

Concurring Opinion of Judge Maria del Socorro Flores Liera

1. While I concur with the decision of the majority to refer Italy's non-compliance to the Assembly of States Parties (the 'ASP'), I respectfully disagree with its late referral, which has prevented the ASP from considering the issue at its 24th session.
2. On 17 October 2025, the Chamber held unanimously that 'Italy failed to comply with its obligations under the Statute, and that its non-compliance prevented the Court from exercising its functions and powers'¹. However, acting by majority, the Chamber decided to delay the referral of the matter to the ASP and invited Italy to provide additional information². I dissented from the majority and expressed that no information before the Chamber justified the delay. I added that not referring the issue to the ASP was inconsistent with the practice of the Court and, more importantly, with the objectives of the cooperation regime established in the Statute³.
3. On 31 October 2025, Italy filed its submissions⁴ in accordance with the invitation from the Chamber but provided no information on the impact of its national proceedings on future request for cooperation. While the response was short and clear, it took the Chamber more than two months to issue its decision. I find such delay unmerited, particularly taking into account the holding of the annual session of the ASP from 1 to 5 December 2025.

Done in English. A French translation will follow. The English version remains authoritative.



Judge María del Socorro Flores Liera

Dated this Monday, 26 January 2026

At The Hague, The Netherlands

¹ Decision on Italy's non-compliance with a request for cooperation, ICC-01/11-209, para. 62.

² Decision on Italy's non-compliance with a request for cooperation, 17 October 2025, ICC-01/11-209, p. 63.

³ Partially dissenting opinion, 17 October 2025, ICC-01/11-209-OPI, para. 1.

⁴ Italy's response to the Pre-Trial Chamber's invitation to provide information on relevant domestic proceedings – ICC-01/11-209, ICC-01/11-211.