



## Resolution 1644 (2009)<sup>1</sup>

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

Parliamentary Assembly

1. Recalling its [Resolutions 1300 \(2002\)](#) and 1336 (2003), the Parliamentary Assembly reiterates its firm commitment to the International Criminal Court (ICC). The ICC is the first ever permanent independent judicial institution with jurisdiction over individuals accused of genocide, crimes against humanity and war crimes. The ICC is based on complementarity, seeking to empower states to investigate and prosecute such crimes, assuming jurisdiction only as a last resort.
2. Recalling [Recommendation 1408 \(1999\)](#) on the International Criminal Court, the Assembly reiterates its belief that the universal ratification of the Rome Statute and its effective implementation into domestic systems, as well as close co-operation by states parties and other states in providing practical and judicial assistance to the ICC, are of key importance for the fight against impunity.
3. The Assembly welcomes the fact that, since its adoption in 1998, the Rome Statute of the ICC has been ratified by 108 states across the world. Regrettably, eight Council of Europe member states (Armenia, Azerbaijan, the Czech Republic, Moldova, Monaco, Russia, Turkey and Ukraine), one Council of Europe observer state (the United States) and one state with observer status with the Parliamentary Assembly (Israel) have not yet ratified it.
4. The Assembly also recalls the importance of the Agreement on the Privileges and Immunities of the International Criminal Court, which is indispensable for the ICC's independent operation. Regrettably, to date, 14 Council of Europe member states have not ratified the agreement, including seven countries which are states parties to the Rome Statute (Bosnia and Herzegovina, Georgia, Malta, Poland, San Marino, Spain and Switzerland).
5. The Assembly therefore urges those Council of Europe member and observer states and Parliamentary Assembly observer states which have not yet done so to:
  - 5.1. sign and ratify without further delay the Rome Statute and the Agreement on the Privileges and Immunities of the ICC;
  - 5.2. adopt effective national legislation to implement the Rome Statute at the earliest opportunity and encourage third states to do so;
  - 5.3. protect the integrity of the Rome Statute as recommended in [Resolutions 1300 \(2002\)](#) and 1336 (2003).
6. In addition, the Assembly recommends that Council of Europe member and observer states and the Parliamentary Assembly observer states:
  - 6.1. fully co-operate with the ICC in the fight against impunity for the most serious crimes of international concern;
  - 6.2. empower their judicial and law-enforcement authorities in order to exercise the states' primary jurisdiction over crimes within the purview of the ICC;

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1. *Assembly debate* on 27 January 2009 (4th Sitting) (see [Doc. 11722](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mrs Däubler-Gmelin). *Text adopted by the Assembly* on 27 January 2009 (4th Sitting).



6.3. make meaningful financial contributions to the ICC's Trust Fund for Victims;

6.4. incorporate in their legal orders relevant standards on victims' rights, without prejudice to existing higher standards in some Council of Europe member and observer states and Parliamentary Assembly observer states.

7. Furthermore, the Assembly urges the Secretary General of the Council of Europe to take up a mediation role with two permanent members of the Security Council of the United Nations, the United States and Russia, in order to foster co-operation with the ICC and to take away obstacles in domestic laws for such co-operation, for example the 2002 "American Servicemen Protection Act" and international agreements such as bilateral immunity agreements, to ultimately be able to ratify the Rome Statute.

8. The Assembly welcomes the referral of situations, such as the situation in Darfur, by the United Nations Security Council to the ICC. It calls upon the United Nations Security Council to fulfil its responsibilities to implement the decisions and orders of the court and to make financial contributions as provided for by the Rome Statute.