

## **P5\_TA-PROV(2002)0449**

### **International Criminal Court**

#### **European Parliament resolution on the International Criminal Court (ICC)**

*The European Parliament,*

- having regard to its previous resolutions on the International Criminal Court, in particular those of 19 November 1998<sup>1</sup>, 18 January 2001<sup>2</sup>, 28 February 2002<sup>3</sup> and its resolution of 4 July 2002 on the draft American Servicemembers' Protection Act (ASPA)<sup>4</sup>,
  - having regard to the Rome Statute of the International Criminal Court and in particular Articles 16, 86 and 98 thereof,
  - having regard to the declaration of 1 July 2002 on the International Criminal Court by the Council Presidency on behalf of the EU,
- A. whereas a positive development in transatlantic relations could reinforce the convergence between the European Union and the USA as regards the major values and objectives of democracy and the rule of law and should take place in the framework of a strong commitment to a multilateral approach to problems,
- B. whereas the Rome Statute makes a decisive contribution to the implementation of international law and justice and can thus be seen as part of the Copenhagen political criteria,
- C. regretting UN Security Council Resolution 1422 adopted on 12 July 2002 on operations established or authorised by the United Nations, whereby the ICC shall not commence or proceed with investigation or prosecution of any case of acts or omissions by current or former officials or personnel from a contributing State not a party to the Rome Statute for a twelve-month period starting on 1 July 2002, with the possibility of renewal each 1 July for a further twelve-month period,
- D. whereas the current worldwide political pressure being exerted by the government of the United States to persuade States Parties and Signatory States of the Rome Statute, as well as non-signatory states, to enter into bilateral immunity agreements which seek, through misuse of its Article 98, to prevent US government officials, employees, military personnel or nationals from being surrendered to the International Criminal Court should not succeed with any country, in particular with the Member States, the candidate countries, the countries involved in the Stabilisation and Association Process, the countries associated with the EU in the Euro-Mediterranean partnership, the Mercosur, Andean Pact and San José Process countries or the ACP countries,

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<sup>1</sup> OJ C 379, 7.12.1998, p. 265.

<sup>2</sup> OJ C 262, 18.9.2001, p. 262.

<sup>3</sup> P5\_TA(2002)0082.

<sup>4</sup> P5\_TA(2002)0367.

- E. regretting that the Council and the Commission did not address clear political guidelines in this regard to the candidate countries, as well as to all the other countries associated with the EU under various agreements,
- F. deeply disappointed by the decision of the Romanian government to sign an agreement with the United States contradicting the spirit of the status of the ICC and worried that three other candidate countries – the Czech Republic, Lithuania and Malta – have not yet ratified the treaty,
- G. taking the view that Turkey’s failure even to sign the Treaty is unacceptable,
- H. deeply concerned at the approach to the ICC expressed by representatives of some of the governments of Member States during the informal meeting of the EU foreign ministers in Helsingor on 29 and 30 August 2002 and at the lack of clear information on the outcome of the meeting held in New York on 13 September 2002 between the US Administration and the Foreign Affairs Ministers of the Member States,
- I. whereas the independent prosecutor may prosecute criminal acts before the ICC which are not prosecuted in the State Party whose national has committed the crime,
- J. insisting that the common guidelines that the Council is to adopt on 30 September 2002 should not represent any step backwards in EU support for the full effectiveness of the ICC and should respect the letter and spirit of the EU common position already adopted in this regard,
  - 1. Underlines that no immunity agreement should ever afford the possibility of impunity for any individual accused of war crimes, crimes against humanity or genocide;
  - 2. Underlines the heavy US involvement in peacekeeping operations and considers that the credibility of the EU position vis-à-vis the United States could be strengthened by accepting a proportionate contribution to peacekeeping operations;
  - 3. Firmly believes that the ICC States Parties and Signatory States are obliged under international law not to defeat the object and purpose of the Rome Statute, under which, according to its Preamble, ‘the most serious crimes of concern to the international community as a whole must not go unpunished’ and that States Parties are obliged to cooperate fully with the Court, in accordance with Article 86 of the Rome Statute, thus preventing them from entering into immunity agreements which remove certain citizens from the States’ or the International Criminal Court’s jurisdictions, undermining the full effectiveness of the ICC and jeopardising its role as a complementary jurisdiction to the State jurisdictions and a building block in collective global security;
  - 4. Stresses that the Rome Statute was ratified by all Member States as an essential component of the democratic model and values of the European Union and calls upon the Member States to make the Rome Statute a part of the Community acquis;
  - 5. Expects the governments and parliaments of the Member States to refrain from adopting any agreement which undermines the effective implementation of the Rome Statute;

considers in consequence that ratifying such an agreement is incompatible with membership of the EU;

6. Addresses the same request to the candidate countries, the countries associated with the EU in the Euro-Mediterranean partnership, the Mercosur, Andean Pact and San José Process countries, the countries involved in the Stabilisation and Association Process and the ACP countries which are parties or signatories to the Statute; encourages the parliaments of Romania, Israel, Tajikistan, East Timor, Honduras, India, Uzbekistan, Mauritania, Palau, the Marshall Islands and the Dominican Republic not to ratify the agreements signed by their governments with the United States, under Article 98 of the Rome Statute;
7. Invites all Signatory States to ratify the Statute and calls in particular on the Czech Republic – currently in the chair of the UN General Assembly –, Lithuania and Malta to do so as a matter of the utmost urgency in order to prevent any delay in the ongoing process of EU accession;
8. Is convinced that the Member States and candidate countries should act as a single bloc in the establishment of the ICC in order to commit fully to it and to enable it to succeed in preserving its independence, impartiality and integrity, in particular by:
  - reinforcing the EU political dialogue with the United States, inside and outside the Transatlantic Dialogue, with the purpose of persuading its government to change its attitude towards the ICC,
  - reinforcing EU financial support for the ICC through the funding of actions under the European Initiative for Human Rights,
  - adopting a common approach to the future appointment of its judges, prosecutor and staff; respecting the principles of transparency and full consistency with the criteria of the Rome Statute, in particular on gender equality;
9. Invites the Conference of European Affairs Committees (COSAC) to examine, at its next meeting in October 2002<sup>1</sup>, the current situation regarding the ICC and the possible violation of the Rome Statute by the bilateral agreements proposed by the USA government under its Article 98;
10. Invites the governments and national parliaments of the candidate countries and all other countries associated with the EU under various agreements respectively to sign and ratify the ICC Treaty immediately;
11. Recalls its request to the Council to present to the European Parliament a progress report on the ICC before the next Copenhagen European Council in December 2002; is of the opinion that this report should identify any international agreement related to the ICC and evaluate its compatibility with the Rome Statute, and therefore with the Community acquis;

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<sup>1</sup> Under points II 5 and 6 of the Protocol to the Treaty of Amsterdam on the 'role of National Parliaments in the European Union'.

12. Urges Member States, candidate countries and all other countries associated with the EU under various agreements to undertake an analysis of the legal implications of Security Council Resolution 1422, and calls for strong action against the renewal of the UN Security Council Resolution in July 2003;
13. Reminds Member States of their obligations regarding the prohibition of the death penalty and the European Arrest Warrant, and calls for an in-depth analysis of the legal implications of Article 98 in this area;
14. Instructs its President to forward this resolution to the Council, the Commission, the parliaments of Romania, Israel, Tajikistan and East Timor, Honduras, India, Uzbekistan, Mauritania, Palau, the Marshall Islands and the Dominican Republic the government and Congress of the United States, the UN Secretary-General, COSAC, the national parliaments of the candidate countries and the abovementioned countries associated with the EU under various agreements, and the President of the Assembly of States Parties to the Rome Statute of the ICC.