Annex II

Public

To the Honourable Court,

Hungary has received the invitation of the Pre-Trial Chamber I to provide submissions for the purpose of proceedings under article 87(7) of the Rome Statute (hereinafter: the 'Statute'). In response to this invitation, Hungary sets out its statements below.

Hungary adheres to a dualist model in the relationship between international and domestic law. According to this model, international law is regarded as a separate legal system, the norms of which can only be applied domestically after specific transformation through domestic legislation. Although Hungary ratified the Statute of the ICC in 2001, it has not been promulgated in the form of a national law. Consequently, the provisions of the Statute have not become part of Hungarian domestic law, and thus no Hungarian court or law enforcement agency may execute coercive measures based solely on it. The existence of an international legal obligation does not substitute for domestic legal effect.

Furthermore, it must be emphasized that under centuries-old and widely recognized principles of international law, sitting heads of state and other officials enjoy state immunity, which precludes foreign criminal jurisdiction from taking action against them during their term in office. While Article 27 of the Statute declares that official capacity does not exempt anyone from criminal responsibility, this provision only applies to States Parties that have incorporated this waiver of immunity into their domestic legal systems. As Hungary has not enacted the Statute into domestic law, Article 27 has no legal effect within Hungarian jurisdiction.

Furthermore, with regard to States not parties to the Statute, Article 98(1) provides that the ICC may not require a State Party to act inconsistently with its obligations under international law with respect to the State or diplomatic immunity belonging to a State not party to the Statute, unless the Court can first obtain the cooperation of that third State for the waiver of the immunity. The State of Israel, which is not a party to the Rome Statute, has not waived its Prime Minister's immunity. Therefore, Prime Minister Netanyahu was fully protected by State immunity against any Hungarian legal or law enforcement action during his visit in April.

We emphasize also that the position of Hungary, that the Court's jurisdiction in this matter cannot be established under Article 12 and that the arrest warrant issued against Prime Minister

Netanyahu cannot be regarded as an impartial and objective legal act, but rather as a politically motivated instrument that undermines the credibility of the ICC.

Budapest, May 22, 2025

Your sincerely,

dr. Eszter Gyarmati