



ELDH European Association of Lawyers for Democracy & World Human Rights

EJDM Europäische Vereinigung von Juristinnen & Juristen für Demokratie und Menschenrechte in der Welt

EJDH Asociación Europea de los Juristas por la Democracia y los Derechos Humanos en el Mundo

EJDH Association Européenne des Juristes pour la Démocratie & les Droits de l'Homme

EGDU Associazione Europea delle Giuriste e dei Giuristi per la Democrazia e i diritti dell'Uomo nel Mondo

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Defending and Strengthening the International Criminal Court – against US-Sanctions

The ELDH condemns the US sanctions against the International Criminal Court. The Court and its officials urgently require appropriate protective measures, particularly from the States Parties to the Court.

1. The independence of international criminal justice must be protected

The International Criminal Court (ICC) is a cornerstone of the international system of accountability for genocide, crimes against humanity, war crimes and the crime of aggression. Its independence is indispensable to the rule of law and the principle that no one is above the law, regardless of political power or official position.

Sanctions and other forms of pressure directed at the Court, its judges, prosecutors, staff or persons cooperating with it can seriously undermine its ability to fulfil its mandate. They may also deter witnesses, victims, civil society organisations and other cooperation partners from engaging with the Court.

The European Union must therefore do more than express political solidarity. It must take concrete legal, diplomatic, financial and institutional measures to safeguard the Court's independence and ensure that its work can continue effectively.

The timing of the announced US sanctions in relation to the award of the Nobel Peace Prize to Navi Pillay, a former ICC judge who contributed to the development of international criminal justice and the Court's standing, is politically significant and warrants scrutiny.

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2. The European Union's legal and political responsibilities

The EU has consistently supported the ICC and the fight against impunity. Council Decision 2011/168/CFSP on the International Criminal Court provides an important framework for the Union's policy in this area. The 2006 Agreement between the International Criminal Court and the European Union on Cooperation and Assistance further establishes a basis for cooperation.

Although the EU is not itself a party to the Rome Statute, its Member States are parties and are bound by their obligations under the Statute, including the duty to cooperate fully with the Court pursuant to Article 86. The EU and its institutions should use their respective powers to support these obligations and protect the effective functioning of the Court.

3. Concrete measures the EU should take

Protect the Court and those cooperating with it against the effects of sanctions.

The EU should assess urgently the legal, financial and practical consequences of sanctions affecting the ICC, its personnel and persons cooperating with it. It should examine whether the scope of Council Regulation (EC) No 2271/96—the EU Blocking Statute—could appropriately be extended and whether complementary EU measures are needed. The Blocking Statute does not automatically neutralise every US sanction; any extension or additional instrument must therefore be designed on a sound legal basis.

The EU should also explore practical safeguards against the disruption of banking, payments, legal representation, travel and other essential services resulting from sanctions.

Second, secure adequate and independent funding for the Court.

The EU and its Member States should ensure that the ICC has sufficient, predictable and sustainable resources to fulfil its mandate. This includes support for investigations, witness protection, victim participation, outreach and the protection of evidence. The EU should also consider the needs of the ICC Trust Fund for Victims and the potential harm sanctions may cause to victims and survivors.

Third, strengthen cooperation with the Court.

Member States should fulfil their obligations under the Rome Statute, including requests for arrest and surrender, the provision of evidence and other forms of judicial assistance. The EU should facilitate coordination among Member States, identify gaps in implementation and respond collectively to attempts to obstruct lawful cooperation with the Court.

The 2006 EU–ICC Agreement on Cooperation and Assistance should be used as a practical basis for reinforcing institutional cooperation.

Fourth, protect judges, prosecutors, staff, witnesses and civil society partners.

The EU should assess the risks faced by persons targeted because of their work with or support for the Court. Where appropriate, it should provide diplomatic support, legal assistance and other protective measures, while ensuring that victims, witnesses and civil society organisations can cooperate with the ICC without intimidation or undue interference.

Fifth, promote universal adherence and democratic oversight.

The EU should intensify its efforts to encourage universal ratification and effective implementation of the Rome Statute. The European Parliament and national parliaments should regularly scrutinise the effectiveness of EU measures to protect the Court, including the implementation of sanctions safeguards and the adequacy of financial and diplomatic support.

4. ELDH demands

We call on the European Union, its institutions and its Member States to:

1. **Adopt a coordinated and legally robust response** to sanctions and other measures that threaten the independence or effective functioning of the ICC.
2. **Review and strengthen available legal safeguards**, including consideration of an appropriate extension of the EU Blocking Statute and complementary protective instruments.
3. **Guarantee sufficient and predictable funding** for the Court, its investigations, witness protection and victim-related activities.
4. **Ensure full and effective cooperation** by Member States with the ICC and strengthen coordination at EU level.
5. **Protect individuals and organisations** exposed to retaliation for cooperating with or supporting the Court.
6. **Enhance parliamentary scrutiny and public accountability** regarding the EU's measures to defend international criminal justice.

5. Conclusion

The credibility of the European Union's commitment to human rights, the rule of law and multilateral cooperation depends on its willingness to defend these principles when they come under pressure.

The independence of the International Criminal Court must not remain a matter of political declarations alone. It requires effective legal safeguards, adequate resources, consistent cooperation and practical protection for those who uphold international justice.

The EU should act decisively and collectively to ensure that sanctions and other forms of external pressure cannot prevent the ICC from carrying out its mandate. Defending the Court is not merely a question of institutional solidarity: it is an essential contribution to the protection of victims, the fight against impunity and the integrity of the international legal order.