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## Permanent Declaration

### **International Initiative for Opening Negotiations on a Multilateral Treaty for Mutual Legal Assistance and Extradition in Domestic Prosecution of Atrocity Crimes (crimes of genocide, crimes against humanity and war crimes)**

- It is first and foremost States' responsibility to uphold and implement the conventions criminalising the crime of genocide, crimes against humanity and war crimes.
  - The heart of criminal cases is evidence: witnesses, material evidence, forensic evidence. Without evidence, there can be no trial.
  - However, suspects, witnesses, evidence or assets in international criminal cases like those relating to war crimes, crimes against humanity and crimes of genocide are by their very nature usually not limited to national borders.
  - Therefore, in order to be truly effective, it is essential that States are able to cooperate practically, in providing judicial assistance and -if the need arises – extradition of the accused.
  - For this, an effective international legal framework for judicial assistance between States is crucial.
  - However, the existing legal framework for international judicial assistance in the domestic investigation and prosecution of these international crimes is outdated and insufficient. The conventions covering these international crimes, where they exist, do not address judicial assistance and extradition in modern terms and norms.
  - The Rome Statute allows for the International Criminal Court to take over the duties of national states to investigate and prosecute international crimes, when states are either unwilling or unable to carry out these duties themselves.
  - If we want to enable States to effectively carry out these duties, we have a responsibility to address this outdated and insufficient international procedural legal framework.
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- We, the supporters of the initiative, suggest that the international community of States open negotiations on a procedural multilateral treaty on mutual legal assistance and extradition to cover this gap.
  - Such an instrument could be similar in set up to other recent treaties in the field of mutual legal assistance and extradition - such as the UN Transnational Organised Crime Treaty, the UN Convention against Corruption and the Convention on Enforced Disappearance.
  - Such a treaty would be open to all States interested in enhancing their capacity to nationally prosecute these international crimes, as is their duty under the relevant conventions.
  - We will continue direct consultations with all States and other interested parties in the future. This is an open and inclusive process, in which all States can participate.
  - We encourage all states to join the initiative, in order to bring this further in the international arena and improve interstate cooperation in fighting these crimes and ensuring accountability.
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## **Mutual Legal Assistance and Extradition for Domestic Prosecution of Atrocity Crimes (war crimes, crimes against humanity, crimes of genocide)**

The envisaged treaty could be based upon existing procedural provisions from more recent treaties on mutual legal assistance dealing with other international or transnational crimes – such as the UN Convention against Transnational Organized Crime (UNTOC), and the UN Convention against Corruption–, to be adapted for cooperation in the investigation and prosecution of crimes of genocide, crimes against humanity and war crimes. It could cover *i.a.* :

- Extradition;
  - Freezing of assets, seizure and confiscation;
  - Protection of witnesses;
  - Transfer of criminal proceedings;
  - Disposal of confiscated proceeds of crime or property;
  - Taking evidence or statements from persons;
  - Service of judicial documents;
  - Searches and seizures;
  - Identification or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
  - Facilitation of the voluntary appearance of persons in the requesting State Party;
  - Designation of central authority and channel of communication;
  - Videoconference;
  - Assistance to and protection of victims;
  - Training and technical assistance;
  - ...
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