



**Cour
Pénale
Internationale**
**International
Criminal
Court**



Judge Piotr Hofmański
President of the International Criminal Court

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

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Mr President,

Distinguished delegates,

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

This is the first time I do so, having assumed the position of ICC President March this year.

I am proud to be the first ICC President from the Eastern European Group of States, and I take this opportunity to pay homage to my predecessors in this role, all hailing from different regions of the world.

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The ICC is not part of the United Nations, but our two organisations have a close, unique relationship.

The International Law Commission laid the groundwork for the drafting of the ICC Statute.

The negotiations on the Statute took place under the auspices of the United Nations.

The Preamble of the Rome Statute reaffirms the Purposes and the Principles of the Charter of the United Nations.

And at the very outset, the Statute provides that the ICC and the UN shall be brought into a relationship through an agreement.

That agreement was signed in 2004, and it is the basis of the highly valuable cooperation that happens between the ICC and the UN, on a reimbursable basis.

This vital cooperation involves manifold areas such as logistical assistance, personnel arrangements, judicial assistance, provision of security services, and the use of conference facilities.

We are extremely grateful for these many forms of important assistance and cooperation. I also take this opportunity to thank the Secretary-General and the senior management of the UN for their unwavering commitment to the Court. Their support is truly highly appreciated.

Indeed, the relationship of the ICC and the United Nations is not only one of technical assistance; it is also one of shared values: peace, security, the rule of law and the respect for human rights.

These fundamental values are threatened by the atrocious crimes that the ICC seeks to repress and redress.

The ICC was created by the States sitting in this hall, conscious that millions of children, women and men had fallen victim to unimaginable atrocities during history, and that decisive, joint action had to be taken to try to finally put a stop to impunity for the perpetrators of such offences – and to contribute to their prevention.

The Nuremberg and Tokyo tribunals, the Genocide Convention and the Geneva Conventions, and the *ad hoc* tribunals for former Yugoslavia and Rwanda were some of the critical steppingstones on the road to creating the ICC.

When the Rome Statute was adopted in 1998, the crime of genocide, crimes against humanity, war crimes and the crime of aggression were already widely recognised as crimes under international law. But what the Statute did was to create a judicial mechanism for the enforcement of that criminalisation, when national courts are for whatever reason unable or unwilling to do so.

By performing that role, the ICC has become an integral part of the international structure for upholding the rule of law. As such, it also plays an important part in the achievement of Agenda 2030, in particularly Sustainable Development Goal 16. With its deterrent effect, the Court contributes to the prevention of mass violence.

With 123 States Parties, the ICC enjoys broad international support. But for the sake of future generations, for the sake of victims, and for the sake of our shared humanity, I hope to see that number rise further.

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Mr President,

Along with the rest of the world, the ICC has done its best to cope with the global pandemic in the last two years.

I am extremely proud of how our staff have managed to keep the wheels of justice turning during this entire time. At no point did our proceedings come to a halt.

The Court quickly introduced remote working methods as well as special arrangements for judicial hearings, which allowed some participants to connect virtually, while strict safety measures were applied to those physically in the courtroom.

And so, we were able to continue with all cases before the Court, with only limited delays allowing for instance the parties more time for preparation due to the changed circumstances and the lack of face-to-face communication.

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During the reporting period, several major milestones were reached.

The Appeals Chamber issued two judgments on the merits, in the cases of Gbagbo and Blé Goudé, and Ntaganda, confirming judgments of acquittal and conviction, respectively, as well the sentence in the latter case. Also a reparation order was issued in the Ntaganda case.

The Court's first trial judgement relating to the situation in Uganda was issued, against Mr Dominic Ongwen. The verdict and the sentence of 25 years are both under appeal.

At the same time, the ICC's second trial concerning alleged crimes in Timbuktu, Mali, has begun, as well as the Court's first trial concerning the conflict between the Anti-Balaka and the Séléka in the Central African Republic.

And yet two more cases have been committed to trial, including the Court's first case stemming from the Darfur referral by the Security Council that has reached this stage, against Mr Abd-al-Rahman.

And there could even be a fifth trial next year, depending on the outcome of the confirmation of charges in the Said case, also concerning the conflict in the Central African Republic.

In parallel with all this, the Court and the ICC's Trust Fund for Victims are busy with the implementation of reparations stemming from several past cases.

And that is not all. In the past year, the Prosecutor has opened three new investigations, in relation to the situation in the State of Palestine, the situation in Venezuela, and the situation in the Philippines, the latter following authorisation by

Pre-Trial Chamber I. This brings the number of open situations to 16 – a striking amount, considering that only nine years ago that number was six.

When you add to that the multiple preliminary examinations conducted by the Prosecutor, it becomes clear that the ICC, as a single institution, is dealing with a scope of work which would require many different *ad hoc* tribunals, and the ICC can do this with a far lower cost than what the creation, running and closing of multiple tribunals would involve.

All in all, the ICC is working at full speed, successfully discharging its mandate in the fight against impunity. The Court is active on multiple continents, addressing the most serious crimes under international law. Trials are taking place in our courtrooms day to day, week to week, month to month.

Naturally, this short description barely scratches the surface of the Court's current work. You can find more details in the written report, and better yet, on the ICC website and the judicial records of the cases.

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Mr President,

Apart from the heavy judicial and prosecutorial workload, the ICC is also busy working on a large number of recommendations to strengthen its operations. This Review process is a joint undertaking of the Court and the Assembly of States Parties to the Rome Statute.

Indeed, as the ICC's work expands, we must continuously strive to develop our working methods, so that we can deliver high quality justice efficiently and effectively, without sacrificing fairness, or the Court's independence.

This is my top priority as ICC President: to enhance the Court's delivery of justice in every way possible. Independent, fair justice, fair to all parties and participants.

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Mr President,

I already referred briefly to the Trust Fund for Victims, which is a semi-independent entity that forms part of the ICC system. The Trust Fund has several important roles:

1) Firstly, it raises funds from both public and private donors for the benefit of the victims of crimes under the ICC's jurisdiction.

2) Secondly, the Trust Fund implements reparations ordered against the convicted persons by the ICC's judges in cases before the Court. These reparations are implemented in cooperation local with implementation partners, they can be individual or collective, and take the form of compensation, rehabilitation, restitution, and symbolic measures.

Trial Chambers determine the amount of liability of the convicted person; to date, these amounts have range from one million to 30 million US dollars in cases before the Court. As the convicted persons have, so far, been indigent, the Trust Fund uses the resources received from donors to complement the reparation awards to the degree possible.

3) And finally, the Trust Fund for Victims can also provide assistance to victims in ICC situation countries *independently of the Court's decisions*. This means that addressing the harm suffered by the affected communities does not necessarily have to wait for the end of the judicial process, which can take several years. The assistance mandate also enables some reparative justice to take when cases end in an acquittal, yet it is not disputed that harm has been suffered by victims.

Since the ICC's inception, the reparative activities of the Trust Fund for Victims have reached hundreds of thousands of victims and their families. Today, the Trust Fund is busier than ever, as it is implementing reparations in 3 cases, preparing implementation plans in a 4th and soon in a 5th case, and at the same time expanding assistance activities from four to seven countries.

The increasing number of reparation cases with increasing numbers of victims has put considerable pressure on the Trust Fund's resources. I would like to use this opportunity to appeal to all States present in the hall to make donations to the Trust Fund for Victims, to help the ICC's important work for the benefit of victims.

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Mr President,

The cooperation of States is a cornerstone of the ICC's operations, as the Court has no enforcement powers of its own. I take this opportunity to thank the numerous States

Parties – as well as several States that are not parties to the Statute – for the invaluable cooperation they have provided to the Court in the last year.

I also wish to acknowledge the important cooperation, assistance and support extended to the Court by many regional and international organisations, naturally including the United Nations.

At the same time, it is of great concern that more than ten arrest warrants issued by the Court remain outstanding. More than half of these stem from situations referred to the ICC Prosecutor by the United Nations Security Council.

I recall that the Council's resolutions imposed an obligation on Sudan and on Libya to cooperate fully with the Court's investigations and prosecutions. It is essential that these Security Council resolutions are respected, and that suspects are transferred to the ICC to face the accusations against them in a fair judicial process. I call upon all UN member states to support that objective.

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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 last year and were sworn in on 10 March 2021. I am happy to note that the Court now has a perfect balance of female and male judges, 9 of each. We are also working hard to enhance gender balance among staff, and in this context, I am pleased to report that on the 8th of March this year, we appointed a full-time Focal Point for Gender Equality for the ICC.

We also have a new Prosecutor, Mr Karim Khan, since June this year. Both Mr Khan as well as the new judges were elected for 9-year mandates.

Last December, the Assembly of States Parties elected Ms Silvia Fernandez as the new President of the Assembly for a three-year term. She enjoys the full support of the Court in her important role.

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In the past year, there have been several new ratifications of the amendments to the Rome Statute on the crime of aggression and article 8 amendments on war crimes. I

encourage all States Parties to consider ratifying the amendments adopted by the Assembly of States Parties.

I also urge all States to join the Agreement on the Privileges and Immunities of the Court, which is a separate treaty.

Finally, I strongly encourage States to implement the Rome Statute in their national legislation, both in terms of procedures for cooperation with the Court, as well as incorporating the crimes in the domestic criminal code.

The latter aspect is crucial for the principle of complementarity, which means that national jurisdictions of States always have the primary right and responsibility to investigate and prosecute the crimes contained in the Rome Statute.

Indeed, the Rome Statute system is strongly supportive of national capacity building and the strengthening of domestic jurisdictions to address international crimes. Again, this demonstrates the important role of the ICC and the Rome Statute in enhancing the rule of law globally.

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Mr President,

At the beginning of my speech, I said that I hope to see the number of 123 States Parties to the Rome Statute increase further.

Naturally, joining the Rome Statute is a sovereign decision for each State to make. I know that more than 70 member states among those seated in this hall have so far not decided to take that step.

I ask all those countries to give serious consideration to joining the ICC, for the sake of humanity. There are many reasons to do so.

Empirical research shows that joining the Rome Statute adds to the deterrence of the gravest crimes under international law. This is not just about preventing atrocities at home; each new State Party also strengthens the system as a whole and gives more hope to victims everywhere in the world.

Indeed, joining the ICC is a powerful expression of solidarity with the victims of the gravest crimes. It is also one of the most tangible steps that a state can take in support of international law, and a rules-based international system. Multilateralism is at the heart of the Rome Statute.

By joining the treaty you gain a seat in the Assembly of States Parties, where you can participate with the rest of the world in decisions that shape the future of international criminal law. A State Party can put forward their top lawyers as candidates for leadership positions at the ICC.

And – as a State Party, you can both propose and vote on amendments to the Rome Statute. The Statute is a living document, as we have already seen with the evolving catalogue of crimes included in it.

Sometimes lack of information stands in the way of ratification. One of the common misconceptions is that joining the Rome Statute opens the door for the ICC to look into events of the past. That is not so: the Statute contains extremely clear provisions specifying that ratification of the Rome Statute has no retroactive effect. The ICC is above all a forward-looking institution, a structure of the rule of law built for the well-being of current and future generations.

Another common misconception is that the ICC holds States responsible. Obviously that is not so, because the ICC is not a human rights court. The ICC can only prosecute natural persons for their individual criminal responsibility. And that is done under a rigorous system with multiple checks and balances. As I indicated earlier, fairness of the proceedings and judicial independence are among the highest values for the ICC as a judicial institution.

To any country that may have doubts about joining, I would like to say: “let’s talk”. I truly believe that many obstacles can be solved through dialogue.

And there is no doubt in my mind that supporting the ICC is the right thing to do.

Thank you for your attention.

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