems will have to work together in this field. Comprehensive information material, fully appraised of the situations facing the Court on the ground, will have to be compiled. This material will provide a guide for victims and their legal representatives.

Moreover, specialised training programmes will be produced in the area of victims' rights. The training programmes will in turn contribute to fostering cooperation between the Court, victims, civil society, inter-governmental organizations, and States Parties.

Particular attention will be given to issues of women and child victims in the production of information material, as well as in training programmes for legal representatives. Expertise in these matters will be incorporated into the policies of the Court in order to address their special needs effectively.

As far as witnesses, whose importance is obvious for the work of the Court, are concerned, it will be necessary to develop superior witness protection programmes adapted to different environments in which the Court will have to work, particularly at national level.

5) *Strengthening the self-learning capacity of the Court*

The International Criminal Court will have to prove its efficiency in the years to come. Consequently, its external actions will need to be supported by strong internal institutional capacities aimed at building and continually improving an efficient organisation.

Training on various topics essential for the work of the Court is envisaged with a view to enhancing the quality of the workings of the Court. Additionally, by engaging temporary experts the Court will not only be able to conduct its operations in a flexible and proportional manner, but also to benefit from the best expert knowledge at the right moment, not only in judicial matters but also in issues regarding management, for instance in establishing an efficient organisation with limited bureaucracy. That is to say, to allow the Court to become an organisation able to meet the challenges ahead.

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## Conclusion

By way of conclusion I would like to underline the essential role played by the European Initiative for Democracy and Human Rights, an efficient tool developed by the European Union to address international justice.

Under this umbrella, a wide range of projects have benefited from financial support and contributed to the creation of favourable conditions for the establishment of the Court and, moreover, to the advancement of the international criminal justice system envisaged in the Rome Statute.

It is of the utmost importance that we ensure an ongoing consultation process between the Court and the European Commission. The support given by the Commission and the Member States from the very beginning of our institution has been essential.

We must combine our energies in a joint effort so that resources allocated to the Court become part of a concerted and coherent effort to develop international criminal justice and bring us closer to a world governed by ethical ideals as prescribed by the Rome Statute and the common platform of the European Union. Each euro invested in the Court and the system of the Rome Statute must be directed towards a comprehensive objective visible to the citizens of the European Union, the rest of the world and their representatives.

I would like to end by stressing the point that it is not up to the ICC to validate the projects that will be submitted to you. However, it stands to reason that we cannot be indifferent to the choices made as they inevitably have an impact on the work of the Court.

Thank you.

## **2. E.U. PRESIDENCY, ITALY, ROBERTO BELLELLI**

Monsieur le Président, Monsieur le Greffier de la Cour, Mesdames et Messieurs,

C'est avec un grand plaisir que la Présidence présente aujourd'hui la position de l'Union Européenne en cette instance historique de la justice, où tant de juristes qui se sont formés en une des plus anciennes et illustres écoles du droit ont donné vie à une tradition reconnue de civilisation.

Nous sommes reconnaissants à la Commission européenne et notamment au Directeur Francesco De Angelis , qui a permis, grâce à son engagement personnel de réaliser la louable organisation de cette Conférence.

Nous remercions aussi le Conseil de l'ordre des Avocats de Naples pour avoir accueilli cette manifestation; le Greffier de la Cour Bruno Cathala et les autres fonctionnaires de la Cour , l'Adjoint municipal De Masi, les représentants des Etats membres de l'U.E. et les ONG, ainsi que tous les participants dont la présence aujourd'hui contribuera au succès de cet événement .

Le rendez-vous actuel constitue une excellente opportunité pour un échange d'informations indispensable pour coordonner les initiatives de tous les sujets impliqués dans un effort qui a fait époque en vue de l'affirmation de la justice pénale internationale permanente et qui constitue la naturelle évolution de rencontres qui, au cours des dernières années ont représenté un moment traditionnel de coordination des efforts de la Commission, des Etats membres et des Organisations non gouvernementales pour la promotion de la Cour pénale internationale .

L'approche pratique, caractéristique de l'organisation de cette Conférence, qui aborde à la fois les thèmes de la divulgation et ceux des mesures concrètes d'appui à la Cour, a été aujourd'hui rendu possible et constructive par la participation de la Cour, enfin active à la Haye et présente à ce débat, aussi bien qu'avec les interlocuteurs institutionnels de l'Union Européenne qu'avec les représentants des ONG. Les Etats membres de l'Union Européenne ont eu un rôle de premier plan dans le soutien au projet d'institution de la Cour pénale internationale: aussi bien les travaux préparatoires que la Conférence diplomatique de Rome qui en 1998 ont abouti à l'adoption du Statut de la Cour, ont été fortement caractérisés par les valeurs, les principes et les expériences en droit positif qui ont acquis une maturité grâce à la millénaire expérience juridique européenne, aussi bien de common law que de civil law.

L'institution d'une Cour pénale internationale permanente et indépendante constitue en effet l'outil le plus avancé pour la lutte à l'immunité des plus graves crimes internationaux, en tant que mise en oeuvre du droit international humanitaire et protection des droits humains, selon des lignes portantes tracées précisément dans les institutions européennes, en vue de contribuer à l'affirmation des valeurs de liberté, de sécurité et de justice moyennant l'état de droit.

La fonction de la Cour, par ailleurs, dépasse de loin les bornes de ses tâches strictement judiciaires et la rend protagoniste, sur la scène internationale, d'une action de maintien et de rétablissement de la paix et de la sécurité internationale: soit par le pouvoir dissuasif que la certitude d'une sanction institutionnalisée peut représenter par rapport à la perpétration des plus graves crimes internationaux et à la prolifération des conflits; soit en assurant les conditions de justice essentielles pour rétablir la paix sur le plan social dans les régions et parmi les populations impliquées en des conflits armés internes et internationaux. Dans son rôle concomitant pour le maintien de la paix , de la sécurité et du bien-être international, la C.P.I est donc fondée sur les piliers du système de relations internationales tracé dans la Charte des Nations Unies et confirmé dans le Traité de l'Union Européenne.

La parfaite coïncidence entre le rôle de la Cour et les objectifs institutionnels de l'U.E. a amené le Conseil européen à faire , de ce soutien à la Cour, un des pivots de sa politique extérieure et de sécurité commune.

Dès l'adoption du Statut de Rome, l'Union européenne a cohéremment entrepris une action marquante de promotion et de sauvegarde du Statut, internationalement reconnue et appréciée.

D'une part, en effet, la position assumée par certains États a rendu nécessaire une vigilance constante pour la sauvegarde du délicat compromis politique et technique obtenu au terme des complexes négociations de Rome, pendant toute la phase successive qui a amené à l'entrée en vigueur, en juillet 2002, du traité.

D'autre part, l'élargissement de la base du consensus au Statut de Rome dans la communauté internationale, constituait le présupposé de l'entrée en vigueur du traité : il s'agit à présent d'une des plus importantes conditions pour l'effective capacité d'action de la Cour.

Par l'entrée en vigueur du Statut, enfin, a été établie la juridiction temporelle de la Cour et une nouvelle phase de son existence s'est ouverte, axée sur la constitution de son organisation, et sur le démarrage de son activité institutionnelle.

L'action de soutien de l'U.E. à la CPI, s'oriente donc sur trois directives parallèles, qui reflètent les principes essentiels pour la consolidation de l'institution: intégrité, universalité et effectivité.

**Le principe d'intégrité** s'en réfère à l'exigence de conservation des contenus de l'accord constitutif du Statut.

Consciente du délicat équilibre que représente le Statut de Rome, l'U.E. s'engage à le conserver et à le défendre de toute tentative directe ou indirecte de le modifier à la lettre et en substance.

Dans ce contexte ont actuellement une importance particulière les Conclusions adoptées par le Conseil de l'Union Européenne le 30 septembre 2002 et les *Principes Guide de l'U.E. annexés, relatifs aux Accords entre un État partie du Statut de Rome et de la CPI et les États Unis, concernant les condition pour la remise de personnes à la Cour.*

L'U.E. divulgue entre tous les États les Conclusions adoptées par le Conseil afin qu'elles soient observées dans toute la mesure du possible, en cas de stipulation d'accords bilatéraux d'exemption de la juridiction de la Cour, ceci afin de permettre le respect du but essentiel de la justice pénale internationale, qui est la lutte à l'impunité pour les crimes plus graves qui alarment la communauté internationale.

Dans cette première phase de son fonctionnement, la Cour assume déjà une fonction essentielle de promotion de la juridiction pénale permanente : le démarrage correct de l'Institution - aussi bien sur le plan juridictionnel que sur celui organisationnel - constitue en effet la meilleure preuve de son influence et de sa crédibilité face à la communauté internationale.

L'Union Européenne, donc, souhaite que les préoccupations de tous ceux qui craignent que la Cour puisse être instrumentalisée sur le plan politique soient rapidement dissipées, grâce surtout à un respect rigoureux de l'esprit et de la lettre du Statut, que la Cour saura certainement démontrer dans l'exercice de ses fonctions.

Comme on sait, le Gouvernement des Etats Unis est le porte-parole de ces soucis, et en ce sens, il tient compte soit de la participation des troupes américaines aux opérations de paix, soit des dimensions de l'engagement stratégique global des Etats Unis.

Par ailleurs l'U.E. tout en comprenant les motifs d'appréhension des Etats Unis, retient que le Statut de Rome fournit de garanties idoines et influentes d'impartialité qui tiennent compte du principe de complémentarité de la juridiction internationale, de la qualification élevée des juges et du Procureur, des amples garanties de procès et du système complexe d'équilibrage des pouvoirs entre les organes de la Cour.

C'est sur ces bases que sera cohéremment poursuivi le dialogue avec les États Unis en vue du dénominateur commun des positions respectives : mettre fin à l'impunité pour les délits internationaux plus graves prévus par le Statut de Rome.

**Le principe d'universalité** s'en réfère à l'adhésion au Statut et à la juridiction de la Cour. L'influence de la CPI et l'efficacité de son action dépendront en grande mesure du nombre d'États qui y participeront, ou qui assumeront une position de coopération avec la Cour. Jusqu'à présent, (92) États ont ratifié le Statut de Rome. Il s'agit d'un résultat méritoire obtenu en cinq ans seulement, qui doit servir d'incitation pour un engagement constant dans la campagne en faveur de l'universalité de la Cour.

La Cour, en effet, devra s'en remettre à la coopération des États pour pouvoir exécuter de façon indépendante et efficace son mandat juridictionnel et assurer ainsi un tribunal présidial de légalité internationale.

L'expérience pratique des Tribunaux ad hoc des Nations Unies pour l'ex-Yougoslavie et le Rwanda a démontré le besoin de pouvoir se prévaloir de la collaboration de tous les États intéressés.

Pour cette raison - par rapport au cadre universel d'application de la juridiction de la Cour Pénale internationale - il est important que tous les États qui la soutiennent facilitent le rapport de coopération judiciaire avec la Cour.

En effet, la CPI n'est pas dotée de pouvoirs autonomes d'exécution des décisions de ses organes et elle devra oeuvrer en se servant de la collaboration des États plus directement concernés, par rapport à l'endroit de perpétration des crimes, à la personnalité, ou au séjour des auteurs ou des victimes des crimes, voire à la disponibilité des sources de preuve. Mais elle devra également pouvoir tirer profit de l'intervention de la communauté internationale, par exemple en ce qui concerne la disponibilité sur place des forces pour le maintien de la paix, ou le pouvoir de dénonciation reconnu par le Statut au Conseil de Sécurité des Nations Unies. En outre, comme la sphère de juridiction de la Cour est encline à être universelle, la possibilité d'exercer efficacement la fonction de prévention des conflits dépendra directement du degré d'acceptation de la Cour dans la communauté internationale.

D'autre part, la crédibilité de l'institution requiert que sa légitimation formelle soit accompagnée d'un soutien à tendance universelle qui fasse aussi percevoir la Cour comme le juge complémentaire, en dernière instance, pour la mise en oeuvre de la justice internationale pénale au cas où les États n'auraient pas voulu ou pas pu, exercer leur propre juridiction.

L'Union Européenne vise l'objectif d'universalité du Statut et de la juridiction de la Cour par les voies diplomatiques : (1) moyennant des démarches formelles effectuées vis-à-vis des États - pour solliciter la ratification du Statut et l'adaptation de leur droit interne ; (2) moyennant de nombreuses actions de soutien, aussi bien économiques - par des initiatives scientifiques et divulgatives sur les valeurs, les principes et les dispositions du Statut ( pour lesquelles les ONG ont exercé et continuent d'exercer un rôle irremplaçable de raccord avec la société civile )-, que techniques, moyennant le partage des expériences législatives lors de la ratification du Statut et au moment de l'adaptation du droit interne.

### **Le principe d'effectivité concerne les conditions de fonctionnement de la CPI.**

Pour être efficace, l'action de la Cour exige que tous les outils législatifs qu'elle prévoit soient effectivement appliqués et que la Cour dispose de moyens suffisants pour atteindre ses objectifs en une position d'indépendance effective.

Dans cette phase, donc, ce qui est essentiel, c'est l'achèvement de l'apparat administratif de tous les organes de la Cour, le transfert des contributions des États au bilan de l'organisation et une formation professionnelle appropriée pour le personnel qui à titre divers est appelé à prêter service à la Cour.

Le cadre législatif de référence devra en outre être complété par l'entrée en vigueur rapide de l'Accord sur les privilèges et les immunités de la Cour, ainsi que par l'adoption de l'Accord de relation entre les Nations Unies et la CPI.

L'Union, en outre, fournit constamment son appui aux travaux de l'Assemblée des États qui font partie du Statut et n'épargne pas ses efforts pour mener à bien la négociation relative à la définition des éléments constitutifs du crime d'agression et des formes de procès, afin d'activer sur ces dernières la compétence de la Cour.

En s'activant le long de ces trois lignes directrices - intégrité, universalité et effectivité -, l'Union Européenne a adopté dès 2001 une Position Commune en ce qui concerne la Cour, revue en 2002 et révisée en 2003, en adaptant continuellement ses outils et ses engagements à l'évolution progressive des défis institutionnels.

Le Plan d'Action établi en l'an 2002 pour la mise en oeuvre de la Position Commune de 2002, est en effet en cours de révision, en vue de donner un caractère plus concret, spécifique et marquant, ainsi qu'une meilleure coordination aux actions bilatérales et multilatérales de l'Union et de ses États membres.

L'Union Européenne a l'honneur de recevoir la CPI sur le territoire d'un de ses États membres, les Pays Bas; elle est consciente de sa responsabilité en ce qui concerne le maintien des conditions de paix et de sécurité internationales; elle réitère et renforce constamment son engagement de promotion du droit et de la justice internationale, en se plaçant sur la ligne la plus avancée d'appui au Statut de Rome.

Dans cette phase d'achèvement d'édification de l'Institution et de démarrage de la juridiction de la Cour, l'Union Européenne sera donc aux côtés de la Cour, pour contribuer à consolider et à divulguer ses principes fondateurs, selon la conviction que seule une Cour permanente, indépendante, universelle, crédible et efficace pourra assurer la réalisation des objectifs du Statut de Rome.

### **3. MINISTRY OF FOREIGN AFFAIRS OF THE NETHERLANDS. SPEECH DELIVERED BY EDMOND H. WELLENSTEIN, DIRECTOR-GENERAL, ICC TASK FORCE.**

Distinguished guests, ladies and gentlemen,

- I am honoured to have the opportunity to make a brief intervention at this event. As the Host Country of the ICC, the Netherlands is in a privileged position, in that it can watch the developments and the progress being made at the Court from day to day. I would like to express my gratitude to the European Commission for organising this conference, and to the Italian Presidency and the authorities of the beautiful city of Naples for their hospitality and warm friendship.
- On 15 July 2003, the Prosecutor presented his prosecution strategy. Today, the Registrar has presented the ICC's ideas on institution building. Personally, I believe that these statements by the ICC management can be regarded as our "road map". I am grateful to the ICC for presenting these important pointers for the future.
- I would like to focus on the future role of the EU and its member states in the institutionalisation of the ICC. To determine this role, it is crucial that we identify the current needs of the Court itself and of the ICC system. It is also important that we identify what action the EU could best take to support the ICC over the next few years. In my view, this should be the focus of our discussions here in Naples.
- The EU has already taken many steps to help establish the ICC on a firm basis. Allow me to recall some of them:
  - the European Initiative for Democracy and Human Rights (EIDHR).
  - the continuous political support provided by the EP, and its proposal to set aside a substantial contribution from the EU budget.
  - the EU and its Member States have also affirmed their strong political support for the ICC: in the revised European Council Common Position of June 2003, and in the Council Conclusions of 30 September 2002 on bilateral non-surrender agreements.

This work should of course be continued and where possible enhanced. Through both public and silent diplomacy, the EU should continue to support the ICC's integrity, independence and effectiveness, and should try to persuade countries to refrain from signing and ratifying non-surrender agreements, which undermine the letter and spirit of the Rome Statute. Finally, the EU should continue to use its diplomatic skills to prevent any abuse of the UN Security Council's role in relation to the Court. Finally, the EU should engage in continuous and open dialogue with countries that still hesitate to embrace the ICC.

**I would like to elaborate on two points:**

- I. First, strengthening the ICC
- II. Second, how best to improve the EU's organisation in terms of cooperation and transparency.

*Strengthening the ICC*

The Court has just entered a new phase in its existence: it will soon be dealing with the first situation. The Office of the Prosecutor recently defined the Court's general strategy, highlighted the priority tasks to be performed, and has defined an institutional framework that will help it to perform its work effectively.

As I said before, this strategy may be regarded as the "road map" for the ICC – and also for us, gathered here in Naples, to help structure our work. In the view of the Netherlands, we can divide the issue of strengthening the ICC into three external aspects and several institutional aspects.

Let me start by listing the external aspects:

- to enhance the Court's universality and legitimacy, it is important to continue the campaign to gain universal acceptance of the Statute through ratification. After that, promoting its implementation in national legislation is of the utmost importance. Here we have a big problem, however: the ICC must be able to rely on cooperation with states. Few contracting parties have amended their legislation as yet. The Netherlands has therefore stepped up activities aimed at giving legal and technical support to countries in the process of ratification and/or implementation. We are concentrating on the implementation process in African states, and on the ratification process in Asia, the Middle East, and some Latin American states.
- complementarity: national jurisdictions should give authorities the instruments they need to cooperate and to handle future cases themselves. The Netherlands is very willing to help by passing on its own experience in this area.
- Outreach to the general public, media, academia, victims, legal professionals, parliamentarians etc. is one of the Court's main priorities. The ICC's budget for 2004 earmarks adequate resources for this purpose. But EU member states and NGOs could and should pay their fair share.

Let me turn to the internal, institutional aspects of strengthening the ICC:

- institution building: strengthening the victim and witness unit and the defence "pillar", supporting the Clerkship and Visiting Professionals Programmes and a Victim Mandate Awareness Campaign. EU member states and NGOs alike have a role to play. We could use our meeting here, today and tomorrow, to work out a strategy and define priorities.

Finally, Mr Chairman, allow to make a few remarks on *Cooperation and Transparency within the EU*:

Can the EU attain an effective organisational structure? In my view, it is crucial that the activities of each EU member state, the Commission and the EU Council Secretariat are geared to one another as much as possible. To improve cooperation and transparency, we believe that the following points are worth considering:

- creating a permanent focal point for ICC matters in the Commission or the Council. The EU should and can quickly decide on this issue.
- The EU should step up exchanges of information between EU institutions (Commission and Council) and member states. As we know, the Commission, in partnership with NGOs, performs a range of activities and programmes aimed at supporting the launch and work of the ICC. The Commission is evaluating these activities. Some significant lessons have been learned from them, providing a wealth of information. I would strongly urge the Commission to share this information with EU member states, to help them improve the quality of their programmes and to achieve a better match with the

Commission's important work. This information can be transmitted by coreu or using our e-mail network and by holding more frequent meetings, including some at the seat of the Court, as Italy has now suggested. Thank you, Mr Bellelli, for taking this initiative.

- EU member states should improve coordination in activities in the field of ratification and implementation in order to prevent overlap and to create synergy.
- The EU can improve and deepen exchanges of views with civil society, as we are doing today. NGOs have played a key role in establishing the ICC and they will continue to be crucial to the work of preserving the integrity of the Court, promoting universality, and bringing justice to mankind.

I should like to close on that note, Mr Chairman, having provided these few thoughts from the Netherlands as a contracting party and the Host Nation, which I hope will provide some food for thought at this gathering.

Thank you.

#### 4. COUNCIL OF EUROPE, HEAD OF THE PUBLIC LAW DEPARTMENT, GENERAL DIRECTION OF LEGAL AFFAIRS

Merci Monsieur le Président,

Permettez-moi tout d'abord de remercier les organisateurs de ce Séminaire d'avoir invité le Conseil de l'Europe à participer à cette manifestation. Comme vous le savez, le Conseil de l'Europe soutient activement et depuis le début la création d'une Cour Pénale Internationale et la mise en œuvre de son Statut.

Plusieurs raisons expliquent l'engagement du Conseil dans ce processus. Le CdE est en effet la première organisation européenne créée en réponse aux atrocités commises durant la deuxième guerre mondiale, dans une atmosphère post-conflictuelle pour laquelle la question n'était pas celle de la revanche mais bien celle de la Justice. Depuis, cette idée se décline sous la forme de trois principes cardinaux sur lesquels repose l'action de notre Organisation : droits de l'homme, démocratie pluraliste et état de droit. La CPI quant à elle, œuvre pour le renforcement de l'état de droit dans le monde entier, et constitue un progrès incontestable dans la protection du droit international des droits de l'homme. C'est dans ce sens que se sont récemment exprimés le Président de l'Assemblée Parlementaire et le Secrétaire Général du Conseil de l'Europe.

L'entrée en vigueur du Statut de Rome et la mise en place progressive des organes de la Cour en 2003 est l'une des composantes de la lutte contre l'impunité. En vertu du principe de complémentarité en effet, il appartient d'abord et avant tout aux États Parties de juger les personnes responsables de crimes visés aux articles 6 à 8 du Statut. Aussi, les conséquences de la mise en œuvre du Statut pour les juridictions nationales sont tout aussi importantes que la création de la Cour elle-même, et soulèvent dans bien des cas des difficultés.

A cet égard, le Conseil de l'Europe constitue un **forum** au sein duquel toutes ces questions, y compris celles qui nous préoccupent ici, sont examinées. Au plan intergouvernemental, le CdE a organisé plusieurs réunions de **consultation** sur les implications pour les États membres du Conseil de l'Europe de la ratification du Statut de Rome de la Cour Pénale Internationale (CPI). Elles se sont tenues en mai 2000, en septembre 2001, et tout récemment le 17 septembre 2003, à l'initiative conjointe du Comité européen pour les problèmes criminels (CDPC) et du Comité des Conseillers juridiques sur le droit international public (CAHDI). Chacune des trois consultations a abouti à l'adoption des conclusions reflétant le consensus entre les participants.

Il m'a été demandé de vous présenter ici les travaux récents entrepris par le Conseil à la lumière des **conclusions** adoptées lors de la Troisième Consultation multilatérale le 17 septembre et de l'échange de vues qui a eu lieu le lendemain entre le Président Kirsch et les membres du CAHDI à propos de son intervention relative à la " ICC : making it work ".

Avant cela, j'aimerais vous rappeler brièvement l'objet de ces consultations. L'objet général de ces consultations multilatérales est en réalité triple :

- faciliter l'entrée en vigueur du Statut de Rome
- aider les États membres à apporter les amendements nécessaires à leurs législations conformément au Statut de Rome, et
- assurer le fonctionnement effectif de la CPI.

Ce faisant, le CdE apporte assistance et soutien aux États membres et observateurs dans le processus de ratification et de mise en oeuvre, en facilitant les échanges de vues et d'informations entre ceux-ci, et en mettant en place un site web et un réseau d'agents de liaison nationaux, tous deux établis en réponses aux conclusions de la première réunion de consultation.

Je rappellerai pour mémoire que la première consultation, en mai 2000, a été l'occasion d'examiner les implications de la ratification du Statut de Rome dans l'ordre juridique des États membres. Pour assurer l'efficacité et l'effectivité de la Cour, le CdE a passé systématiquement en revue les lois nationales et en a recommandé la révision, lorsque celle-ci était considérée comme nécessaire ou désirable. Ainsi, sur la base des réponses au questionnaire envoyé à tous les États membres et observateurs, le Secrétariat a préparé pour la discussion de la réunion une série de propositions de directives incluant des modèles de solutions pour incorporer les dispositions du Statut de la CPI dans les législations nationales. La deuxième s'est concentrée sur les implications du Statut de Rome au regard de la Convention européenne des droits de l'homme. (tous les documents sont disponibles sur le site web).

• *Troisième consultation multilatérale :*

Cette consultation, présidée par l'Ambassadeur Juan-Antonio Yañez-Barnuevo d'Espagne, a regroupé des experts de 40 États membres, États observateurs et les représentants d'organisations internationales (Europol, CICR, OTAN, etc.). Le juge Politi a d'abord présenté les modalités d'applications du statut de la CPI, et ensuite deux séances de travail ont été consacrées - je cite - à la "*notion de compétence universelle et les obligations en droit international, l'extension de la compétence pour la poursuite du génocide, des crimes de guerre et des crimes contre l'humanité et l'interaction entre la compétence universelle au niveau national et la coopération avec la CPI (portée de la compétence universelle, l'utilité du renvoi de cas devant la CPI, le transfert de cas à la CPI en cas d'immunité empêchant la poursuite pénale au plan national)*". Une série de Délégations ont ensuite présenté l'état d'avancement de leurs travaux (ratification et/ou mise en oeuvre), comprenant des références aux développements intervenus dans d'autres régions.

Vous trouverez l'ensemble des conclusions sur le site web du Conseil de l'Europe, et je n'aborderai ici que les questions ayant fait l'objet de discussion, notamment la ratification et la notion de coopération.

• *Processus de ratification :*

Le CdE a régulièrement souligné l'importance cruciale de l'adhésion universelle pour permettre à la Cour de devenir un instrument international véritablement efficace et garantir une justice équitable pour tous.

Les participants à la Consultation multilatérale ont noté que, depuis la deuxième réunion de consultation, le nombre des États membres du Conseil de l'Europe ayant ratifié le Statut de Rome est passé de 16 à 38. A ce propos, cinq des nouveaux États parties figuraient au nombre des 10 qui ont simultanément déposé leur instrument de ratification auprès du Secrétaire Général des Nations Unies le 11 avril 2002, portant ainsi le nombre des ratifications à 60, ce qui a permis l'entrée en vigueur du Statut. Les participants ont reconnu que cette tâche requiert un examen approfondi de la part des autorités nationales compétentes et que les échanges d'information et de points de vue entre les États membres, États observateurs et organisations internationales ont facilité ce processus et continueront à le faire.

Par conséquent, les efforts déployés par le CdE se sont révélés efficaces et le SG a rappelé devant le CAHDI que notre organisation continuerait à encourager et assister les États membres qui ne l'auraient pas encore fait - et si possible les États observateurs - à ratifier le Statut dans les meilleurs délais.

Maintenant que la Cour est une réalité, il convient - et les participants se sont entendus sur ce point - de lui donner les moyens de fonctionner efficacement. L'un des éléments clés du bon fonctionnement est sans aucun doute l'Accord relatif aux privilèges et immunités de la Cour pénale internationale. Le Président Kirsch regrettait devant le CAHDI le petit nombre d'États ayant ratifié ce texte, pourtant nécessaire à assurer la crédibilité de la Cour. Le CdE va par conséquent s'employer à promouvoir la signature et la ratification de cet accord, et inviter les États à devenir Parties et à adopter, le cas échéant, la législation nationale d'application le plus rapidement possible (§ 10). L'Assemblée Parlementaire avait également appelé les États membres et observateurs à ratifier le Statut de Rome et le Protocole sur les privilèges et immunités de la CPI et adopter la législation nécessaire.

- Coopération des États (entre eux et avec la CPI) :

De façon assez classique (cf. les conclusions des deux autres consultations) les participants ont souligné l'importance de la mise en place de législations et procédures nécessaires pour une coopération rapide et efficace avec la CPI, en particulier la remise de personnes à la demande de la CPI, et ils ont noté l'acceptation large de la distinction entre ce type de procédure de transfert et les procédures traditionnelles d'extradition.

En matière de coopération, une grande partie des discussions s'est focalisée sur la question des **accords bilatéraux** souscrits au titre de l'article 98 du Statut de Rome. Le Comité des Ministres et l'Assemblée Parlementaire du Conseil s'étaient déjà exprimés sur la question et leur propos ont été repris par les Participants – Au § 12 des Conclusions les participants ont tenu à rappeler la position suivante des deux organes du Conseil de l'Europe. Je cite : " tout action visant à saper l'intégrité de la CPI est inadmissible et [...] les accords bilatéraux au titre de l'article 98 du Statut ne pourraient être acceptables que s'ils respectent la lettre, l'objet et le but du Statut, tout en tenant compte des conclusions du Conseil des Affaires générales de l'UE sur la CPI du 30 septembre 2002 "

Les participants ont ainsi convenu que tout accord bilatéral relatif à la coopération des États avec la CPI doit être conforme aux dispositions du Statut de Rome et, plus généralement, à d'autres dispositions pertinentes du droit international (en particulier la Convention de Vienne sur le droit des traités). A cet égard, ils ont convenu que les États Parties au Statut pourraient échanger des renseignements, se soutenir et s'entraider mutuellement dans leurs efforts pour remplir les obligations découlant du Statut, en particulier dans les situations où l'intégrité de cet instrument est menacée. Il convient de signaler que l'Assemblée parlementaire avait pour sa part exprimé son soutien aux États membres et observateurs qui ont résisté aux accords bilatéraux avec les USA et avait demandé à ceux qui les avaient conclus de respecter leurs obligations d'États parties au Statut de Rome.

Les discussions se sont ensuite tournées vers la notion de **complémentarité** et ce qu'elle implique en termes de répartition "raisonnable" du travail entre les juridictions au plan national et international. Pour assurer cette répartition et remédier à certaines difficultés, les participants ont mis l'accent sur l'importance de la coopération entre la CPI et les autorités judiciaires nationales - tribunaux et procureurs - et souhaité que de telles relations se développent afin de résoudre les situations problématiques qui peuvent se poser, telles les investigations simultanées au plan national et international ou encore les questions de preuves et de retard qui en découlent.

Concrètement, cela signifie que la CPI sera amenée à développer des critères pour déterminer le type d'affaires qui relèveront de sa compétence ou respectivement de la compétence des juridictions nationales. Dans le même temps, les autorités judiciaires nationales seront amenées à envisager que la CPI se doit finalement de donner priorité aux affaires d'envergure internationale.

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## Conclusion

Le Président Kirsch - à l'instar des Participants à la Consultation multilatérale (voir le § 20), a rappelé le rôle important que les 45 États membres du Conseil de l'Europe peuvent jouer individuellement et dans le cadre du Conseil en soutenant le caractère universel de la CPI et son fonctionnement effectif. Soyez assurés que le CdE continuera à apporter son soutien à la CPI.

Les conclusions adoptées le 17 septembre dernier seront présentées au Comité des Ministres, et devraient être ensuite transmises au CAHDI et au CDPC afin qu'ils en prennent compte dans le cadre de leurs travaux. L'Assemblée parlementaire, pour sa part, maintiendra sa pression et sa vigilance.

Je vous remercie de votre attention.

##### **5. NGO COALITION FOR THE ICC, CONVENOR, WILLIAM PACE. SPEECH ON 'DESCRIPTION OF THE ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN THE NEW PHASE OF THE COURT.'**

Mr. President, Distinguished Speakers and participants, Judge Politi, Registrar Cathala, fellow colleagues...

It is an honour and great pleasure to be once again in Italy, and especially in this wonderful Hall in Castel Capuano.

Thanks to Mr. De Angelis and the European Union: the European Commission, the Council, the European Parliament and governments. Neither the NGO Coalition nor more importantly the Rome Statute or the ICC, would exist without the strong support and leadership of the people and institutions of Europe.

Thanks to previous speakers kind references to the contributions of non-governmental organizations of global civil society and specifically to the NGO Coalition for the ICC. My task is to describe the role and work of the NGO's in the new phase of the ICC.

As the new world court rises in The Hague, we often hear of the three pillars of a judicial proceeding. The Court, the Prosecution, and the Defence. But the Rome Statute and the ICC represents a new or fundamentally strengthened system of international justice that itself can be described as having three pillars. The governments (GOs), the international organizations - like the ICC and UN (IOs), and civil society. As set out in the San Francisco Charter of the United Nations, within the framework of intergovernmental negotiations, organizations, conferences and forums civil society is represented by non-governmental organizations (NGOs). I will take these three pillars as a framework for my comments. First, let me describe the NGO Coalition as of today.

The NGO Coalition for the ICC (CICC) comprises more than 2000 diverse organizations of global civil society- growing from 25 founding members in February 1995-international law organizations, humanitarian organizations, human rights, children, women's and victims organizations, parliamentarian associations and professional associations of defence and other legal counsel, peace and faith organizations, and many more. The CICC is growing in size and depth each month. The CICC comprises also more than 95% of all the organizations working on the ICC- an extraordinary expression and reflection of global solidarity.

CICC is composed of scores national networks, regional caucuses and networks, and has an informal international steering committee overseeing the global campaign. Steering Committee members are Amnesty International, Asociación Pro Derechos Humanos, European Law Students Association, Fédération Internationale des Ligues des Droits de l'Homme, Human Rights First, Human Rights Watch, No Peace Without Justice, Parliamentarians for Global Action, Rights & Democracy and the World Federalist Movement- Institute for Global Policy (WFM-IGP).

The CICC also comprises 'issue caucuses' – Women's Caucus, victims, children, faith, peace and a new one addressing universal jurisdiction. The CICC international secretariat has some 30 staff and consultants in our international secretariat, co-located in The Hague and New York, with regional offices and coordinators in Manila, Brussels, Lima, and Mexico City. Our offices in Uganda and Namibia have been wound down as we are reorganizing our regional coordination for Africa and as we consider expanding regional coordination worldwide, in particular, to the Middle East.

The role of NGOs in the new phase of the ICC. CICC and NGOs. First, the CICC is expanding its NGO roots beyond its solid foundations of the last several years, anchored especially on human rights and other Steering Committee organizations. In the new phase many new types of NGOs will join in our work- prosecution associations, many more academic institutions, organizations with special investigatory experi-

se. NGOs and other ‘human security’ campaigns will join the CICC: child soldiers, small arms, conflict diamond investigatory groups. Organizations promoting the rule of law, groups advancing democracy, humanitarian and relief and development organizations from conflict nations and regions, these are only some of the new NGOs that will join in the ICC work. NGOs with special expertise offerings to the ICC itself will multiply: training institutions, defence organizations, even professional associations providing language and conference services and many, many more.

The CICC will develop special initiatives with NGOs to assist in world wide outreach capabilities, with special abilities to interact with media. It is vital that we help build an NGO network in the ICC host country, The Netherlands.

CICC and governments. The main ‘governmental’ focus of the CICC and NGOs will be the Assembly of State Parties (ASP) and our goal to promote the establishment of a strong and independent ASP Secretariat. Today, 92 nations have ratified the Rome Statute; 51 other governments have signed the treaty; and we estimate 10 other governments are moving toward accession.

A primary NGO goal in the new phase for governments is to advance towards universal ratification. Equally important is need for the State Parties and other governments to adopt effective national implementing legislation so that these governments can fully cooperate with the ICC and implement complementarity.

Unfortunately, after the ten Preparatory Commissions, the governments have adopted a short-sighted view that their work is mostly done now after 8 years of intensive negotiations. They have downgraded their participation at foreign ministries in ICC matters. This, the CICC believes, is a serious mistake. While we cannot expect the governments to meet three times a year for 2-3 weeks each time, with multiple inter-sessional meetings, the decision to meet for only 3-5 days a year is wholly inadequate. Stewarding the new justice system, interacting with the Court and others in implementing the principle of complementarity, overseeing the development of a major new international organization – a new world court – these challenges demand an active Assembly of State Parties.

Respect for the independence of the Court is vital; but the governments have much unfinished business. Every new ratification; every government that implements the Rome Statute into its national legal system; these are the pillars of future deterrence and conflict prevention. Achieving equity among the regions in ratifications. Each of these goals will result not only in conflicts reduced, cases deferred to national systems, but also it means millions of lives saved; billions of Euros saved from the waste of conflict and available for development and progress.

One other key government goal for the NGOs is to secure close cooperation with the Host country/in The Hague in the Netherlands. It is crucial that NGOs can fully contribute to the success of the new IO in this world capital of international law.

Finally, let me mention our goal to continue working to change the position of governments who oppose or retain serious reservations about the Rome Statute.

The CICC and ICC, international organizations.

Just as the Rome Statute and the ICC represents one of history’s most extraordinary examples of NGO-Government cooperation, it is safe to say that the ICC will be unique in that, when completed, I venture there will never have been an international organization established wherein the contributions of NGOs will have been so significant.

In the Registry- NGOs will make major contributions to the development of mechanisms of defence, victims, creation of victim and witness unit, the need for the ICC to have extraordinary outreach capacities, and in a hundred other ways. NGOs will be the strongest advocates of an effective and adequate budget and for new budgetary processes for the new IO. There would not be a Trust Fund and Board for Victims except for the CICC.

In the Office of the Prosecutor. NGOs will be the main source of communications to the ICC. NGOs will be instrumental in investigations, in implementing complementarity, in promoting national implementing legislation (also the Agreement of Privileges and Immunities).

Presidency and Chambers. Because of independence, NGOs will have a lesser role in the development of the court. NGOs will have important contributions to make in the development of regulations, in promoting the most qualified candidates for judges and in seeking to ensure fair and transparent elections.

In sum, civil society will be, I believe, the most reliable defender of the ICC than any other sector.

#### Other IOs.

The UN. The ICC cannot succeed without a close cooperative relationship to the UN. NGOs will treat this as a major goal in the next year. The cooperation and support of the UN Secretary-General, of the Security Council, of the agencies and programmes of the UN – DPKO, OCHA, DPA, UNHCHR, UNHCR – all are essential. The synergy of this cooperation will make international law and justice, and the ICC, one of the great tools for promoting peace and making war less possible in the 21st century.

ICRC. One must mention the importance of cooperation between the ICC and ICRC – in many ways these two IOs are now the twin pillars of the Geneva Conventions and enforcing the laws of war.

EC/EU. The CICC welcomes the creation of a focal point on the ICC at the EU. There would not have been an ICC without the EU's support. Its survival will depend on the EU, but the ICC cannot be seen as primarily a European court!

Root Causes. In closing, NGOs and the CICC are committed to redoubling our support in the new phase of work of the ICC. Our role is consultative. But the support of civil society is truly an anchor pillar of the new IO, and of the future of international justice. The ICC is not only the most significant advance in international law since the adoption of the UN Charter, it provides an answer to those who say we must deal not only with the threats and consequences of war, but with the root causes of war. The Rome Statute and the ICC are answers to two of the most powerful root causes.

We must not fail.

Thank you very much.

## **6. INTERNATIONAL COMMITTEE OF THE RED CROSS, ADVISORY SERVICE ON INTERNATIONAL HUMANITARIAN LAW, CRISTINA PELLANDINI, LEGAL ADVISER.**

First, I would like to join the speakers that preceded me in congratulating the European Commission for the initiative to organize this important conference and the organizers for having invited the International Committee of the Red Cross (ICRC) to take the floor.

The ICRC has welcomed the entry into force of the Rome Statute and the setting up of the Court as decisive step towards a comprehensive and more effective system of repression for crimes of the utmost brutality, such as the crimes of genocide, crimes against humanity and war crimes. It is confident that the Court will have a deterrent effect and contribute to a better respect of international humanitarian law. It also hopes

- that States, prompted by the complementarity principle upon which the ICC is based, will ensure that their national law enables them to try and punish persons who have committed these crimes;
- that States will develop the political will to ensure that persons alleged to have committed such crimes are tried and, where found guilty, punished; and
- that the ICC will be able to step in and get the necessary support to do so, where a State which has jurisdiction is unable or unwilling to act.

My short intervention will focus on how the ICRC has supported and continues to support the ICC. I will also comment on a few specific questions such as the content of national implementing legislation and the principle of universal jurisdiction and finally express a few ideas on how support for the ICC by EU and EU Member States could be further strengthened .

### **Role and mission of the ICRC**

The International Committee of the Red Cross (ICRC) is commonly known as a humanitarian impartial and independent organization that operates in situation of armed conflict or other situation of violence and whose exclusively humanitarian mission is to protect lives and dignity of victims of such situations and provide them with assistance. It helps solve humanitarian problems that may arise in such situations and monitors the application of international humanitarian law (IHL) by the conflicting parties. In addition, since its establishment in 1863, it also endeavors to prevent suffering by promoting and strengthening respect for humanitarian law, its implementation and development.

### **Support to the establishment of the ICC**

It is in its capacity as an expert in IHL that the ICRC has actively participated first in the negotiations leading up to the adoption of the Rome Statute, and then in the Preparatory Commission's work in drawing up Elements of Crime and the Rules of Procedure and Evidence. The ICRC's principal concern related to the definition of war crimes in Article 8 of the Statute, and the Elements of Crime adopted by the Assembly of States Parties pursuant to Article 9 of the Statute, and was to prevent an erosion in the content of international humanitarian law.

The ICRC's support for establishment of the Court continued afterwards and still continues as part of its efforts to promote respect for IHL through participation in humanitarian law treaties and their enforcement at domestic level, in particular through repression of violations of this law.

### **Advisory Service on International Humanitarian Law: Legal advice and technical assistance to States**

To step up its support to States the ICRC has set up in 1996 an Advisory Service on International Humanitarian Law. This Service aims specifically at encouraging States to ratify IHL treaties and to fulfil their obligations under these treaties at national level. It also aims at facilitating exchange of information between States on measures taken in these fields. The Service works out of the ICRC's HQ in Geneva and through a network of legal advisers based in the different regions of the world. It provides legal advice and technical assistance to States, including EU Member States, working towards ratification and implementation for the Rome Statute. It works closely with concerned governmental authorities and ,where they exist, with the National Committees for international humanitarian law, taking into account their specific needs and the respective political and legal system of the country. It also works with national and international partners such as National Red Cross or Red Crescent Societies, academic institutions or regional and international organizations.

Governments are the target audience of ICRC's efforts in promoting the ICC. The topic is regularly raised in the framework of ICRC continued dialogue with governments and during most of the Advisory Service's contacts with national authorities, including Parliaments and the Judiciary. The topic is also raised in the framework of activities conducted for other publics, such as academic circles or journalist.

Initiatives taken so far to promote the acceptance and ratification to the Rome Statute and implementation of obligations deriving for States from the Statute include, in addition and among others, the following:

- providing of technical / legal advice on obligations flowing for Member States from the Statute as well as for the drafting of domestic legislation to repress international crimes and implement the mechanisms stipulated to this end in humanitarian law treaties;
- sharing of information on approaches adopted in different States to implement obligations flowing from the Statute and on already adopted domestic legislation or draft legislation as well as national case law; such information has e.g. been included into a Database on National legislation referring to IHL that can be consulted through the ICRC Web site;
- inclusion of the topic into the agendas of universal, regional or national meetings or seminars on IHL, such as for instance meeting of National IHL Commissions, or organization of workshops and expert

conferences to address specific questions related to the punishment of war crimes; the topic is also regularly addressed in the framework of meetings of the International RC/RC Movement, such as the International Conference.

- preparation and circulation of technical materials (a ratification/implementation kit is being prepared)
- where national criminal legislation to repress war crimes and other crimes under the Rome Statute have been adopted, training of prosecutors, judges and other members of the judiciary on IHL and the mechanisms in place to repress violations thereof .

Special emphasis is given to those countries that are still behind in terms of ratification and implementation of the ICC Statute (e.g. Asia, the Middle East...) where resistance to the ICC Statute was noticed, or to small countries with limited resources and limited expertise in IHL and International Criminal Law. With regards to the latter the ICRC has also encouraged States with more resources, such as European States, to share their expertise and experiences in the field of implementation of the Statute e.g. by inviting them as experts to national or regional technical workshops. The ICRC also tries to see to it that its efforts to promote the ICC are complementary to those conducted by others, States or organizations.

### **Complementarity principle:**

#### **States primary responsibility for repression of crimes under the Rome Statute and**

The principle of complementarity on the premises of which the ICC is framed has provided an incentive to States to ensure that national courts have jurisdiction to try persons suspected of genocide, crimes against humanity and war crimes, even though the Rome Statute does not require States Parties to incorporate the "Rome Crimes" in their domestic legislation. Important developments with regards to adoption or amendment of criminal legislation to this end continue to be registered every day in many parts of the world.

Given this momentum and interest, the ICRC's Advisory Service has taken the opportunity to strongly encourage States to both, review their national criminal law and put in place the necessary legal framework to allow for prosecution of the crimes defined in the Statute, and ensure that their criminal law provides for the punishment of all serious violations of international humanitarian law. In this regards it has reminded States

- that, based on the 1949 Geneva Conventions and where applicable the 1977 Additional Protocols, in particular Protocol I applicable to international armed conflict, States are under an obligation to criminalize and repress serious violations of these treaties that are qualified as war crimes, and that other humanitarian law treaties to which they may be party also establish similar obligations;
- that they need to remain conscious of the fact that adopting legislation to repress war crimes based on the definition contained in Article 8 of the ICC Statute may not be enough to satisfy their existing treaty obligations;
- that they are encouraged to adopt a progressive approach when adopting such legislation, taking into account all obligations that result for them from international law, treaty based or customary,
- that in relation to grave breaches of the Geneva Conventions and Additional Protocol I, they have an obligation to enact legislation to provide effective penal sanctions for persons that have committed or ordered to commit such breaches based on the principle of universal jurisdiction and that when incorporating the "Rome Statute crimes" into domestic criminal legislation they should possibly assert such jurisdiction for all war crimes and other crimes defined in the Statute.

#### **Cooperation of States with the Court and maintaining integrity of the Rome Statute**

States Parties will also need to work rapidly to ensure that they have in place comprehensive implementing legislation which will permit them to cooperate with the Court. This is vital to ensure the effective functioning of the Court. The ICRC may also assist in this field, advising on obligations flowing from the Rome Statute, even though within the limits of its expertise.

In this connection the ICRC too has raised concern with regards to the so called "immunity agreements" that many States have entered too or plan to sign. In its contacts to authorities it has reminded them of the need to examine these agreements – in the context of the Rome Statute and other international and national legal obligations – to form a view as to their legality (i.e. decide whether entry into an Article 98 agreement would conform with its international obligations, including obligations flowing from the Geneva

Conventions and Protocols with regards to repression of grave breaches, and obligations at national level). and necessity in view of the complimentary principle on which the ICC is premised. This in addition to the implications such agreements can have not only for the credibility of the ICC but more generally for international criminal law and the international criminal justice system as a whole.

### **Strengthening support for the ICC**

In closing I would like to acknowledge the numerous and important initiatives that have been taken so far by the EU and its Member States to support the ICC and reiterate the ICRC's Advisory Service's disposal to continue to share experience made in the field of promotion of the Rome Statute.

In relation to further action that should be taken, including by the EU and EU Member States to strengthen the support for the ICC, we identified the following fields of activities:

- *Sharing of information*: it could be beneficial to improve the sharing of information of approaches chosen towards implementation of the Rome Statute and on domestic legislation adopted, through a more coordinated and for third States easier accessible way (e.g. improve the EU Website dedicated to the ICC, create links between existing Websites, circulating information through other means than electronically)
- *Sharing technical expertise*: EU Member States should be further encouraged to put their technical expertise as regards legislative work as well as training in International Criminal Law at disposal of third States with more limited competences and resources; In this regards the "list of experts" established and circulated by the organizers of this conference will be very useful;
- *Assistance for translations*: for many countries "language" is a problem and an increased assistance in translating documents related to ICC into and examples of legislation already adopted into national languages (or into English) could greatly facilitate the process for ratification and implementation of the Statute;
- *Training*: support for training sessions and events on the ICC, IHL and International Criminal Law more generally, especially in regions of the world where knowledge of International Law and International Criminal Law is still low, could be increased. This could also include support to regular teaching programs at University level and in Law Schools countries outside Europe (e.g. support for the establishment of regular courses in International Criminal Law, bilateral cooperation between Universities, financial support for visiting professors that are experts in this field, grants for participation in courses elsewhere...).

Thank you for your attention.

### III. COUNCIL DOCUMENTS

#### 1. COUNCIL COMMON POSITION 2003/444/CFSP ON THE INTERNATIONAL CRIMINAL COURT

THE COUNCIL OF THE EUROPEAN UNION:

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

- (1) The consolidation of the rule of law and respect for human rights, as well as the preservation of peace and the strengthening of international security, in conformity with the Charter of the United Nations and as provided for in Article 11 of the Treaty on European Union, are of fundamental importance to, and a priority for the Union.
- (2) The Rome Statute of the International Criminal Court entered into force on 1 July 2002 and the Court is now fully functional.
- (3) All Member States of the European Union have ratified the Rome Statute.
- (4) The principles of the Rome Statute of the International Criminal Court, as well as those governing its functioning, are fully in line with the principles and objectives of the Union.
- (5) The serious crimes within the jurisdiction of the Court are of concern to all Member States, which are determined to cooperate for the prevention of those crimes and for putting an end to the impunity of the perpetrators thereof.
- (6) The principles and rules of international criminal law embodied in the Rome Statute should be taken into account in other international legal instruments.
- (7) The Union is convinced that universal accession to the Rome Statute is essential for the full effectiveness of the International Criminal Court and, to that end, considers that initiatives to enhance the acceptance of the Statute are to be encouraged, provided they are consistent with the letter and spirit of the Statute.
- (8) The implementation of the Rome Statute requires practical measures that the European Union and its Member States should fully support.
- (9) The Action Plan which was, inter alia, called for by a Resolution on the Court approved by the European Parliament on 28 February 2002 to follow up Common Position 2001/443/CFSP of 11 June 2001 on the International Criminal Court<sup>84</sup> was adopted on 15 May 2002 and may be adapted as appropriate.
- (10) It is eminently important that the integrity of the Rome Statute be preserved.
- (11) By its Conclusions of 30 September 2002 on the International Criminal Court the General Affairs and External Relations Council has developed a set of principles attached to those Conclusions to serve as guidelines for Member States when considering the necessity and scope of possible agreements or arrangements in responding to proposals regarding the conditions to surrender persons to the International Criminal Court.
- (12) In the light of the above, Common Position 2001/443/CFSP should be updated and recast.

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<sup>84</sup> OJ L 155, 12.6.2001, p. 19. Common Position as amended by Common Position 2002/474/CFSP (OJ L 164, 22.6.2002, p. 1).

- (13) This Common Position should be kept under review.
- (14) The European Union considers the application of this Common Position by the acceding countries and the alignment with it by the associated countries Romania, Bulgaria and Turkey and by the EFTA countries important in order to maximise its impact,

HAS ADOPTED THIS COMMON POSITION:

ARTICLE 1

1. The International Criminal Court, for the purpose of preventing and curbing the commission of the serious crimes falling within its jurisdiction, is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law as well as contributing to the preservation of peace and the strengthening of international security, in accordance with the purposes and principles of the Charter of the United Nations.
2. The objective of this Common Position is to support the effective functioning of the Court and to advance universal support for it by promoting the widest possible participation in the Rome Statute.

ARTICLE 2

1. In order to contribute to the objective of the widest possible participation in the Rome Statute, the European Union and its Member States shall make every effort to further this process by raising the issue of the widest possible ratification, acceptance, approval or accession to the Statute and the implementation of the Statute in negotiations or political dialogues with third States, groups of States or relevant regional organisations, whenever appropriate.
2. The Union and its Member States shall contribute to the world-wide participation in and implementation of the Statute also by other means, such as by adopting initiatives to promote the dissemination of the values, principles and provisions of the Statute and related instruments. In furtherance of the objectives of this Common Position, the Union shall cooperate as necessary with other interested States, international institutions, non-governmental organisations and other representatives of civil society.
3. The Member States shall share with all interested States their own experiences on the issues related to the implementation of the Statute and, when appropriate, provide other forms of support to that objective. They shall contribute, when requested, with technical and, where appropriate, financial assistance to the legislative work needed for the participation in and implementation of the Statute by third countries. States considering to become party to the Statute or to cooperate with the Court shall be encouraged to inform the Union of difficulties encountered on that path.
4. In implementing this Article, the Union and its Member States shall coordinate political and technical support for the Court with regard to various States or groups of States. To that end, country-specific or region-specific strategies shall be developed and used where appropriate.

ARTICLE 3

In order to support the independence of the Court, the Union and its Member States shall, in particular:

- encourage States Parties to transfer promptly and in full their assessed contributions in accordance with the decisions taken by the Assembly of States Parties;
- make every effort towards the signature and ratification by Member States of the Agreement on the Privileges and Immunities of the Court as soon as possible and promote such signature and ratification by other States; and
- endeavour to support as appropriate the development of training and assistance for judges, prosecutors, officials and counsel in work related to the Court.

#### ARTICLE 4

The Council shall, where appropriate, coordinate measures by the European Union and Member States for the implementation of Articles 2 and 3.

#### ARTICLE 5

1. The Union and its Member States shall follow closely developments concerning effective cooperation with the Court in accordance with the Rome Statute.
2. In this context, they shall continue, as appropriate, to draw the attention of third States to the Council Conclusions of 30 September 2002 on the International Criminal Court and to the EU Guiding Principles annexed thereto, with regard to proposals for agreements or arrangements concerning conditions for the surrender of persons to the Court.

#### ARTICLE 6

The Council notes that the Commission intends to direct its action towards achieving the objectives and priorities of this Common Position, where appropriate by pertinent Community measures.

#### ARTICLE 7

1. Member States shall cooperate to ensure the smooth functioning of the Assembly of States Parties in all respects.
2. During negotiations in the Special Working Group established by the Assembly of States Parties to deal with the crime of aggression, Member States shall contribute to the finalisation of the work under way and shall support solutions which are consistent with the letter and the spirit of the Rome Statute and of the United Nations Charter.

#### ARTICLE 8

The Council shall review this Common Position as appropriate.

#### ARTICLE 9

1. The Council notes that Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia intend to apply this Common Position as from the date of its adoption.
2. The Presidency will request the associated countries Romania, Bulgaria and Turkey as well as the EFTA countries to align with this Common Position.

#### ARTICLE 10

Common Position 2001/443/CSFP is hereby repealed and replaced by this Common Position. References to the repealed Common Position 2001/443/CSFP shall be construed as being made this Common Position.

## **2. ACTION PLAN TO FOLLOW-UP ON THE COMMON POSITION ON THE INTERNATIONAL CRIMINAL COURT**

On 16 June 2003, the European Union replaced its 2001 Common Position on the International Criminal Court (ICC), as updated in 2002, which has guided the EU and its Member States in their activities relating to the ICC, including through initiatives contained in the Action Plan agreed upon on 15 May 2002<sup>85</sup>.

The Council also adopted several Decisions<sup>86</sup> in the area of Justice and Home Affairs, with a view to strengthening co-operation among Member States on the fight against impunity of those who have committed genocide, crimes against humanity and war crimes.

In July 2003, the European Parliament in furtherance of the revised Common Position approved a resolution on the ICC which, inter alia, called for updating the 2002 Action Plan.

This revised Action Plan, based on the 2003 strengthened Common Position, is focused on the initial period of the effective functioning of the ICC, which became fully operational in 2003, with the establishment in The Hague of all its organs and bodies.

The Action Plan is divided in three sections:

- Co-ordination of EU activities
- Universality and integrity of the Rome Statute
- Independence and effective functioning of the ICC.

### **A. CO-ORDINATION OF EU ACTIVITIES**

#### **1. LEGAL BASIS**

- (i) Article 4 of the Common Position entrusts the Council with the task of co-ordinating measures by the EU and its Member States for the implementation of Articles 2 and 3. Furthermore, according to Article 6 of the Common Position, the Council takes note of the Commission's intention to direct its action towards achieving the objectives and priorities of the Common Position, where appropriate by pertinent Community measures.
- (ii) These articles touch upon a number of issues, such as: (i) how to ensure that various EU bodies are informed of ICC related activities in this field; (ii) how to exchange views and ideas among EU bodies; (iii) how to avoid unnecessary duplication; (iv) how to maximise impact by co-ordinating various EU initiatives; and (v) how to "mainstream" the ICC within the EU activity in related fields.

#### **2. EU FOCAL POINT**

In order to assist in ensuring effective co-ordination and consistency of information, and in adequately preparing programmes and activities of the Union in the implementation of the Common Position, an EU Focal Point will be established. The General Secretariat of the Council, in close co-operation with the Commission, will be responsible for setting-up that EU Focal Point. The terms of reference for the EU Focal Point are set out in the Annex to this Action Plan.

#### **3. NATIONAL FOCAL POINTS**

- (i) Each Member State will establish a national Focal Point for its external contacts and exchange of information concerning the implementation of the Common Position. Each national Focal Point will liaise with the EU Focal Point. The EU Focal Point will make available the information flowing in from all relevant sources and in particular information concerning relevant meetings and other events, seeking to identify synergies or risks of overlap.
- (ii) National Focal Points should provide to the Union, to other Member States and to any relevant state or non-state actor, as appropriate, at their own initiative or upon request and in accordance with applicable law, any available information that may be relevant in the implementation of the EU Common Position.

#### 4. INTERNATIONAL CRIMINAL COURT SUB-AREA OF THE PUBLIC INTERNATIONAL LAW WORKING PARTY

- (i) Meetings of the ICC sub-area Working Party will be convened by the Presidency, usually twice every semester.
- (ii) Meetings of other interested Council Working Parties and, where appropriate, joint meetings of these Working Parties with the ICC sub-area may also provide an opportunity for the effective co-ordination of initiatives falling within their respective competence and concerning the ICC.
- (iii) Meetings of the ICC sub-area will also take place on any appropriate occasion and location, involving representatives of local missions as appropriate.
- (iv) Informal meetings of the ICC Sub-area with other relevant actors, such as international organisations, third countries and Non-governmental organisation may also take place whenever and wherever appropriate.
- (v) Furthermore, the Presidency should meet periodically with the Commission and the EU Council Secretariat in order to co-ordinate informally and generate ideas to update and improve the EU support for the ICC. A meeting should be held at the beginning of each presidency. Before that meeting, Member States should be invited to present their views on the priorities for the following six months.

#### 5. MEMBER STATES CO-ORDINATION

- (i) Member States should also co-ordinate in all relevant multilateral fora, as appropriate and in accordance with established procedures.
- (ii) Member States are encouraged to have in their embassies in The Hague and in their missions in New York an expert dealing also with specific ICC matters.
- (iii) To promote efficiency and cost-effectiveness, Member States should endeavour to divide labour between them. Such a division of labour could relate to the relations with specific countries or organisations or to specific issues, and could concern contacts, analyses and other tasks.

#### 6. COMMISSION

The Commission should continue its practice of consulting with Member States and other relevant parties, as it was the case in the conferences held in Brussels on 28 and 29 January 2002 and in Naples on 25, 26 and 27 September 2003.

#### 7. EUROPEAN PARLIAMENT

The European Parliament will be kept regularly informed by the Presidency and the Commission of significant developments concerning the ICC and its views on the ICC should be duly taken into account. To the extent possible, Member States will provide information about parliamentary contacts and visits in bilateral and multilateral format, and seek through the Presidency information from the EU Parliament to this effect.

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<sup>85</sup> Council Common Position of 16 June 2003, Official Journal L 150 of 18.06.2003, page 67.

<sup>86</sup> Decision 2002/494/JHA, of 13 June 2002 (OJ L 167, p. 1), setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes; Framework Decision 2002/584/JHA, of 13 June 2002 (OJ L 190, p. 1), on the European arrest warrant and the surrender procedures between Member States; and Decision 2003/335/JHA, of 8 May 2003 (OJ L 118, p. 12), concerning the investigation and prosecution of genocide, crimes against humanity and war crimes.

## B. UNIVERSALITY AND INTEGRITY OF THE ROME STATUTE

### 1. LEGAL BASIS

- (i) Article 2 of the Common Position addresses the issue of the universal participation in the Rome Statute, by committing the Union and its Member States to furthering the process of its ratification and implementation through political dialogue with third states, groups of states or relevant regional organisations, as well as through other means and, inter alia, dissemination, co-operation, technical and financial assistance.
- (ii) The above objectives will continue to be relevant until universal participation in the Rome Statute is attained. In some cases, the primary objective with regard to third countries is to maximise their political will for the ratification and implementation of the Statute in order to achieve the desired universality. The realisation of this objective requires the use of a variety of means such as political dialogue, demarches or other bilateral means, statements in the UN and other multilateral bodies and support for the dissemination of the ICC principles and rules. It may also be important to assist countries, which are willing but may encounter difficulties with ratification, accession or implementation of the Statute. This could involve, inter alia, concrete expert assistance, financial support or access to data compiled by others.
- (iii) Various initiatives have been taken and continue to be taken, ranging from political dialogue and bilateral demarches to the dissemination of the principles and rules of the ICC Statute through awareness-raising campaigns led by Non-governmental organisation and to expert assistance in drafting relevant legislation. The EU and others have been involved, directly or indirectly, as providers of funds or technical assistance for these activities. This practice should continue in a co-ordinated manner.
- (iv) Further, Article 5 of the Common Position provides that the Union and its Member States shall follow developments concerning effective co-operation with the Court, and that they shall, as appropriate, refer to the EU Guiding Principles with regard to proposals for agreements or arrangements concerning conditions for the surrender of persons to the Court.

### 2. COUNTRY-SPECIFIC OR REGION-SPECIFIC STRATEGIES

- (i) Political and technical support for the ICC should be co-ordinated with regard to different countries or groups of countries. To that end, country-specific or region-specific strategies should be developed and applied where appropriate. These strategies should address priority target-countries and take into account, inter alia, the degree of political will of the country or countries concerned, the existence of any legal difficulties, the stage of preparations, the level of local support, the availability of local or regional partners and the kind of impact that the EU action might have. Each particular strategy should include directions regarding the actions to be taken vis-à-vis the country or countries concerned (demarches, offer of technical assistance, support for local or international Non-governmental organisation, as the case may be), and the competent body to undertake the actions. These strategies should include concrete timeframes, evaluation criteria and recommendations for follow up, and should be reviewed periodically.
- (ii) Strategies should be implemented by the EU and by its Member States according to their respective competence. The absence of a specific strategy regarding a certain country or region should not be a bar to action in that country or region.
- (iii) For the purpose of facilitating decisions to develop strategies, a global review should be undertaken. That review should be based on information collected in country fact-sheets by the Focal Point according to a matrix agreed upon by partners. For that purpose, the EU Focal Point should utilise information received from the Commission and Member States. EU heads of mission may be required on a case by case basis to provide comprehensive information on the relevant process in countries concerned. This information should, as a rule, be updated periodically unless important developments suggest ad hoc reports. Further, the EU Focal Point could use information available from other interested states and international organisations and Non-governmental organisation. The fact sheets should be regularly updated and made available to the Council, the Commission and Member States.

### 3. CONCRETE MEASURES

- (i) The EU Focal Point should, whenever appropriate, suggest to the Presidency measures to be taken, based upon the strategies and other available material. This does not preclude initiatives from Member States, the Council Secretariat or the Commission. The Presidency should, as a general rule and as appropriate, submit proposals for such measures by silent procedure via Coreu.
- (ii) Wherever the EU or Member States are invited to give advice and/or support to the ratification, accession or implementation process of a third state, they will react after due co-ordination with partners. In such cases, any existing EU strategy, the needs and time frames of the third countries as well as the available means for the EU and its Member States will be taken into account. In order to facilitate this co-operation, the EU Focal Point, in close co-operation with all parties, will provide the updated lists of experts and Non-governmental organisation, relevant texts and commentaries.
- (iii) The ICC should be mainstreamed in the EU external relations. In this respect, the ratification and implementation of the Rome Statute should be brought up as a human rights issue in the negotiation of EU agreements with third countries.

These issues should also be brought up in the human rights and political dialogue (notably at summits and other high-level meetings) with third countries, including in the context of development co-operation, such as in the framework of the Cotonou Convention.

- (iv) The EU's support to the participation in and implementation of the Rome Statute should be highlighted in relevant EU statements at the UN and other multilateral fora.
- (v) Whenever appropriate, the EU should continue to use other diplomatic means, including bilateral demarches, to encourage signature, ratification, accession and implementation of the Rome Statute and related instruments such as, in particular, the Agreement on Privileges and Immunities of the ICC.
- (vi) The effect of demarches and other measures should be monitored.
- (vii) Member States should bring up the ICC in bilateral contacts with third countries, whenever appropriate, and should inform partners through the EU Focal Point of the outcome of such contacts.
- (viii) Whenever appropriate, the EU should co-operate with interested third countries and with regional and global governmental and non-governmental organisations in order to further the goal of the universality and integrity of the Rome Statute. In particular, the EU should co-operate with the ICC organs and the Assembly of States Parties to this end.
- (ix) The EU and its Member States should contribute with technical and financial assistance to the legislative work, which may be needed for the ratification and implementation of the Statute in third countries. The EU Focal Point in liaison with national Focal Points will seek to mobilise expertise to that end.
- (x) In the framework of its Common Position and of this Action Plan, the EU and its Member States should lend direct technical assistance to interested states to supporting their participation in the ICC and their access to its instruments, as well as to facilitating their co-operation with the ICC.

Technical assistance to third states could also be provided through the secondment or any other form of deployment of European experts to the relevant administrations of the requesting state. Third states could also apply for exchange programmes of experts or the detachment of their own experts to Member States' relevant Administrations, according to the relevant legislation.

For the purpose of lending assistance to countries unable to properly proceed with the investigation on the crimes within the jurisdiction of the ICC, the EU should consider establishing ad hoc teams of relevant expertise, such as judges, prosecutors, legal experts, analysts, investigators and forensic personnel. Such teams could be organised as to ensure their ready deployment at short and medium term on a case by case basis, and would be provided with operational capacity.

- (xi) With the view of enhancing the efficiency of its strategies on the ICC, the EU may provide technical assistance in any other appropriate form, including the organisation of international events or participation in any regional or national relevant activity.
- (xii) Each Member State may designate one or more experts to be included in the list of experts maintained by the EU Focal Point.

EU experts could be deployed for the accomplishment of specific missions, in the framework of actions implementing EU ad hoc strategies.

Upon the establishment of a legal basis, the use of EU financing for such missions should be examined on a case by case basis.

The EU experts may be mandated to provide technical assistance on behalf of the EU, including the following tasks:

- Co-operating with requesting third states in any technical issue related to the participation in and implementation of the Rome Statute and its instruments, and with any form of co-operation with the ICC;
- Participating in seminars, symposiums, conferences or any other national or international event, either of academic or of official character, as may be necessary for the widest dissemination of the values, principles and provisions of the Statute and related instruments, as well as for the implementation of the Common Position, and for the co-operation of the EU with the ICC;
- Any other task as may be needed for the fullest implementation of the Common Position.

- (xiii) The EU and its Member States will preserve the integrity of the Rome Statute. They will monitor the situation as regards proposals for agreements or arrangements concerning conditions for the surrender of persons to the Court, the invocation of Article 16 of the Rome Statute and other developments when they might impede the effective functioning of the Court, and may take appropriate action. For that purpose, the procedures set out in sections A and B of the Action Plan with regard to the ratification, implementation and universality of the system of the Rome Statute should be applied *mutatis mutandis*, as appropriate.

## C. THE INDEPENDENCE AND EFFECTIVE FUNCTIONING OF THE ICC

### 1. LEGAL BASIS

- (i) Article 1.2 of the Common Position indicates that its main objective is to support the effective functioning of the ICC and to advance universal support for it by promoting the widest possible participation in the Rome Statute.
- (ii) Article 3 of the Common Position establishes possible means of EU co-operation with the ICC in order to support its independence.
- (iii) Article 5 of the Common Position addresses the issue of effective co-operation with the Court and of developments that might impede the effective functioning of the Court, by committing the EU and its Member States to closely follow such developments.
- (iv) Article 7 of the Common Position establishes that Member States will co-operate to ensure the smooth functioning of the Assembly of the States Parties. They will also contribute to the to the finalisation of the work under way on the definition of the crime of aggression.

## 2. CONCRETE MEASURES

- (i) Member States should continue to encourage the establishment of transparent selection, nomination and election procedures for ICC judges and prosecutors. They should also make every possible effort to ensure that highly qualified candidates for all the staff positions are nominated and that the overall composition of the Court with regard to competences, geographic origin, legal systems and gender remains in conformity with the criteria stipulated in the Rome Statute. To that end, they will take into account the resolutions of the Assembly of States Parties. To ensure the highest standards of credibility and efficiency of the Court, the selection, nomination and election procedures should be kept under regular review.

The EU and its Member States will monitor how the ICC applies the above standards and principles to the recruitment of the Court's staff.

- (ii) The EU and its Member States should contribute to the effective and independent functioning of the ICC.
- (iii) Member States will transfer promptly and in full their assessed contributions to the ICC. They should also encourage other states parties to do likewise.
- (iv) The EU and its Member States shall endeavour to support, as appropriate, the development of training and assistance for judges, prosecutors, officials and counsels in ICC-related work. To this end, Member States may liaise directly with the ICC.

In particular, the EU and its Member States should support training programmes and such other initiatives as may be necessary for fostering the professionalism of national judges, prosecutors, officials, other staff or experts needed for the effective functioning of the ICC complementarity system.

- (v) The EU and its Member States should also continue to support the establishment of an independent representative body of counsel and legal associations in relationship with the ICC.
- (vi) The EU and its Member States should work, together with other interested states and international organisations and Non-governmental organisation, towards an effective "management of expectations", by trying to ensure that the media and the general public understand the precise parameters of the ICC and the time framework for the effective operation of the Court
- (vii) Member States will actively contribute to the negotiations of the Special Working Group established by the Assembly of States Parties to deal with the crime of aggression.
- (viii) Member States, where appropriate, will endeavour to put in place as soon as possible legislation necessary to implement the Rome Statute. They will exchange information on their progress.
- (ix) Member States will, in keeping with their obligations under Article 86 and other related provisions of the Statute, co-operate with the Court in the investigation and prosecution of crimes within its jurisdiction, in particular through the provision of judicial assistance, compliance with requests for arrest and surrender and the enforcement of sentences.
- (x) Member States are encouraged to sign the Agreement on Privileges and Immunities of the ICC by its term of opening to signature (30 June 2004), and to ratify it without delay. They will also encourage third states to do likewise.
- (xi) Whenever appropriate the ICC sub-area Working Party will consult with the relevant Council working parties, in order to promote effective co-operation between national and European law enforcement and immigration authorities and the ICC.
- (xii) Member States should work towards an effective co-operation between the ICC and the UN, in particular by supporting the early conclusion of the Relationship Agreement between the ICC and the UN and its fullest implementation.

## ANNEX

The EU Focal Point is mandated, inter alia, to perform the following tasks, under the guidance of the Presidency and in close co-operation with Member States and the Commission:

- (a) Establishing appropriate contacts and exchange of information from all relevant actors and sources including the ICC and other international organisations, third countries and Non-governmental organisation;
- (b) Updating the means of the communication of and within the Union, such as a dedicated web-site and an e-mail list of national Focal Points of the EU Member States and relevant personnel from the Commission and the Council Secretariat;
- (c) Making available the information disseminated, including information on relevant meetings and other events, which have taken place or will take place;
- (d) Liaising with the national Focal Points for the purpose of co-ordinating the activities of the Union and its Member States;
- (e) Maintaining the list of experts available for various forms of assistance and liaising with Member States for their secondment or any other form of deployment;
- (f) Facilitating a full exchange of information and co-ordination with all relevant Working Parties of the Council as well as seeking to promote the coherence with other EU activities;
- (g) Updating on a regular basis assessment documents and reports on the implementation of the Rome Statute and its related instruments, of the Common Position and of this Action Plan;
- (h) Preparing, as appropriate, fact-sheets, draft ad hoc strategies, including regional and country-specific strategies, as well as draft detailed projects for planned activities;
- (i) Suggesting, whenever appropriate, to the Presidency concrete measures to be taken, based upon the strategies and other available material;
- (j) Preparing, as appropriate, elements for demarches on the integrity of the Rome Statute and on the universality and effectiveness of the ICC as well as maintaining an updated list of EU demarches;
- (k) Identifying opportunities for the inclusion of the ICC on the draft list of issues to be discussed in negotiations and political dialogues.

### 3. COUNCIL CONCLUSIONS AND GUIDING PRINCIPLES ON THE NON-SURRENDER AGREEMENTS OF 30 SEPTEMBER 2002.

The Council confirms that the European Union is firmly committed by the EU Common Position to support the early establishment and effective functioning of the International Criminal Court and to preserve the full integrity of the Rome Statute. The European Union reaffirms its determination to encourage the widest possible international support for the ICC through ratification or accession to the Rome Statute and its commitment to support the ICC as a valuable instrument of the world community to combat impunity for the most serious international crimes.

The International Criminal Court will be an effective tool of the international community to buttress the rule of law and combat impunity for the gravest crimes. The Rome Statute provides all necessary safeguards against the use of the Court for politically motivated purposes. It should be recalled that the jurisdiction of the Court is complementary to national criminal jurisdictions and is limited to the most serious crimes of concern to the international community as a whole.

The European Union will endeavour to secure that the Court will meet the highest standards of competence, fairness, due process and international justice. The European Union will do its utmost to ensure that highly qualified candidates will be elected as judges and prosecutors.

The Council has taken note of the proposal by the United States for new bilateral agreements with ICC States Parties regarding the conditions for surrender to the Court.

The Council notes that a number of bilateral and multilateral treaties between individual Member States and the United States already exist, as well as treaties with third states, which are of relevance in this context and on which an inventory has been established. The Council notes that Member States are ready to engage with the United States in a review of these arrangements which may fall into the category of agreements defined in Article 98, paragraph 2 of the Rome Statute.

The Council has developed the attached set of principles to serve as guidelines for Member States when considering the necessity and scope of possible agreements or arrangements in responding to the United States' proposal.

The Council recalls that the European Union and the United States fully share the objective of individual accountability for the most serious crimes of concern to the international community. The ad hoc tribunals for the former Yugoslavia and Rwanda were created as a result of our common efforts.

The Council expresses the hope that the United States will continue to work together with its allies and partners in developing effective and impartial international criminal justice. To this end, the Council proposes to develop a broader dialogue between the European Union and the United States on all matters relating to the ICC, including future relations between the United States and the Court. In particular this dialogue should address the following issues:

- The desirability of the United States re-engaging in the ICC process - the United States is entitled to be an observer to the Assembly of States Parties;
- The development of a relationship entailing practical cooperation between the United States and the Court in specific cases;
- The application of presidential waivers of the ASPA legislation to the main provisions of this legislation, in particular vis-à-vis Member States and their associated countries.

The Council notes that Member States will keep the Council informed about any new developments. The Presidency will convey these conclusions to the United States, noting that they represent the EU position in response to the United States' concerns.

The Council will remain committed to the ICC and will keep developments under review.

## **EU Guiding Principles concerning Arrangements between a State Party to the Rome Statute of the International Criminal Court and the United States Regarding the Conditions to Surrender of Persons to the Court**

The guiding principles listed below will preserve the integrity of the Rome Statute of the International Criminal Court and – in accordance with the Council Common Position on the International Criminal Court – ensure respect for the obligations of States Parties under the Statute, including the obligation of States Parties under Part 9 of the Rome Statute to cooperate fully with the International Criminal Court in its investigation and prosecution of crimes falling within the jurisdiction of the Court.

The guiding principles are as follows:

- Existing agreements: Existing international agreements, in particular between an ICC State Party and the United States, should be taken into account, such as Status of Forces Agreements and agreements on legal cooperation on criminal matters, including extradition;
- The US proposed agreements: Entering into US agreements – as presently drafted – would be inconsistent with ICC States Parties' obligations with regard to the ICC Statute and may be inconsistent with other international agreements to which ICC States Parties are Parties;
- No impunity: any solution should include appropriate operative provisions ensuring that persons who have committed crimes falling within the jurisdiction of the Court do not enjoy impunity. Such provisions should ensure appropriate investigation and – where there is sufficient evidence - prosecution by national jurisdictions concerning persons requested by the ICC;
- Nationality of persons not to be surrendered: any solution should only cover persons who are not nationals of an ICC State Party;
- Scope of persons:
  - Any solution should take into account that some persons enjoy State or diplomatic immunity under international law, cf. Article 98, paragraph 1 of the Rome Statute.
  - Any solution should cover only persons present on the territory of a requested State because they have been sent by a sending State, cf. Article 98, paragraph 2 of the Rome Statute.
  - Surrender as referred to in Article 98 of the Rome Statute cannot be deemed to include transit as referred to in Article 89, paragraph 3 of the Rome Statute.
- Sunset clause: The arrangement could contain a termination or revision clause limiting the period in which the arrangement is in force.
- Ratification: The approval of any new agreement or of an amendment of any existing agreement would have to be given in accordance with the constitutional procedures of each individual state.

## IV. ABOUT THE ICC: EXTRACTS FROM THE ICC WEBSITE<sup>87</sup>

**The International Criminal Court (ICC)** was established by the Rome Statute of the International Criminal Court on 17 July 1998, when 120 States participating in the "United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court" adopted the Statute. This is the first ever permanent, treaty based, international criminal court established to promote the rule of law and ensure that the gravest international crimes do not go unpunished.

Even though the Statute entered into force on 1 July 2002, it will take some time before the Court begins its operations. A number of statutory measures and practical steps still have to be taken before the Court becomes operational. Whereas the two ad hoc Tribunals for Yugoslavia and Rwanda could be set up within the framework of the United Nations, the ICC will have to be set up as a completely new international organisation.

**States Parties are obliged to fully cooperate with the Court** in its investigations and prosecution of crimes under the Statute. To this end, States Parties should designate appropriate channels of communication with the Court, ensure that there are procedures available under their national law for all forms of cooperation and consultation with the Court whenever there are problems which could impede or prevent the execution of the Court's request for cooperation.

**The ICC is a Court of last resort;** it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. The ICC will not replace national courts, but **will be complementary to national criminal jurisdictions**. The Court will only investigate and prosecute if a State is unwilling or unable to genuinely prosecute. This will be determined by the judges. Unjustified delays in proceedings as well as proceedings which are merely intended to shield persons from criminal responsibility will not render a case inadmissible before the ICC.

**The Court's jurisdiction will be limited to the most serious crimes of concern** to the international community as a whole. It will therefore have jurisdiction with respect to the crimes of genocide, crimes against humanity and war crimes, all of which are fully defined in the Statute and further elaborated by the Elements of Crimes.

Even though the Court has jurisdiction over aggression, it will not exercise such jurisdiction until the crime has been further defined and conditions under which the Court will exercise its jurisdiction have been agreed upon. The First Session of the Assembly of States Parties created a subcommittee of its Bureau to continue work on the crime of aggression.

The International Criminal Court examines the most serious crimes. Consequently, **its trials involve victims** who have often been damaged in the most severe manner. The Rome Statute of the International Criminal Court contains revolutionary conditions so far as victims are concerned: for the first time in the history of international criminal justice, victims can participate in a procedure, including through an intermediary of counsels, and claim compensation which may include restitution, indemnification and rehabilitation; moreover, a Trust Fund in favour of victims has been created by the Statute of Rome which may collect funds resulting from fines and orders for compensation issued against condemned persons as well as voluntary contributions from Governments, international organizations, corporations or individuals. The functions of the International Criminal Court related to the participation of victims and the procedure and compensation in favour of victims have been entrusted to a specialized unit, the Victims Participation and.

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<sup>87</sup> [www.icc-cpi.int](http://www.icc-cpi.int)

Equally important, at the International Criminal Court, will be the function related to the protection of victims and witnesses appearing before the Court: experience from the two International Penal Tribunals for former Yugoslavia and Rwanda has shown how crucial it is for any international criminal tribunal to arrange for the protection and assistance of victims and witnesses that appear before the Court so as to contribute to the establishment of truth about the most serious crimes existing. To this end, the Registrar shall set up a Victims and Witnesses Unit within the Registry. This Unit shall provide, in consultation with the Office of the Prosecutor, counselling and other appropriate assistance for witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses, as well as plan protective measures and security arrangements for them. The Unit shall include staff with expertise in trauma, including trauma related to crimes of sexual violence.

**The Defence** is one of the parties in the proceedings. As in all jurisdictions the accused has the right to have adequate time and facilities for the preparation of the defence. (Article 67(b)) Hence, the accused has the right to legal assistance. He/She can either choose the lawyer(s) or have legal assistance assigned by the Court also without payment if the accused lacks sufficient means to pay for it. In order to ensure the course of a fair trial the Registrar must organise the Registry in a manner that promotes the rights of the defence.

**The Court** is composed of the Presidency; the Chambers; the Office of the Prosecutor; the Registry. The Presidency is responsible for the proper administration of the Court, with the exception of the Office of the Prosecutor. However, the Presidency will coordinate and seek the concurrence of the Prosecutor on all matters of mutual concern. The judiciary of the Court is composed of three divisions: Appeals Division, Trial Division and Pre-Trial Division.

The **Office of the Prosecutor** is an independent organ of the Court responsible for receiving referrals of situations and information on crimes within the jurisdiction of the Court. The mandate of the Office is to conduct investigations and prosecutions of crimes that fall within the jurisdiction of the Court. The Prosecutor may start an investigation upon referral (by a State Party or by the Security Council, acting under Chapter VII of the Charter of the United Nations) of situations in which there is a reasonable basis to believe that such crimes have been or are being committed. The Prosecutor may also receive information on such crimes provided by other sources, including NGOs, and, after a preliminary examination of the material received and following an authorisation by the Pre-Trial Chamber, may start investigations.

The Registry is responsible for the non-judicial aspects of the administration and servicing of the Court. It is headed by the Registrar, who is the principal administrative officer of the Court and exercises his/her functions under the authority of the President of the Court.

**The Assembly of States Parties** is the management oversight and legislative body of the International Criminal Court. It is composed of representatives of the States that ratified the Rome Statute. The Assembly of States Parties has a Bureau, consisting of a President, two Vice Presidents and 18 members elected by the Assembly for a three-year term, taking into consideration principles of equitable geographic distribution and adequate representation of the principal legal systems of the world. The Assembly of States Parties decides over various items, such as the adoption of normative texts and of the budget, the election of the judges and of the Prosecutor and the Deputy Prosecutor(s).

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## VI. LIST OF ACRONYMS AND ABBREVIATIONS

AI	Amnesty International
AIAD	International Criminal Defence Attorneys Association
APIC	Agreement on Privileges and Immunities
ASP	Assembly of States Parties
CoE	Council of Europe
CICC	NGO Coalition for the International Criminal Court
DG Relex	Directorate General for External Relations
DG Dev	Directorate General for Development
DG Elarg	Directorate General for Enlargement
EC	European Commission
ECHR	European Court for Human Rights
EIDHR	European Initiative for Democracy and Human Rights
ELSA	European Law Student Association
EP	European Parliament
ERA	Academy of European law
EU	European Union
EuropeAid	(The European Commission) EuropeAid Cooperation Office
FIDH	Fédération Internationale des Ligues des Droits de l'Homme
ICC	International Criminal Court
ICRC	International Committee for the Red Cross
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunals for Rwanda
ISHR	International Society for Human Rights
LCHR	The Lawyer's Committee for Human Rights (now: Human Rights First)
MFA	Ministry of Foreign Affairs
MERCOSUR	Mercado Común del Sur
MJ	Ministry of Justice
NGO(s)	Non Governmental Organisation(s)
NPWJ	No Peace Without Justice
OSCE	Organisation for Security and Co-operation in Europe
OSI	Open Society Institute
PGA	Parliamentarians for Global Action
PREP COM	(UN) Prep Com on the International Criminal Court
RS	Rome Statute
SADC	Southern African Development Community
SIGI	Sisterhood Global Institute
TEU	Treaty on the European Union
UN	United Nations
WFM	World Federalist Movement





# NOTES

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