



**Cour
Pénale
Internationale**

**International
Criminal
Court**



**Judge Silvia Fernández de Gurmendi
President of the International Criminal Court**

Presentation of the Court's annual report to the UN General Assembly

Check against delivery

5 November 2015
United Nations, New York

Mr President,

Distinguished delegates,

It is a great honour to present the 11th annual report of the International Criminal Court to the United Nations General Assembly.

This is the first time I have appeared before this Assembly in my capacity of President of the ICC. But it is not my first time in this meeting hall.

As a former delegate of my country to the United Nations, I am very familiar with and immensely appreciative of the important work that goes on in the General Assembly and its Committees

I also had the privilege of participating directly in the negotiations of the Rome Statute under the auspices of this organisation. The support of the UN was, and continues to be today, extremely important for the Court.

The Rome Statute reaffirms the Purposes and the Principles of the Charter of the United Nations. The establishment of the International Criminal Court was based on the recognition that atrocious crimes which offend the international community as a whole threaten international peace and security and undermine the essential values that the United Nations endeavours to promote.

In the Statute of the International Criminal Court, States have reaffirmed the primary responsibility of national jurisdictions of investigating and prosecuting these crimes. But by establishing the Court, States also recognised that there are times when domestic courts for different reasons cannot alone cope with the task. The International Criminal Court is complementary to national systems in these situations, with the goal of avoiding impunity for very serious crimes, as well as contributing to their prevention.

The creation of a permanent International Criminal Court to judge these types of crimes brought to fruition a long-standing aspiration, and its establishment was not an easy process.

It required enormous diplomatic and technical efforts to achieve broad agreements on the Court's jurisdiction, substantive and procedural legal framework, and its cooperation and enforcement regime.

Today, there is a widespread expectation that atrocious crimes cannot go unpunished, and the Court has a central role in upholding this expectation of the international community and the hope of victims all over the world.

Against this background, I can assure you that as President of the ICC, I recognise the enormous responsibility that rests on the Court. The Court must fulfil its mandate, but it is clear that it cannot meet these expectations alone. The Court relies heavily on the cooperation of States and organisations at every step of the process, from investigation to arrests and from witness protection to the enforcement of sentences.

But just as the Court expects cooperation from the international community, we must also recognise that it is expected from the Court that we do our part of the job well, by providing high quality justice in a timely manner.

For these reasons, the main priority that I have set for my mandate is to enhance the effectiveness and efficiency of the institution.

All organs of the Court are actively engaged in important reforms toward this goal. Over recent months the judges in particular have made unprecedented collective efforts to expedite the criminal process by adopting best practices and revising working methods. I am pleased to inform you that this process has already yielded very positive results. As President, I intend to deploy all available efforts to lead these reforms further.

Mr President,

Let me now give a concise update on the Court's judicial developments. More details can be found in the written report that you have before you.

We have reached several milestones in the past year. The Court issued its first two final appeals judgments on the merits as well as the first appeals judgments on sentencing and reparations.

Two new trials have recently commenced hearings of evidence before the Court, and a third trial is due to commence early in 2016. Together with one existing trial, this means that next year we already expect to have up to four trials running involving a total of 10 accused persons – the Court's busiest year so far in terms of trial proceedings.

In addition to these cases, two further suspects were transferred to the ICC this year. Mr Dominic Ongwen, an alleged Brigade Commander in the Lord's Resistance Army in Uganda, was transferred to the Court almost 10 years after the arrest warrant against him was originally issued. And most recently, Mr Ahmad Al Faqi Al Mahdi was surrendered to the Court on charges of war crimes regarding the destruction of historical and religious monuments in Timbuktu, Mali. Pre-trial proceedings in both cases are under currently under way.

In this connection it is helpful that we will be moving into the ICC's new permanent premises next month, which will provide more capacity for handling the Court's growing caseload as well as better facilities for public access.

In September 2014 the Prosecutor opened her ninth investigation, following a second referral from the Central African Republic, this time with respect to crimes allegedly committed in its territory since 2012. The Prosecutor has also recently requested judicial authorisation to open an investigation into the situation in Georgia covering the period from 1 July to 10 October 2008, for war crimes and crimes against humanity allegedly committed in and around South Ossetia. This matter is currently before the Pre-Trial Chamber, which will consider whether there are reasonable grounds to proceed with an investigation in accordance with the Statute.

Mr President,

During the past year, the ICC has reached some important milestones in the implementation of its unique reparations mandate, which gives unprecedented attention to the rights of victims of international crimes.

The first Appeals judgment on reparations, in the case of Mr Thomas Lubanga, provided more clarity on the principles to be applied for reparations under the Rome Statute and in the circumstances of this particular case instructed the Trust Fund for Victims associated with the Court to produce a draft implementation plan for collective reparations in accordance with the Trust Fund's mandate.

The Trust Fund filed its draft implementation plan earlier this week and the matter is now in the hands of the Trial Chamber.

Reparations proceedings are also under way in the case of Mr Germain Katanga, whose conviction for crimes against humanity and war crimes committed in the Ituri District of the Democratic Republic of the Congo became final last year.

In other activities over the reporting period, the Trust Fund for Victims has been actively carrying out its Assistance mandate. Psychological, physical and material support remains central in responding to the needs of victims under the jurisdiction of the ICC. The Trust Fund, in conjunction with locally based partners in the Democratic Republic of the Congo and Uganda, has assisted a total of over fifty thousand beneficiaries of psychological rehabilitation, over thirteen hundred beneficiaries of physical rehabilitation and over two-and-a-half thousand beneficiaries of material support.

The Trust Fund's assistance programme integrates several cross-cutting themes such as supporting the advancement of women's rights; restoring dignity and promoting peace building; supporting the rights of children affected by armed conflict; mobilising communities; managing crisis; and addressing the impact of sexual and gender-based violence.

The ability of the Trust Fund for Victims to provide general assistance and to supplement reparations where necessary depends entirely upon donations and the generous voluntary

contributions of States. I would like to thank warmly those States who have supported the ICC's Trust Fund for Victims to date, and to encourage others to consider doing so, in the interests of the victims and their affected communities.

Mr President,

In recognition of the important relationship between the ICC and the United Nations, the Court's report this year addresses at greater length than before the various aspects of cooperation between our organisations.

This ranges from logistical assistance in the field to administrative and personnel arrangements, judicial assistance and the provision of services such as those relating security, satellite communications or the use of conference facilities.

In accordance with the Relationship Agreement with the United Nations, the Court reimburses the organization for the assistance that it receives. Cooperation also works in the other direction, and the Court has on occasions provided logistical and security support to the UN.

All in all, the relationship between the UN and the ICC is doing very well, and the Court is very grateful for the support it receives. I would like to emphasize the importance that the cooperation of the United Nations, as well as the cooperation of its funds, programmes and specialised agencies, has for the activities of the Court.

But there are also challenges that persist. One of these is the continuing lack of full cooperation in relation to the two situations that the Security Council formally referred to the Prosecutor – Darfur and Libya.

During the reporting period, the Court made three judicial findings of non-cooperation, two with respect to Sudan and one with respect to Libya. This brings the total number of non-cooperation findings referred to the Council to eleven.

For the Court to be able to discharge its mandate effectively, full compliance with the relevant Security Council resolutions is required. The Court alone is not in a position to obtain that compliance – so we look to the Council for active support in this regard.

Mr President,

In addition to the important relationship with the UN, the Court has continued to develop its interaction and cooperation with other international and regional organizations, institutions and entities as well as with States in all parts of the world. The Court has, inter alia, cooperation agreements with the European Union, the Organization of American States, the African-Asian Legal Consultative Organization, the Commonwealth, the Organisation

internationale de la Francophonie, and the Parliament of the MERCOSUR, Common Market of the South.

We continue to engage with various regional organizations in order to foster support for our activities. Just two weeks ago, the Court and the African Union held a joint technical seminar at the AU headquarters in Addis Ababa – this is the fourth of a series of seminars that started in 2011.

We are also deeply grateful for the excellent cooperation that we receive from States in all regions. To further enhance this vital relationship, we have held cooperation seminars in various regions with the kind assistance of donors, and look forward to continuing this practice.

Mr President,

It has been an eventful year in terms of institutional developments at the ICC.

Six new judges were elected to the Court in December 2014 and sworn in on 10 March 2015. The new judges are already making important contributions and I am sure that they will serve the Court well during their nine-year mandate.

The Assembly of States Parties elected Mr Sidiki Kaba, Minister of Justice of Senegal, as the new President of the Assembly for a three-year term. Minister Kaba enjoys the full support of the Court in the important role that he has assumed at the helm of the Court's parent body.

Since the Court's last report to the UN, the number of States Parties to the Rome Statute has grown to 123, with the accession of the State of Palestine on 2 January 2015.

There have also been several new ratifications of the amendments to the Rome Statute adopted at the Review Conference in Kampala, Uganda, in 2010. So far a total of 26 States have ratified the amendments to article 8 concerning the use of poisonous weapons and expanding bullets in non-international armed conflicts, and 24 States have ratified the amendments on the crime of aggression.

In addition two States – Senegal and the State of Palestine – have ratified the Agreement on the Privileges and Immunities of the Court, bringing the total number of parties to the Agreement to 74. I encourage all remaining States Parties and other interested States to consider joining this agreement.

Mr President,

As a judicial institution, the International Criminal Court is a distinct kind of international organisation. The Rome Statute explicitly requires the judges to be independent in the

performance of their functions, and requires the Prosecutor and her staff not to seek or act on instructions from any external source.

Independence of the judicial and prosecutorial functions from external influence is essential to the Court's identity and the achievement of its goals. Without independence, the Court's whole *raison d'être* is compromised. Independence, however, does not mean unfettered freedom. At all times, the Court's activities are defined by the legal framework within which it operates. The Rome Statute is the constitution of the Court – it sets the limits of what we can and cannot do.

The Court is accountable to the States Parties, the Assembly of States Parties and the international community at large. But when it comes to the Court's judicial and prosecutorial functions, its independence must be maintained. The Court must apply its legal framework and cannot step outside its legal boundaries in order to accommodate political objectives.

Mr President,

Joining the Rome Statute is a sovereign decision for each State to make. I know that 72 member states among those seated in this hall have so far not decided to take that step.

I would like to recall that they can nonetheless contribute to the work of the Court and the broader Rome Statute system. Indeed, many non-States parties provide valuable cooperation to us and regularly attend meetings of the Assembly of States Parties in observer capacity.

I know that many of them are also actively contemplating ratification or accession to the Rome Statute, and taking concrete efforts toward that goal. I hope to welcome many of them to the ICC family during my term as President. Only with global participation can the Court be fully effective in intervening wherever core international crimes are committed with impunity. Our deterrent effect equally depends on the reach of our jurisdiction.

As I mentioned earlier, before the end of this year the Court will move to its new, Permanent Premises in The Hague. I would like to take this opportunity to extend an invitation to all of you to visit us there. Our doors are open to everyone. Let us cooperate toward the attainment of our shared objectives for the rule of law, peace, security and prevention.

Thank you.

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