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Co-operation with the International Criminal Court (ICC) and its universality

Motion for a resolution
presented by Mrs Däubler-Gmelin and others

This motion has not been discussed in the Assembly and commits only the members who have signed it

1. Recalling its Resolutions 1300 (2002) and 1336 (2003), respectively on the risks for the integrity of the Rome Statute of the ICC and on the threats to the ICC, as well as Recommendation 1408 (1999) on the ICC;
2. Recalling its Recommendations 1325 (1997), 1545 (2002) and 1610 (2003) and its Resolution 1337 (2003) against the trafficking in women, affirming that trafficking in human beings, including women and children, is defined in article 7.2(c) of the Rome Statute as crime against humanity of enslavement, which States are required to criminalize as such in their national legal orders, and considering the ICC as an important instrument to combat more effectively the crime of trafficking when committed on a widespread or systematic scale against the civilian population;
3. Welcoming the first execution of an arrest warrant, the initial appearance of a war crimes' suspect and the Pre-Trial Chamber's decisions on the participation of victims and the freezing of assets of a suspect in the situation of the Democratic Republic of the Congo, the issuance of 5 arrest warrants for crimes against humanity in the situation of Northern Uganda as well as the UN Security Council Resolution 1593 (2005) referring the situation of Darfur, Sudan, to the ICC;
4. Recognizing that the ICC acts as an independent and impartial judicial institution, which has the potential to promote the rule of law at the international and national level, curb impunity and prevent the repetition of crimes of international concern; and, in this respect, affirming that the public profile of the ICC might be increased to maximize its impact on the situations in which the Court may exercise its jurisdiction in accordance with the Rome Statute;
5. Welcoming warmly the decision of 100 States to become Parties to the Rome Statute of the ICC, paving the way for a universally recognized permanent jurisdiction;
6. Concerned that a number of Council of Europe member and Observer states have still not ratified or acceded to the Statute, and regretting that only 37 countries have so far ratified the Agreement on Privileges and Immunities of the ICC (APIC), which is of vital importance for the Court's effective functioning;
7. Expressing interest in the recent hearings in the United States Congress concerning the unintended consequences of ICC-related legislation; and noting with appreciation the statements made by some members of the US Congress from the majority and the minority who requested a review of such legislation;

8. Recalling the importance of the introduction of national legislation implementing obligations assumed under the Rome Statute, regretting the slow pace of progress in many countries in this regard and calling on the Committee of Ministers to ensure a proper follow up to previous meetings and consultations on the ICC;

9. Underscoring that the rights of victims of crimes under the Rome Statute must be respected in all legal systems of States Parties, including through adequate procedures and means to protect victims, to allow their access to justice and to ensure effective and available reparations and welcoming the establishment by the ICC Assembly of States of the Trust Fund for victims of crimes under the jurisdiction of the ICC.

10. The Assembly renews its appeals to those Council of Europe member and Observer states which have not yet done so:

- a. to accede to or ratify the Rome Statute of the ICC in order to ensure its universality;
- b. to ratify the Agreement on Privileges and Immunities of the Court (APIC);
- c. to adopt the necessary national implementing legislation at the earliest opportunity;
- d. to protect the integrity of the Rome Statute as recommended in Resolution 1336 (2003).

11. The Assembly – to promote the effectiveness of the new system of international criminal justice – urges all States:

- a. to fully co-operate with the Court in the fight against impunity for the most serious crimes of international concern, in particular by promptly executing all ICC arrest warrants;
- b. to empower their judicial and law enforcement authorities in order to ensure that the States exercise their primary jurisdiction over crimes of international concern, while the ICC intervenes only when States are “genuinely unable or unwilling” (Art. 17, Rome Statute) to investigate and prosecute as a Court of last resort;
- c. to make meaningful financial contributions to the Trust Fund for Victims of the ICC;
- d. to incorporate in their legal orders the relevant standards on victims’ rights set out in the Rome Statute, including standards on the protection of victims, their access to the judicial proceedings and to reparations, without prejudice to the higher standards on victims’ rights of some legal systems of member and Observer states.

Signed (see overleaf)

*Signed*¹:

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¹ SOC: Socialist Group
 EPP/CD: Group of the European People's Party
 ALDE: Alliance of Liberals and Democrats for Europe
 EDG: European Democratic Group
 UEL: Group of the Unified European Left
 NR: not registered in a group