



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

*Remarks to the 26<sup>th</sup> Diplomatic Briefing*

*Check against delivery*

*The Hague  
9 October 2017*

Excellencies,

Madam Prosecutor,

Mr Registrar,

Ladies and gentlemen,

Warm welcome to the 26<sup>th</sup> Diplomatic Briefing of the Court.

It is a pleasure to have this opportunity to address you again as President. The first time I addressed you at the Court's diplomatic briefing was 2,5 years ago, when I had just become President. There I outlined my vision:

I announced then that enhancing the efficiency and effectiveness of the Court would be the top priority of my Presidency with particular emphasis on expediting the judicial process.

I believed then and remain convinced today that cooperation is linked to performance and that the Court needs to deliver high quality justice in order to enhance its own credibility, and by so doing foster cooperation and promote universal membership.

I am happy to say that great progress was achieved during the last 2,5 years in improving efficiency, thanks to the individual and collective efforts of all at the Court: the judges, the other principals and staff.

I am particularly grateful to the two Vice-Presidents, judges Joyce Alouch and Kuniko Ozaki, with whom we have worked as a team during these challenging years.

The revision of proceedings indeed required the collective efforts of all judges and we have revised together entire clusters of issues for all phases of the judicial cycle.

Three retreats of judges, followed by other informal meetings of judges, were a central vehicle in this process of collective revision.

- Nuremberg – June 2015 – Pre-Trial and issues common to both Pre-Trial and Trial
- Limburg – October 2016 – Trial, focussing particularly on preparation for trial
- Krakow – June 2017 – Appeals

These collective discussions on procedural matters were unprecedented. For the first time at the Court, all judges accepted that judicial independence was in no way incompatible with exchanging views on matters of law and procedure with colleagues of other chambers and

divisions, with a view to trying to identifying collectively a common response to some challenges.

The main outcomes of the collective efforts that we initiated in Nuremberg were:

- Chambers Manual, where we reflect the common understanding of judges on how we proceed with respect to certain issues.
- Amendments to the Regulations of the Court, the latest ones following the retreat in Krakow.
- A few amendments to the Rules of Procedure and Evidence, and
- Improvements in the organisation and methods of work of the legal support, including through the creation of a new position of Head of Chambers that is now in place and has proved to be very beneficial for the legal support of the judiciary.

All these measures were based on the common vision of the judges on how to make the work of Chambers more effective, based on best practices and agreed solutions to key problems that were collectively identified.

Concrete results of these measures are visible.

For instance, if we compare our proceedings now to the Court's first trial, we can see that the time from the confirmation of charges to the start of trial has been practically cut in half. Also the time spent in courtroom per witness has been reduced by almost 50%.

Of course this is just a snapshot comparison, not a thorough analysis. As we go forward, it will be important to be able to track the Court's performance in a systematic way.

This is why I invested a lot of effort during my presidency in the project of creating performance indicators for the Court, together with the other organs. These are important both for improving the Court's performance but also to better communicate about its work and the efforts to expedite proceedings.

As you will know from reports issued by the Court in the last two years, we have identified indicators to measure the performance of the Court in four key areas:

- (i) judicial proceedings;
- (ii) leadership and management;

(iii) security; and

(iv) victims' access to justice.

In 2016, we held an unprecedented court wide retreat in Glion thanks to the hospitality of Switzerland. Following this meeting and other consultations with different stakeholders and civil society, we selected some performance indicators for each of these areas.

Last year we produced the Court's second report on performance indicators which already attached samples of the data that was being collected.

Before the next ASP, we intend to release a third report that reflects the comments received during the last Assembly session and that will attach a fuller set of data collected over a period of time.

As I said, the performance indicators are not only about the judicial process, but also management of the Court. Indicators will look at factors such as budget implementation, recruitment processes, staff appraisals, procurement, and geographical and gender balance.

We have done a lot, but performance and good governance are a continuing struggle, in particular in an international and multicultural institution like ours with a complex structure, composed of organs with distinct and independent mandates

Regular consultations and adequate coordination at all levels are essential.

As President, I have made all efforts to maintain a constant and constructive dialogue with the Prosecutor and the Registrar to advance good management of the institution. I am grateful to both of them for the constructive spirit of dialogue in which this interaction has been taking place, notably in the Coordination Council which meets once a month.

I have also sought to encourage coordination of senior managers of the Court at other levels in order to enhance information sharing, avoid duplication and ensure consistency between different parts of the Court.

\* \* \*

Let me now give you a brief overview of the work done at the Court on the judicial front.

As you know, we have three trials currently ongoing. Two of them, Gbgabo & Blé Goudé and Ongwen, are expected to continue through next year, and one, Ntaganda, is expected to end in the first half of 2018, moving to the judgement drafting phase.

Following convictions, the reparations system of the Court is now being put to test, in four cases (Lubanga, Katanga, Bemba and Al Mahdi). Reparations proceedings in these cases are at different stages. As you will have seen, reparations orders have been recently issued by the respective chambers in the Katanga and Al Mahdi cases. The Katanga order is now being considered on appeal.

As you know, the role of the Trust Fund for Victims is key for the ICC's emphasis on victims, through both its reparation and assistance mandate. Note that this includes a financial aspect; the Trust Fund is invited to complement funds where the convicted persons do not have the means to provide the reparations. I would like to take the opportunity to thank all those who have donated to the TFV, including the most recent donations given this year. Needless to say how important these donations are for the success of the reparations system of the Court.

The Appeals Chamber is particularly busy at this point in time with a number of interlocutory appeals arising from the ongoing trials, appeals relating to reparations and, most notably, the appeals on the merits in two cases - the case against Jean Pierre Bemba, and the article 70 case against Jean Pierre Bemba and other four accused persons. The appeals concerning both the convictions as well as sentences are now being considered by the Appeals Chamber.

The participation of victims continues to be central to the work of the Court. We have deployed all effort to facilitate their access to the Court and enhance the knowledge of victims about court proceedings through better outreach and communication of the Court's work in the affected communities. Currently almost 13 thousand victims are participating in our proceedings.

The Court's current high level of workload is expected to continue next year.

\* \* \*

As I said, in the first two years of my presidency I focused mainly, although not exclusively, on tackling the challenge of efficiency, deploying all efforts to improve the Court's operations from within.

In my third year as President I have put great emphasis also on outward facing attempts to increase the membership in the system.

I have always said that increasing the universality of the Rome Statute is essential for the legitimacy of the Court. The Court has a global mandate but not yet universal participation. It is absolutely essential to advance ratification of the Statute by more countries.

We need more states to join and those that are already part of the system to remain committed to the Court. Recent initiatives to withdraw from the treaty are a stark reminder that the expansion of the system cannot be taken for granted.

We must constantly engage in a constructive dialogue with states and the global community as a whole to understand concerns and work together to strengthen the system.

We have put particular emphasis this year on reaching out to the Asia-Pacific, which is the most underrepresented region in the Rome Statute system.

- A cooperation seminar was held in April in the Republic of Korea, for Asian States. I also visited Malaysia on the same trip to encourage them to join the Rome Statute.
- Last month, I attended the Pacific Islands Forum Leaders' Meeting in Samoa. It was a unique opportunity to reach out to the heads of state and heads of government from the Pacific region and encourage greater participation of the region in the ICC. Eight Pacific Island States are non-States parties. The Court organised a workshop in the margins of the Forum.

The Court is grateful to the European Commission for financially supporting these and other events organised by the Court. Both in Korea and Samoa we had the benefit of participation by former ICC judges, Judge Song and Judge Slade respectively, and we are grateful for their important contributions.

In the context of universality, I often hear concerns about the absence of big powers in the system. To this argument, I would like to emphasize that the Court needs all states, big, medium and small sizes.

However, it is also important to recall that the creation of the Court itself was promoted by an alliance of mostly medium sized and small countries. This is not surprising as they are the ones that need the most to strengthen a world order based on the rule of law rather than on sheer power. This was put very eloquently by the Prime Minister of Samoa when he

introduced me to the leaders of the Pacific Island States. "We have no [regular] military forces", he said. "Our only defence is the rule of law."

We need all states to strengthen the Court. And we are willing to reach out to all states to promote knowledge of the Court and understanding of shared values. In this effort we cooperate closely with other actors promoting universality of the Rome Statute such as Denmark as the focal point on the Assembly's Plan of Action for Achieving Universality and Full implementation of the Rome Statute, States Parties, civil society, and international and regional organisations.

\* \* \*

The relation with the United Nations and its continuing cooperation with the Court are of course crucial for the work of the Court. I am thankful to the Secretary General, Mr. Antonio Guterres and his predecessor, Ban Ki-moon for their vocal and consistent support for the ICC.

I will be going to New York later this month, to present the Court's annual report at the General Assembly on Monday 30 October. The written report has been issued a few days ago and is available also on the Court's website. This report will provide you with a more detailed overview of activities at the Court.

I will now turn to the Prosecutor and the Registrar to complement my remarks. Thank you for your attention.

[end]