

REMARKS OF ICC PRESIDENT EBOE-OSUJI
on the occasion of
THE VISIT OF PRESIDENT DUDA OF POLAND

I. POLAND'S UNWAVERING SUPPORT FOR THE ICC

Excellency, welcome to the International Criminal Court – your Court, our Court, the World's Court. It is immensely appreciated at the Court, when world leaders take time out of their very hectic schedules to come and see us.

Your visit is a symbolic show of support to the Court. On behalf of the Court, may I thank you for Poland's strong and unwavering support to the ICC and its work. Your visit is a symbolic show of that support.

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II. AN ELOQUENT ARTICULATION OF POLAND'S INSTINCT FOR THAT SUPPORT

Excellency, it was a pleasure for me: reading your speeches (i) to the 74th UNGA on 24 September 2019; and (ii) to Special Session of the UNSC on 17 May 2018 (on the Maintenance of International Peace and Security).

They do serve as a veritable manifesto for Poland's support for international rules-based institutions of which the ICC is a central example.

Above all, they are an important lecture on the values of international law. They reminded me of a powerful speech that US Supreme Court Justice Robert H Jackson delivered on 13 April 1945, before President Harry Truman sent him to

represent America at the London Conference of 1945 and later as the US Chief Prosecutor in the Nuremberg proceedings.

In that speech, titled, 'Rule of Law among Nations' – which I fervently recommend to everyone - Jackson said as follows: 'Those who best know the deficiencies of international law are those who also know the diversity and permanence of its accomplishments and its indispensability to a world that plans to live in peace.'

Your speeches at both the UNGA this year and at the UNSC last year very eloquently reprised that theme.

Notably in your UNGA speech, which echoed the UNSC speech:

- You stressed the importance of 'strengthening and upholding international law in the context of maintaining peace and security'
- You made it 'very clear that international law is the strongest tool in the hands of civilized nations, ensuring long-term peace.' '**There can be no peace without the law**', you insisted.
- You 'emphasize[d] the indisputable role of international law in maintaining the global security architecture created after World War II, and of the protection of civilians in armed conflicts.'
- And, you found it unfortunate 'that international law is often challenged and disavowed today.'

III.A STANCE AGAINST INTERNATIONAL CRIMES

You particularly reproached aggression, and you lamented 'that despite the progress of civilization, despite the terrible lesson [of World War II], today, in the

21st century, there are still acts of incomprehensible barbarity perpetrated all over the world' in the form of 'ethnic cleansing, mass murders and even genocide.'

IV. INSISTENCE ON ACCOUNTABILITY

In your UNSC speech last year, you insisted that 'individual criminal accountability for international crimes' must be guaranteed – even by the Security Council.

In that connection, you stressed 'Poland's support for international legal mechanisms aimed at bringing [to justice] those responsible for violating international law.' And you specifically mention the International Criminal Court amongst such legal mechanisms.

V. COMPLEMENTARITY

We are truly encouraged by your support for the ICC and its work. Indeed, the Court was specifically created to ensure individual criminal responsibility for those who commit genocide, crimes against humanity, war crimes and the crime of aggression.

But, it is important to recall that the Court's jurisdiction in that regard is not a primary one. It is only a court of last resort. A court whose jurisdiction only serves to complement the jurisdiction of national courts in ensuring that justice is done. As you know, this is what we call the doctrine of complementarity.

This means that States have both the right and the obligation to do justice at home, first. The point is that States are not truly morally or legally free to protest the ICC's exercise of jurisdiction, unless they have shown that justice has genuinely been done, or is being done, at the national level.

VI. JUDICIAL INDEPENDENCE

Excellency, I must, of course, observe that the doctrine of complementarity entails an umbilical connection between the judiciaries of the ICC and those of States Parties to the Rome Statute. And judicial independence is critical in the abilities of Judges to discharge their functions in a genuine way, so linked in the doctrine of complementarity.

In that connection, Mr President, I must note the concerns variously expressed by important bodies and functionaries - on the international stage - about the state of judicial independence in Poland. I am aware of the concerns expressed by the European Commission; the International Commission of Jurists; the Council of Europe's Commissioner for Human Rights, and others.

I am also aware that the matter is now before the Court of Justice of the European Union. For that reason, it is not appropriate for me to comment on the pending case. I must only express confidence that the Government of Poland will fully respect the judgment of the European Court of Justice in the matter.

VII. ICC REVIEW PROCESS

Excellency, the ICC and the Assembly of States Parties are now currently engaged in discussions on review of the Rome Statute system – meaning the Court and the ASP as the Court’s supporting structure – in order to explore how to improve the Court’s ability to deliver better on its mandate of humanity.

We fully welcome an independent expert driven review, because no human system is ever perfect. And that is particularly so for judicial systems. We must always strive to do better.

VIII. THE COURT’S ENDURING VALUE

But, it is important to never obscure the important improvements that the ICC has already made to the lot of humanity, by its mere existence and work so far. The Court’s existence has changed how the world thinks about accountability. It has made politicians in different parts of the world think more carefully about resorting to widespread or systematic violence against civilians, for purposes of winning elections. It has made strong men – and it is usually men that do these things - think more carefully about how they treat their fellow human beings.

Those are strong returns already on the ICC investment – even as we must strive to make the system work even better.

Thank you again for coming to visit the Court.