



German Delegation
to the United Nations Diplomatic Conference of
Plenipotentiaries on the Establishment of an
International Criminal Court

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Statement of the German Federal Minister of Justice,

Professor Dr. Edzard Schmidt-Jortzig,

**at the United Nations Diplomatic Conference of
Plenipotentiaries on the Establishment of an
International Criminal Court**

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Mr. Chairman, Your Excellencies, Ladies and Gentlemen!

Let me first congratulate you, Mr. Chairman, on your election to this important office. Germany places full confidence in your guidance. I am most honoured to have the opportunity to speak to you at the beginning of this conference.

It will be a historic occasion, if we all contribute to its success. The Conference offers a real opportunity for the world community to take a big step forward. This opportunity must not be wasted.

Germany fully supports the statement made yesterday by the British Presidency of the European Union.

The principles of the German position - the building blocks for the Court - are well known and they have remained unchanged.

We are committed to the creation of a Court with automatic universal jurisdiction over the core crimes, including war crimes in internal conflicts, to the principle of complementarity, to an independent and strong Prosecutor and to a strict obligation for all States Parties to cooperate without reservations.

We also reiterate our proposal to include the crime of aggression in the list of core crimes, while respecting the role conferred on the Security Council in the Charter of the United Nations. In accordance with historic precedents, the definition of this crime should focus on obvious and indisputable cases of aggression only.

None of the crimes we are talking about here concerns just one nation alone. Wherever these crimes are committed, they concern all of us. Therefore, all nations should stand together and make sure that these crimes can no longer be committed with impunity. To achieve this, we need a strong, independent and effective international criminal Court.

I know that the negotiations here will be complex and that there are innumerable details to attend to during the next five weeks. Let me stress in particular two of the most difficult points, which are among our main concerns: The automatic jurisdiction over core crimes and the independence of the Prosecutor.

For the ICC to deserve the name of a truly international court, the nations of the world will have to be prepared to accept its jurisdiction over the core crimes. I do not think that this is asking too much from States: in an interdependent world and a global society, sovereignty will be served better by cooperation than by a futile attempt to stand alone. Under the system of

complementarity already incorporated in the draft, we do not surrender our national sovereignty to some other institution. We are simply fulfilling our task towards the international community by stopping the gaps which have enabled the worst criminals to escape punishment until now.

Germany is committed to the concept of universal jurisdiction of the ICC over the core crimes in order to promote the Rule of law in international relations. There can be no exceptions to the Rule of Law: It must be universally applicable; otherwise there is no Rule of Law at all. Therefore, no compromise will be acceptable that includes the possibility for a State to pick and choose where to accept the Rule of Law for itself and its nationals and where to disregard it.

Nor should it be left to the States alone to decide whether a matter may be investigated at all. It is necessary to provide for proper judicial control in the investigative stages, but apart from that the Prosecutor should be entitled to initiate investigations without having to wait for a complaint by a State. We should not forget that the Prosecutor is elected by the States for the purpose of preserving their common interest in prosecuting and punishing these most heinous crimes. This common interest does not depend on whether a complaint by a certain State is considered to be diplomatically expedient at a given moment.

I am sure that all the delegates to this conference are aware of their responsibility towards future generations. The Rome Conference must send a clear message: The times when the worst crimes against humanity and the mankind as a whole could go unpunished are over once and for all. A Statute that establishes a strong, independent and effective Court, without loopholes and reservations, will send this message which should have been sent long ago.

I would like to ask all delegations to work together for this goal and I wish you - in the interest of our future - the vision and determination to achieve it.