Resolution on the Review Conference on the Rome Statute of the International Criminal Court, in Kampala, Uganda

2010/2645(RSP) - 19/05/2010 - Text adopted by Parliament, single reading

Following the debate held during the sitting of 18 May 2010, the European Parliament adopted a resolution on the Review Conference on the Rome Statute of the International Criminal Court, in Kampala, Uganda which will take place from 31 May to 15 June 2010.

The resolution was tabled on behalf of the EPP, S&D, ALDE, Greens/ALE, GUE/NGL groups.

It reiterates its strong support for the ICC and urges Member States to participate in the Review Conference at the highest possible level and publicly to reaffirm their commitment to the ICC. Parliament highlights the importance of the choice of an African country, Uganda, to host this Review Conference, and expresses support for the Court's request to open a liaison office to the African Union in Addis Ababa, while recognising the universal dimension of the "Rome Statute system. It underlines the importance of the principle of universality of the Rome Statute and calls on the Vice-President of the Commission/ High Representative of the Union for Foreign Affairs and Security Policy actively to promote accession to and ratification of the Statute. Parliament reiterates its position that no immunity agreement should allow impunity of any individual accused of war crimes, crimes against humanity or genocide. It welcomes the announcement of the US administration that no new immunity agreements will be concluded and calls on the USA and its partners to abandon the existing ones.

Members urge Member States to:

- participate in the Review Conference at the highest possible level, including Heads of State and Government, and to publicly reaffirm their commitment to the ICC;
- also to take the opportunity of the Review Conference to reaffirm their commitment to the Court through specific pledges on the four stocktaking themes and to honour those commitments;
- prioritise the **inclusion as a war crime within the jurisdiction of the court of the use of certain weapons** in the context of an armed conflict not of an international character, in accordance with the Belgian proposal for amendments to Article 8 of the Rome Statute, submitted to the 8th session of the Assembly of States Parties and **extending criminalisation of the use of poison, poisoned weapons, asphyxiating, poisonous or other gases** and all analogous liquids, materials or devices, as well as the use of bullets that expand or flatten in the body, to armed conflicts not of an international character;
- Parliament firmly supports the inclusion in Article 5.1 of the Rome Statute of the **crime of aggression within the ICC's material jurisdiction**, and it strongly affirms that any decision on the definition of a crime of aggression must be respectful of the Court's independence. On this point it recommends that states should adopt the proposal that does not require any jurisdictional filter to determine whether an act of aggression has been committed before the ICC prosecutor can proceed with an investigation; and that if the Review Conference decides that a jurisdictional filter must be established, they should require that the determination of whether an act of aggression has been committed be conducted by the relevant Chamber in the course of the legal proceedings already set out in the Rome Statute.

Parliament went on to state that it is concerned about the impact of the Rome Statute system on **victims, individuals and communities** affected by the crimes under the ICC's jurisdiction. It makes a series of

recommendation to Member States. It urges all States Parties to the Rome Statute to enter into agreements with the Court on victim and witness relocation and enforcement of sentences. Member States should, inter alia, acknowledge the innovative tools at the disposal of the ICC for the exercise of victims" right to justice, including the possibility for victims of participating in ICC proceedings and applying for reparations, taking into account the complementary role of the Trust Fund for Victims in the delivery of reparations and other assistance, including witness protection; ensure that victims, as well as their lawyers, benefit from adequate legal assistance and protection. Member States should also announce a **substantial financial contribution to the Trust Fund for Victims,** and engage with civil society during the Review Conference to ensure that their views are adequately represented.

Members call on the Union, Member States and other international donors to support reform processes and national capacity-building efforts aimed at strengthening the independent judiciary, the law-enforcement sector and the penitentiary system in all developing countries directly affected by the commission of Rome Statute crimes, thus ensuring **effective implementation of the principle of complementarity** and also compliance by states with the decisions of the Court.

Lastly, Parliament welcomes the revision and discussion of Article 124 ("transitional provision") of the Rome Statute, which allows states to choose not to have their nationals subject to the Court's jurisdiction over war crimes for a seven-year period after ratification, and calls for its prompt deletion from the Statute so that the law is applied equally to all suspects of alleged war crimes committed in the territories of, or by nationals of, States Parties to the Statute.