



Victim's booklet

Victims before the International Criminal Court

A guide for the
participation of victims in
the proceedings of the ICC

*This booklet is intended to help **victims** and those assisting them when applying **(a) to participate in proceedings** and/or **(b) to request reparations** before the International Criminal Court (ICC).*

The booklet explains how the ICC works and the rights that victims have at the ICC.

*This booklet and the victim application process are **free of charge**.*

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I. Introduction

This booklet is for victims who believe they have suffered harm as a result of one of the crimes within the jurisdiction of the **International Criminal Court** (“ICC” or “Court”) and wish to participate in ICC proceedings and/or request reparations. This booklet is intended to help victims and those people assisting them when completing application forms intended for the ICC. For any questions related to information provided in this booklet, please contact the **Victims Participation and Reparations Section** (VPRS) at the ICC. Contact details are given on the last page of this booklet.

Not all questions about the ICC can be answered in this booklet. The ICC's **Public Outreach and Information Section** (PIOS) produces a range of information materials concerning the Court:

The ICC basic legal texts, including:

- [The Rome Statute](#)
- [The Rules of Procedure and Evidence](#)
- [The Elements of Crimes](#)
- [The Regulations of the Court](#)
- [The Regulations of the Prosecutor](#)
- [The Regulations of the Registry](#)

Information is also available on the following subjects:

- [The ICC at a Glance](#)
- [The Presidency](#)
- [Judicial Divisions](#)
- [Office of the Prosecutor](#)
- [Victims before the Court](#)
- [Registry](#)
- [Understanding the ICC](#)

All of these documents and web pages are available in English and French. Some are also available in the local languages spoken in the countries where the ICC is working.

II. About the ICC

What is the International Criminal Court?

On 17 July 1998, during an international conference in Rome, Italy, 120 States decided to establish a permanent **International Criminal Court**. The purpose of the ICC is to hold to account individuals responsible for the worst crimes known to humankind and by so doing help to prevent these kinds of crimes from being committed in the future. Victims have a number of important roles to play before the

ICC, including participating in the proceedings and requesting reparations in case there is a conviction.

The ICC was established through a treaty between States that is known as the "Rome Statute", which sets out the mandate of the Court and how it works.

As of September 2018, 123 States from around the world have accepted the jurisdiction of the Court by becoming State Parties to the Rome Statute.

The international community had been debating the establishment of a permanent international criminal court since the 1950's after the atrocities committed during World War II shocked the world. Since the 1990's, several international and internationalized criminal tribunals have been set up, but all of these were temporary and established to deal with international crimes committed in specific situations and countries. These include notably the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, which were both established by the United Nations Security Council as a measure to preserve international peace and security.

The ICC is an independent international organization and not part of the United Nations system. It was not set up by a UN Security Council resolution but by an international multilateral treaty, the Rome Statute of 1998. It is located in the city of The Hague in The Netherlands, and it has set up temporary field offices in places where the ICC Prosecutor is conducting investigations.

What crimes does the ICC investigate and prosecute?

The ICC has been established to try and punish individuals accused of committing crimes so serious that they are considered to affect the entire world. These crimes are:

***Genocide:** killing or causing serious mental or physical harm with the intention of destroying all or part of a national, ethnic, racial or religious group.*

***Crimes against humanity:** crimes such as killing, torture, enslavement, rape and other inhumane acts, committed as part of an attack on civilians that is widespread or systematic and carried out pursuant to a state or organizational policy.*

***War crimes:** prohibited acts committed in war or internal armed conflict, particularly when committed on a large scale or as a result of a plan or policy, such as grave breaches against the Geneva Conventions and other internationally recognized rules how to conduct armed hostilities. This includes crimes committed against persons who are taking no active role in hostilities, attacks on civilian targets, pillaging, conscripting, enlisting and using children in hostilities, and destruction of educational and religious institutions.*

***Crime of Aggression:** the planning, preparation, initiation or execution of an act of aggression by a person in a position effectively to exercise control over or to direct the political or military action of a State. An act of aggression must constitute, by its character, gravity and scale, a manifest violation of the Charter of the United Nations.*

More details regarding these crimes, as defined in the Rome Statute, are given below.

It is important to mention that the ICC can investigate and prosecute rape and other crimes of sexual violence such as sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and enslavement, including trafficking of women and girls. These acts can constitute crimes against humanity, war crimes and even genocide.

The ICC Crimes, as defined in the Rome Statute

Genocide

Certain acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such. These acts are:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group.

Crimes against humanity

Certain acts committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack. The prohibited acts are:

- Murder
- Extermination
- Enslavement
- Deportation or forcible transfer of population imprisonment
- Torture
- Rape and other forms of grave sexual violence persecution against an identifiable group enforced disappearance of persons
- The crime of apartheid
- Other inhumane acts of a similar character intentionally causing great suffering or serious bodily or mental injury.

War crimes

Acts that breach the internationally recognized laws of war and other acts that are prohibited in armed conflict; this applies to **international armed conflicts** between States and non-international armed conflicts such as civil wars.

Acts that are prohibited in international armed conflict include the following acts:

- Grave Breaches of the Geneva Conventions of 12 August 1949
- Wilful killing
- Torture or inhuman treatment
- Wilfully causing great suffering, or serious injury to body or health
- Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly
- Unlawful deportation or transfer or unlawful confinement
- Intentionally directing attacks against the civilian population as such or against individual civilians not taking part in hostilities
- Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence

Acts that are prohibited in **non-international armed conflict** include the following acts committed against persons who are taking no active role in hostilities:

- Murder
- Mutilation, cruel treatment and torture
- Taking hostages
- Intentionally directing attacks against the civilian population
- Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments, hospitals
- Pillaging
- Rape or other forms of sexual violence
- Conscripting or enlisting children under the age of 15 to fight into an army or
- Armed group or using them in hostilities.

Crime of Aggression

An “act of aggression” means the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations.

Any of the following acts, regardless of a declaration of war, shall, in accordance with [United Nations General Assembly resolution 3314 \(XXIX\)](#) of 14 December 1974, qualify as an act of aggression:

- The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof;
- Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;
- The blockade of the ports or coasts of a State by the armed forces of another State;
- An attack by the armed forces of a State by the armed forces of another State;
- An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State;
- The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement;
- The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State;

- The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts or armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

The Crime of Aggression officially entered into force as of 17 July 2018 but **only for those ICC States Parties which have ratified or accepted the amendment to the Rome Statute** (on the Crime of Aggression, see [ICC-ASP/16/Res.5](#)).

The ICC will not exercise its jurisdiction through State referrals or investigations commenced by the ICC Prosecutor *proprio motu* over the crime of aggression on ICC States Parties that have not ratified or accepted the crime of aggression amendment.

When can the ICC investigate and prosecute?

The ICC can generally investigate and prosecute war crimes, crimes against humanity and genocide when committed:

- After the 1st of July 2002 and
- By a national of a State Party, or in the territory of a State Party, or
- When the United Nations Security Council has referred a situation to the Court, or
- When a non-State Party accepts the jurisdiction of the Court on an ad hoc basis.

The ICC also has jurisdiction over the crime of aggression which entered into force on 17 July 2018 and has its own special jurisdictional requirements (as listed above).

The ICC is intended to be a **court of last resort** and not to replace national criminal justice systems, which retain the primary duty to investigate and prosecute these crimes. Therefore, the Court will only step in if a State is unwilling or unable to do so. This is explicitly stipulated in article 17 of the Rome Statute.

Who can be prosecuted by the ICC?

The ICC tries individuals, not States, organizations or governments. The ICC does not prosecute persons who were under the age of 18 at the time a crime was allegedly committed.

The ICC will not try everybody that commits crimes listed above. It is the policy of the ICC Prosecutor to focus on those individuals who are the **most responsible** for these crimes, committed in any situation where it is investigating.

Nobody has immunity before the ICC because of his or her status; so Presidents, Members of Parliament, government officials and leaders of rebel movements can all be tried before the ICC. Under certain circumstances, a person in authority may be held responsible for the crimes committed by those who work under his or her command or supervision. Similarly, persons that were committing Rome Statute crimes in following orders from their superiors are not immune to prosecution before the ICC.

What are the stages of ICC proceedings?

The purpose of criminal proceedings before the ICC is to ensure that allegations of serious crimes are investigated, prosecuted, and, if the accused is proved guilty, punished in accordance with the Rome Statute. ICC proceedings include several stages:

- **Preliminary Examination Stage:** This stage is focused on deciding whether the ICC Prosecutor will investigate a particular situation in which crimes within the jurisdiction of the Court may have been committed.
- **Investigation Stage:** This stage is initiated when the Prosecutor decides to formally open an investigation into a situation following the preliminary examination, in order to collect evidence and find out what crimes have been committed and who is responsible.
- **Pre-Trial Stage:** This stage is the period in which the Court decides whether or not to issue a warrant of arrest or an order to appear before the Pre-Trial Chamber against one or several individuals, and, once a person has been arrested and brought before the judges of the Chamber, whether or not to confirm the charges put forward by the Prosecutor.
- **Trial Stage:** This stage comprises the trial of individuals accused of having committed crimes within the jurisdiction of the ICC, at the end of which the accused is either found guilty and sentenced, or acquitted of the crime(s), if based on the evidence brought forward the judges are not convinced beyond reasonable doubt of the guilt of the accused.
- **Appeal Stage:** If the parties challenge the outcome of the trial, this is the stage in which the final judgment is given. It is possible that a conviction or acquittal issued by the Trial Chamber could be reversed by the Appeals Chamber, if for instance the Appeals Chamber judges determine that the Trial Chamber judges misapplied the law or made substantial factual errors.
- **Reparations Stage:** In the event of a conviction, the Trial Chamber may issue an **order for reparations** to victims against the convicted person. If the convicted person does not have any means to afford reparations (“indigent”), the [Trust Fund for Victims](#) may be requested to compliment the order for reparations so that the victims may receive some form of redress.

During this stage, depending on the type of reparations ordered (individual or collective) the victims may be called to provide some proof to the Chamber that they are legitimate beneficiaries of reparations. Even if indigent at the time of conviction, the convicted person may be asked to reimburse the Trust Fund for Victims should that person become non-indigent at any later stage in life.

It is important to consider that criminal proceedings take time before reaching the final stage. (See '*Stages of proceedings*' flowchart - page 12)

Where are ICC proceedings likely to take place?

ICC proceedings take place in The Hague, The Netherlands, where the Court is located. The ICC may hold hearings elsewhere if the judges so decide.

When the ICC was founded, The Hague was chosen as the physical location of the Court because the city was already considered to be a centre of international justice, since it hosts other international courts such as the International Court of Justice and various other tribunals investigating and prosecuting international crimes.

Stages of proceedings:

Preliminary Examination Stage	Situation in which crimes under the ICC's jurisdiction appear to have been referred to the ICC Prosecutor by a State Party or the UN Security Council	Situation in which information about alleged crimes under the ICC's jurisdiction is sent to the ICC Prosecutor, who may seek to start proceedings on his own initiative (<i>proprio motu</i>)
	ICC Prosecutor examines information received	ICC Prosecutor examines information received
	If ICC Prosecutor considers there is a reasonable basis to proceed, an investigation is initiated	If ICC Prosecutor considers there is a reasonable basis to proceed, an authorisation from the Pre-Trial Chamber is requested
	ICC Prosecutor initiates an investigation	ICC Prosecutor initiates an investigation
Pre-Trial Stage (Pre-Trial Chamber)	Pre-Trial Chamber issues warrant of arrest/summons to appear	
	Person sought by the Court is arrested/surrenders	
	First appearance of an arrested or surrendered person	
	Confirmation of charges hearing	
Trial Stage (Trial Chamber)	Commencement of a trial...	
	Judgement: decision on conviction or acquittal , and sentencing Reparations proceedings...	
Appeals Stage (Appeals Chamber)	Appeal: against decision of acquittal or conviction against sentence	
	Decision on appeal Revision	
Reparations Stage	Victims who have applied for reparations can claim restitution, compensation and rehabilitation from the convicted person before the ICC Judges	

III. The different roles of victims at the ICC

What is the role of victims at the ICC?

This booklet explains how victims can be participants in proceedings before the ICC. In short, victims participate by providing their views and concerns to the ICC judges during court proceedings when their interests are affected. Victims participate in proceedings in the courtroom through their legal representative.

Victims may also play a part in ICC proceedings in other ways. Victims may want to send information to the Prosecutor informing about crimes they believe have been committed. During a trial, a victim may testify before the ICC if he or she is called as a witness for the Prosecution, defence, or the victims' legal representative. If a case proceeds to trial and an accused person is convicted by the ICC, victims may request reparations.

Who is a victim for the ICC?

The ICC recognizes two types of victims, for the purposes of participation in ICC proceedings:

***Individual persons** who have suffered harm as a result of one of the ICC crimes. These crimes are described in Part 1 of this booklet. Individual victims should apply by completing the Application form for participation for individuals.*

***Organizations or institutions**, when their property dedicated to certain purposes (religion, education, art, science or charitable and humanitarian purposes, or historic monuments or hospitals) is harmed as a result of one of the ICC crimes. Organizations and institutions should apply for participation by using a separate form, namely the Application form for participation for organizations. Only duly authorized representatives of an organization or institution may complete the application form.*

Victims may include victims of sexual violence, children, persons with disabilities, or elderly persons. A victim can also be a person who suffers harm as a result of a crime targeted at another person, such as a family member of someone who has been killed.

Participation forms can be requested from the ICC's Victims Participation and Reparations Section.

What are the differences between participating as a victim and testifying as a witness?

Victims' participation in proceedings is entirely different from a victim's possible role as a witness called to testify before the Court for the Prosecution, the defence or the victims' legal representative.

Main differences between being a participant and appearing as a witness:

Victim as a participant:

- Participation is voluntary and involves communicating to the Court their own views and concerns
- It is up to the victims to decide what they want to say
- Participation is possible at all stages of proceedings when considered appropriate by the judges
- Always entitled to be represented before the ICC by a legal representative
- Participates via a legal representative, and need not appear in person

Victim as a witness:

- Called by the Prosecution, the defence, the victims' legal representative or the Chamber
- Serve the interests of the Court and the party that calls them
- Give evidence by testifying and answering related questions
- Called to testify at a specific time
- Does not normally have a legal representative
- Normally testify in person in the courtroom

Victims may also participate as witnesses in ICC proceedings alongside their quality as participating victims. In such cases, these individuals have a double status (as victim on the one hand and witness on the other).

Who within the ICC is mandated to work with victims?

The Registry of the ICC is the administrative arm of the Court and primarily acts as a service provider to the Chamber and the parties to the proceedings (among others). Within the Registry, the Court has established the **Victims Participation and Reparations Section (VPRS)**, the **Victims and Witnesses Section (VWS)** and two independent offices, the **Office of Public Counsel for Victims (OPCV)** and the **Trust Fund for Victims (TFV)**¹.

The VPRS informs victims of their rights relating to participation and reparations at the ICC, and enables them to submit applications to the Court if they wish to do so. The VPRS also assists victims to organize their legal representation.

The VWS has been established to provide support and protection to witnesses and to victims who appear before the Court. They may also assist others, such as family members, who are in danger as a result of a witness's testimony. When victims testify as witnesses, the VWS provides administrative

¹ The TFV was established by the Assembly of States Parties as an independent entity from the ICC but operates in close collaboration and partnership with the ICC as part of the Rome Statute system.

and logistical support to enable them to appear before the Court. The VWS also provides psychosocial care and other appropriate assistance as required.

When conducting their activities, these specialized sections pay special attention to the particular needs of children, women, the elderly, persons with disabilities and victims of sexual violence.

The OPCV assists victims as required in their legal representation in court. The office may provide logistical and/or research support, or act as legal representative of victims in court (see also below).

Reparations and the Trust Fund for Victims

At the end of a trial, if a person accused before the ICC is found guilty, ICC judges may decide to order that person to make reparations to the victims for the harm they have suffered as the result of the crimes committed. Victims can use the standard application forms for reparations to make their request to the ICC judges. It is important to note that the judges of the Court will decide whether an applicant is entitled to reparations or not after careful review of the application. Such a process can take a long time.

The type of reparations will also be decided by the judges. Measures ordered as reparations can be individual or collective (the latter provided to groups of victims). They may include monetary compensation, the return of property, measures of rehabilitation such as medical treatment or education, and symbolic measures such as a public apology, commemoration or memorial.

To complement the Court's work on reparations, an independent Trust Fund for Victims was established. The ICC judges may ask the TFV to help to carry out its orders of reparations against a convicted person. In addition, the Fund can use the contributions it receives through voluntary contributions from States and others to finance projects for the benefit of victims.

For more information on reparations at the ICC, please contact the VPRS (at the email address provided below).

IV. About victims' participation in ICC proceedings

The ICC Courtroom:



What is participation?

During judicial proceedings, victims have the right to put their views and concerns directly to the judges. This is called participation in proceedings and normally happens through a legal representative.

What are the rights of victims in ICC proceedings as participants?

- Victims can present their views and concerns to the Court, at stages of proceedings considered appropriate by the judges, where their personal interests are affected.
- Once a victim has been accepted by the judges as entitled to participate during a particular stage of ICC proceedings, the Court must keep him/her informed about developments in the proceedings.
- Victims have the right to have a legal representative. See Legal Representation in Part IV of this booklet (below).
- Victims have the right to ask the Court to take all possible measures to respect their safety, well-being, dignity and privacy in the course of their participation in the proceedings. For example, victims can request the judges to order that some of the information they provide in the application form not be communicated to the Prosecution, the defence or the public. To date it has been the practice of the Court that the identity of victims is not made public.

The ICC judges decide when and how victims will be able to exercise these rights, while making sure that the participation of victims does not interfere with the rights of the accused to a fair and impartial trial.

It is also possible for a victim to apply for reparations. If a victim wishes to apply for reparations, the victim can request the appropriate form from the VPRS.

Reparations will only be ordered by the Court at the end of a trial and only in relation to crimes for which an accused is convicted. This means that many victims will not receive reparations from the Court and that the process could take a long time.

How and when do victims participate in ICC proceedings?

The following are a few examples when and how victims might engage the Court on behalf of victims, if permitted by the judges:

Victims may submit their views to the Court in certain instances prior to the opening of a case against one or more accused:

When the Prosecutor wants to open an investigation in a situation of her own initiative:

- Give observations to the judges while the competent Chamber is still deciding whether or not to authorize the Prosecutor to proceed with an investigation;

When the jurisdiction of the ICC or the admissibility of a case is being challenged before the ICC:

- Give observations to the Chamber.

Victims' interactions with the Court at these instances are facilitated through the VPRS and, if victims are already represented by counsel, through the latter.

When there is a case before a Chamber, victims may participate through **their legal representative** in the following ways:

- Present their views to the judges when the Pre-Trial Chamber is considering what charges will be admitted against the accused person in subsequent trial proceedings;
- Attend hearings before the Chamber;
- Make statements at the beginning and end of a stage of trial proceedings before the Chamber (opening and closing statements);
- Ask questions to a witness or expert who is giving evidence before the Court, or the accused;
- Make written submissions on issues where the personal interests of victims are affected;
- Present witnesses at trial to give evidence on topics impacting on the personal interests of the victims.

What do the victims need to submit in order to participate in ICC proceedings?

In order to participate in ICC proceedings, victims have to apply in writing. To facilitate this process, the Court has developed application forms. Forms for participation and for reparations can be requested from the VPRS at: vprs.information@icc-cpi.int

Victims should complete an application form and send it to the VPRS through one of the methods outlined in Part IV of this booklet.

It is strongly suggested that anyone wanting to apply to participate first **asks for help from someone who has already received training or explanations from the Court on how to fill in an ICC application form**. This might be a **non-governmental organization (NGO)**, a **religious or community representative**, a **lawyer**, or **other person**. Victims can also contact the VPRS and the field offices of the ICC for relevant help, training and more information.

Who decides which victims are authorized to participate in ICC proceedings and to receive reparations?

It is the judges of the ICC who will examine each application and decide whether or not the applicant is entitled to participate in ICC proceedings and at what stages; it is also for the judges to decide which applicants are entitled to receive reparations in case of a conviction.

How do ICC judges determine who is authorized to participate?

In order to make their decision, the ICC judges will have to decide if the applicant is a victim according to the ICC rules. In so doing, the judges will consider the following criteria:

Does it appear that the person has suffered harm?

It is up to the judges of the ICC to establish what types of harm will qualify depending on the specific case. This includes not only physical harm to a person's body, but also emotional suffering and material loss.

Does it appear that the harm resulted from the commission of one of the crimes that the ICC has the power to deal with?

This means that the person has suffered from at least one act that amounts to genocide, crimes against humanity or war crimes that was committed after the 1st of July, 2002, or 17 July 2018 in the case of the crime of aggression.

Is there a clear causal link between the alleged crime and the harm suffered?

This means that it must be clear that the harm was caused by the crime in question.

The judges will also have to decide if the applicant is entitled to participate at the particular stage of proceedings (s)he applies.

At each stage of proceedings, the judges of the relevant Chamber will consider which victims are entitled to participate. This includes deciding whether victims that have already been found to qualify as victims at an earlier stage before the ICC are entitled to participate at the new stage. The judges will also consider any new applications that arrive during that stage of proceedings.

The following are the criteria the judges will consider when deciding whether a victim can participate at a particular stage in ICC proceedings:

- Is the person a victim of the case that is being dealt with by the Chamber?
- Do the judges consider that the victim's personal interests are affected at that point in the proceedings?
- Do the judges consider that it is appropriate for the victim to present his or her views and concerns at that particular point in the proceedings.

What is the difference between a ‘victim of a situation’ and a ‘victim of a case’?

a) Situation stage:

Every proceeding before the ICC begins with a ‘situation’ that outlines the general geographic and temporal frame in which potential investigations and cases against individuals may evolve.

Victims can already communicate with the Court at that stage and provide their details to the Court. The victim’s possibilities to participate may vary considerably depending on the stage of the proceedings. During the preliminary examination stage the ICC Prosecutor is still considering whether or not to launch an investigation. There are not yet any arrest warrants or charges alleged against specific individuals.

Only if the Prosecutor declares her intention to commence an investigation *proprio motu* (on her own motivation) can victims provide their views regarding such an investigation by way of so-called ‘representations’ to the Court.

Following the preliminary examination stage and when an investigation into a situation has commenced, victims’ personal interests may be affected by decisions taken during the Prosecution’s investigation which may give rise to procedural rights for victims. This may include, for example, the Prosecutor’s decision to discontinue an investigation. In such instances, the judges will decide how the victims will be permitted to make observations in the proceedings. In general, it is important to note that during the Prosecution’s investigation into a situation there are few instances when the judges might consider it appropriate for victims to make observations or otherwise engage the Court.

b) Case stage:

Once a warrant of arrest (or a summons to appear) has been issued and effectuated on an individual or individuals (meaning they’ve been arrested or agreed to appear), a **specific case will proceed** in relation to those individuals. These will include a pre-trial phase (in which the Court will decide which specific charges will proceed to trial), a trial and possibly an appeal. Once arrest warrants or summonses to appear are issued, it will be possible to identify victims that fall within those cases. The victims of a particular case are those victims who suffered as a result of the particular crimes with which the suspect or accused is charged.

What may a victim expect from participating in proceedings?

By presenting their views and concerns to the judges, victims are given a voice in the proceedings that is independent of the Prosecutor. This will help the judges to obtain a clear picture of what happened to victims and how they suffered, which the judges may decide to take into account at certain stages in the proceedings. Victim participation may meaningfully contribute to the justice process.

It is important to be aware, however, that putting forward views and concerns will not always result in the Court following the wishes of the victims. In taking its decisions, the ICC judges will be balancing different interests and concerns, including the rights of the defence and the interests of a fair trial.

The possibility to have their legal representatives participate in trials and to be kept informed of developments in the situation or case presents an opportunity for victims to play an active part in proceedings. This can be an empowering experience for victims who would otherwise be left aside in the proceedings as passive observers, even though they are the ones who are most deeply affected by the crimes.

Victims who participate in proceedings are given the opportunity to present their views and concerns to the Court, but will not receive any form of compensation or payment for this participation.

V. What a Victim needs to know before applying for participation

Security and confidentiality

a) What are the risks when a victim applies to participate?

Participating in criminal proceedings by its very nature involves an element of risk. It is important that the applicant is aware of risks that could arise as a result of filling in this application form. For instance, is it possible that the identity of the applicant, or other information relating to crimes alleged by the applicant, including details of an attack involving sexual violence, may be communicated to the defence, Prosecution and/or the public.

For instance, according to the rules of the Court, applications for participation may be shown to the Prosecutor and the defence. However in most cases information which could reveal the identity of the victim is first blacked-out (“redacted”) before being sent to the parties in the proceedings. Under normal circumstances the victim’s identity will not be made public.

Before filling in the application form, victims should think carefully about any risks that may arise and inform their legal representative or the VPRS about any concerns. In addition, victims are advised to keep the fact that they have completed an ICC form confidential and avoid saying or doing anything that could expose their interaction with the Court or put the victim or others at risk.

The ICC will manage its contact with victims in a manner aimed at limiting any risk to victims or others, and will handle information received from victims with strict confidentiality. This means, for example, that the VPRS registers the information provided by victims in the application form in a secure database to which only authorized staff of the ICC has access.

b) What if a victim feels at risk as a result of applying to participate?

If applicants are concerned about their security or well-being (or that of others) and they do not wish for their information to be communicated to the defence or made public, they can mention these concerns in their application.

The judges will decide what steps to take in response to such security concerns, and may order measures to protect a victim. For example, the judges may order that victims must not be contacted directly by the Prosecutor or defence, but only through their legal representatives.

If a victim applicant has an acute security concern as a result of engaging with the ICC, (s)he should immediately contact his/her legal representative or the ICC Field Office of the respective situation country, or the VPRS at: vprs.information@icc-cpi.int

Legal representation

a) Do victims need a legal representative?

Victims are entitled to be assisted by a legal representative in relation to participation or reparation proceedings before the ICC. Criminal proceedings are complex and it is in the best interest of a victim to get appropriate legal advice and representation.

Victims are free to choose their legal representative, who must be a person with at least ten years' experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court's working languages (English or French). The ICC Registry will help victims to find a legal representative by providing a list of qualified lawyers. There is also an Office of Public Counsel for Victims within the Court that will be available to provide support to the lawyer chosen by victims and/or to provide legal assistance to victims directly. The functions of this office are explained below.

b) Is each victim entitled to be represented by a lawyer of their choosing?

Where there are many victims participating in a case, the Chamber may ask that victims be represented by the same legal representative or team of representatives. This is called 'common legal representation', and the purpose is to help make the proceedings more efficient. In organizing common legal representation, the victims' distinct interests will be taken into consideration.

If for any reason the victims are unable to organize themselves in this way and to choose a common legal representative, the judges may ask the Registrar of the ICC to do so. If the victims are not satisfied with the Registrar's choice, they may ask the Chamber to review it. Victims who prefer not to be joined with other victims in the same group, for instance because they believe that their interests need to be represented separately due to a conflict of interest, can also ask the Chamber to review this decision.

c) What if the victim cannot afford a legal representative?

Although the Court's resources for legal aid are limited, the Court may be able to provide financial assistance to victims who lack the financial resources to pay for their own lawyer.

Victims without a lawyer may also benefit from the legal assistance provided by the Office of Public Counsel for Victims which is provided free of charge.

d) What is the role of the Office of Public Counsel for Victims (OPCV)?

The OPCV provides support and assistance to victims and to legal representatives of victims, including, where appropriate, legal research and advice; and appearing before a Chamber in respect of specific issues. It may also represent a victim or a group of victims in ICC proceedings.

The OPCV functions as an independent office. Members of the Office do not receive instructions from anybody in relation to the conduct of the representation of victims. This independence is a prerequisite for carrying out its mandate of assisting legal representatives of victims and/or assisting and representing victims. It allows the Office to work without being subjected to pressure of any kind and preserves the privileged relationship between victims and their legal representatives.

The OPCV can be contacted at the following address:

Office of Public Counsel for Victims (OPCV)

P.O. Box 19519

2500 CM The Hague

The Netherlands

Tel: +31 (0)70 515 8515 / +31 (0)70 515 8108

Fax: +31 (0)70 515 8855

Email: OPCV@icc-cpi.int

The application process

a) What is the purpose of the application form?

The purpose of victim application forms is to collect sufficient information from each individual victim applicant to enable the judges to decide whether an applicant is entitled to participate in proceedings and/or to request reparations. The completion of the application form does not automatically lead to the applicant being permitted to participate in proceedings or to obtain reparations.

b) Where to obtain the application form for participation and reparations?

Application forms can be requested from the VPRS - contact details are indicated in this booklet. To ask questions about the form or how to complete it, to obtain other relevant forms, or to ask about the best way to deliver completed forms to the ICC, please contact the VPRS using the contact details given in this booklet by phone or email.

Please note that **the application form and process, as well as this booklet, are free of charge.**

c) Where should a victim submit a completed application form?

Completed application forms and all accompanying documents, for example a photocopy of an identity card or other form of identification, should be sent to the VPRS at the ICC or at the Field Offices by one of the means indicated in this booklet.

d) How can the ICC Field Offices help?

ICC Field Offices can provide application forms, make arrangements for distribution and collection of application forms, and give advice on where to find help in completing application forms.

The ICC currently has field offices in Uganda, Democratic Republic of Congo, the Central African Republic, Ivory Coast, Georgia and Mali.

e) What will happen to applications that are sent to the ICC?

Once the ICC receives an application, it will provide an acknowledgement to the victim or victim representative, indicating that the application has been received. This acknowledgement will provide a registration number that the applicant should use when communicating with the Court. If the application is submitted online, the registration number will be indicated on the confirmation page once the application has been submitted successfully. Please note this registration number down because there will be no further confirmation message sent to the online applicant.

If the applicant sends additional information to the Court, (s)he should indicate this reference number to ensure their application is properly updated.

At the appropriate time, the Chamber will decide whether the applicant is a victim of a crime under the jurisdiction of the ICC, and whether the applicant will be entitled to participate in the proceedings.

The decision of the judges will be notified immediately to the victims or to their legal representative, if they have one. The application process takes time and it may be a while before the Chamber makes a decision on a victim's application.

f) Does a victim have to pay to apply to participate in proceedings or submit a claim for reparations?

No, the application forms and the process of applying to participate in proceedings or requesting reparations are free of charge. The ICC does not charge any fee at any stage of the application process.

g) Who should complete the application forms?

Any individual or organization that has suffered harm as a result of one of the ICC crimes and wishes to participate in ICC proceedings and/or request reparations should use and submit an application form. It is important to note that the application process is individualized. For example, if different members of a family wish to apply to participate in proceedings, each member of the family needs to individually complete and sign an application form.

Application forms can be submitted by:

- A victim who is seeking to participate in proceedings before the ICC;
- A victim who is requesting reparations;
- A victim who is seeking both participation in the proceedings and reparations;

- A person acting on behalf of a victim, where the victim is a child, or has a disability that prevents the victim from acting on her or his own behalf, or is an organization;
- A person acting on behalf of a victim with the consent of that individual which is expressed through the victim's signature on the first page of the form (see for further details below).

ICC - Victim application process:

- Victims are informed about their rights and how to apply to participate in ICC proceedings
- Victims obtain and complete application forms with the assistance of ICC staff members and/or individuals and organizations trained by the ICC
- Victims submit their applications to the VPRS at the Headquarters or a Field Office
- VPRS receives an application and provides the applicant with a reference number to the contact address provided or to the legal representative, if the applicant has appointed one; for online applications, the number appears on the webpage when the application has been submitted successfully;
- VPRS files the application with the judges. Judges review and decide if the victim falls within the scope of the case or not and the applicant is notified of the decision.
- If a victim is authorized to participate they will be entitled to present their views and concerns during the proceedings through their legal representative.

h) What is the role of a person acting on behalf of a victim?

Where a person presents an application to the ICC on behalf of an applicant in one of the above circumstances, (s)he submits an application in the victim's stead and any legal effect of the submission of the form will go to the victim's benefit. The Court will consider the application to have been validly presented so long as:

- The relevant details have been provided in the application form;
- The person acting on behalf of the victim has signed the application form;
- If the victim is an adult and able to understand this process, he or she has signed the form;
- Proof of identity has been provided by both the victim and the person acting on behalf of the victim;
- Proof of the relationship between the victim and the person acting on behalf has been provided;
- If the victim is an organization, proof of the person's representational capacity for the organization has been provided.

i) What is the role of the person assisting a victim?

Where a victim (or a person acting on behalf of a victim) is completing this application form, they may be assisted by another person. This would be the case, for example, if either the victim or the person acting on behalf of a victim is unable to read or to write. In the application forms there are questions requiring information on the person assisting the victim.

A person assisting a victim to fill in an application form has no legal status in the proceedings, and is not considered to be a representative of the victim applicant or entitled to act on the applicant's behalf in presenting the application to the Court.

j) In what languages can the application form be completed?

The ICC uses the two working languages of the Court are: English and French. Applicants are encouraged to use one of these two languages if at all possible. If an applicant is unable to submit a form in English or French, and would like to submit the application form in another language, it is recommended to first contact the VPRS or the relevant Field Office for advice.

k) How can a victim find out what has happened to an application?

To find out about the status of an application, a victim or their legal representative can contact the VPRS in The Hague or at a Field Office and request an update on the status. The registration number that has been provided when applying will be very helpful at this point for a swift follow-up.

l) What should a victim do in order to withdraw an application?

A victim who wishes to withdraw an application at any point should inform the ICC of this by contacting the VPRS in The Hague or at a Field Office by one of the means indicated in this booklet. It is a victim's free choice to withdraw an application at any stage of the proceedings.

The request to withdraw an application should be made in writing and should indicate the reasons for the withdrawal. The victim should also sign the written communication and provide a copy of their ID document. The VPRS may follow up on the request to ensure the victim is making an informed decision before withdrawal.

m) What happens if the application to participate is rejected?

If an application for participation is rejected by the Chamber for any reason, the applicant is notified by the VPRS. If the victim considers that the application was rejected in error and has further information to present that may impact on their participatory status, the victim is entitled to apply again.

n) What happens if false or fraudulent applications are submitted to the ICC?

Many safeguards are in place to prevent false or fraudulent applications from being submitted. Some of the safeguards include:

- proof of identity;
- kinship (if applicable);
- a signature; and
- the intrinsic coherence of the narrative,

the totality of which will be considered by the judges when deciding on whether a victim is entitled to participate in ICC proceedings or obtain reparations.

Once a victim is authorized as a participant in the proceedings of the ICC

a) What happens once a victim has been authorized to participate?

Once a victim has been authorized to participate, they will be kept informed of developments in the case by their legal representative. The victim is notified of developments in each stage of proceedings, including the dates of hearings, important filings and decisions of the Court and any appeals. These notifications are sent to the victims' legal representative who will be responsible for conveying this information to the victims and collecting their views and concerns. Victims can also obtain relevant information from ICC Field Offices or the VPRS at any time.

Once the proceedings move on to a new stage, the victim does not have to complete a new application, as the Court will automatically consider whether they are entitled to participate in the new stage. Victims are notified accordingly through their legal representatives.

b) Do victims have to travel to the ICC in The Netherlands?

Generally, victims do not have to travel to the Court if they do not wish to do so. Participation of victims in the proceedings generally takes place through a legal representative, who travels from where the victims reside to the Court and presents their views and concerns in the courtroom. For victims who are participating in proceedings and do wish to come to The Hague, the Court is not generally able to cover their travel costs, but may be able to provide some forms of support in exceptional circumstances.

c) Are there time limits for participating in the various stages of proceedings?

Applications to participate are closely linked to proceedings before the ICC. Therefore, victims who want to apply to participate in judicial proceedings against an accused must submit their applications in sufficient time for the judges to consider whether they may participate.

Generally, victims can apply to participate in a case during a phase of some months beginning shortly after the initial appearance of the person(s) subject to the proceedings before the Pre-Trial Chamber. If charges are confirmed against the person(s) after the confirmation of charges hearing, victims can continue to apply for participation in the proceedings up until the start of the hearing of the evidence at trial.

Applicants should bear in mind that the ICC needs enough time to process the application. If an applicant is too late in submitting their application form, his or her application may not be considered.

VI. Instructions on how to complete the application form for participation

When filling in the application form, please note the following:

- Every person applying to participate in ICC proceedings or requesting reparations must fill in a separate application form.
- Please fill in the application form for participation and/or reparations as completely as possible. If some questions are not answered, or are not answered fully, the application will still be considered immediately, and the Court may need to come back to the applicant for further information, thus slowing down the process.
- It may be that the space provided in the form for writing the answers to some of the questions is not enough. If more space is needed, please continue on a separate sheet of paper and attach it to the application form and put the applicant's name or initials on each extra page.
- Please either type or write the answers very clearly, so that the Court can understand everything that is included in the application. If the application form is filled in by hand, please use a pen / biro, rather than a pencil, since pencil can more easily be erased and may be difficult to read.
- The application should be signed by the victim, and also by the person acting on behalf of the victim if there is one. If a victim or a person submitting the application on behalf of a victim cannot write, they may make a personal mark in another way. If an inkpad is available, they may place their thumbprint in the box. Otherwise, they may make another mark that is personal to them, such as drawing a cross or other mark with a pen.
- Please check the Reminder box at the end of the form, as this serves as a reminder to include all necessary documents for the application to be complete.
- If the victim applies using an online application form, please note that the application form cannot be submitted unless all required information has been filled in. This includes uploading a copy of an identity document as well as a copy of a document with the victim's signature on it.

Documents sent with an application:

In submitting the application form, applicants are requested to provide photocopies of certain documents, such as a proof of identity, and also proof of kinship if they are claiming the harm of family member. Proof of identity is required for every victim application in order to be considered complete.

If the applicant has any other document that is not specifically requested but that the applicant thinks might be relevant for the application, such as forensic, medical, police or court records, photographs, films, etc., please attach a photocopy to the application.

Applicants should not send original documents, only photocopies.

VII. Contacting ICC Headquarters

Victims Participation and Reparations Section (VPRS):

International Criminal Court

Victims Participation and Reparation Section (VPRS)

P.O. Box 19519, 2500 CM The Hague

The Netherlands

Fax: +31 (0)70 515 91 00

Tel: +31(0)70 515 95 55

Email: vprs.information@icc-cpi.int

ICC Field Offices:

ICC Field Office in Kampala, Uganda

P.O. Box 72735, Kampala

Tel: + 256 (0) 77 2 706062

ICC Field Office in Kinshasa, Democratic Republic of the Congo

Tel: + 243 (0) 82 97 88 021 or +243 (0) 82 97 88 022

ICC Field Office in Bangui, Central African Republic

Tel: +236 (0) 72 30 34 26

ICC Field Office in Abidjan, Côte d'Ivoire

Tel: + 225 (0) 59 67 2634

ICC Field Office in Tbilisi, Georgia

Tel.: + 995 (0) 591 227 038

ICC Field Office in Bamako, Mali

Tel: + 223 (0) 71 61 60 83

Application forms relating to victim participation and/or reparations can be obtained from the VPRS through the channels above. These forms can also be obtained from the ICC Field Offices for victims of the respective situation countries.

Please note that **all ICC forms and booklets are provided by the ICC free of charge.**

VIII. Explanation of terms used in this booklet

Accused: An individual person accused before the ICC; a person against whom one or more charges have been confirmed by ICC judges.

Applicant: An individual who is applying to the ICC asking to be permitted to participate in ICC proceedings.

Case: Proceedings before the ICC in which an arrest warrant has been issued in relation to a specific individual or individuals.

Chamber: A Chamber is a composition or group of judges of the ICC assigned to a certain situation or case. For instance, the situations of the Democratic Republic of the Congo, Libya, Republic of Mali and Georgia have been assigned to Pre-Trial Chamber I and the situation of Uganda, Darfur, Kenya, Cote D'Ivoire, Afghanistan and Burundi have been assigned to Pre-Trial Chamber II.

Chambers: The offices of the judges and their staff. The Chambers of the ICC are composed of three divisions: The Pre-Trial Division, the Trial Division, and the Appeals Division.

Common legal representative: Where there are many victims, a Chamber may ask victims to choose a lawyer to represent them collectively, in order to make the proceedings more efficient. This person is referred to as a common legal representative.

Counsel: A lawyer who represents a victim or an accused person before the Court. Counsel must have at least 10 years of relevant experience as a criminal lawyer, a judge or prosecutor and be fluent in English or French.

The defence: The defence is made up of the defendant and her or his legal counsel.

Dual Status Victim: The term "dual status" is used to describe a victim who has been authorized to participate in proceedings and who has also been called to act as a witness by the Prosecution, defence, legal representative of victims or the Chamber. If the victim is called by one of the parties, the victim would also have the benefit of seeking the advice of their own legal representative on issues such as protective measures before agreeing to provide testimony in the courtroom.

Hearing: A session before judges, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying, and usually involving a specific question.

Jurisdiction: The Court's authority to hear a case and declare a judgment. See Part I of this booklet for a description of the ICC's jurisdiction.

Legal representative of victims: A counsel appointed to act on behalf of a victim or group of victims. This could be a counsel from outside of the ICC or a member of the OPCV.

OPCV: Office of Public Counsel for Victims. See page 22.

OTP: Office of the Prosecutor. The mandate of the Office is to receive and analyze referrals and communications in order to determine whether there is a reasonable basis to investigate, to conduct investigations into genocide, crimes against humanity, war crimes and the crime of aggression, and to prosecute persons responsible for such crimes. The OTP is an independent organ of the Court.

Person acting on behalf of a victim: An individual who presents an application for participation and/or reparations to the ICC for a victim. This might occur in the case of victims who are unable to present the application themselves (for instance children or those with disabilities affecting their ability to present an application), or victims who prefer to ask someone else to present an application on their behalf and have given their consent to someone else to do so.

Person Assisting: An individual who simply assists the victim to complete the form. This could be an intermediary, civil society organization, legal representative or anyone familiar to the victim. The person assisting has no representational capacity for the victim. The person assisting simply helps the victim to properly understand and complete the victim application form.

Proprio Motu: As provided in the Rome Statute, the Prosecutor can decide on his own initiative to start an investigation in a country that has accepted the authority of the Court, after analyzing information received from reliable sources. This information may be provided by individuals or by non- governmental organizations or others. The judges of the Pre-Trial Chamber must, however, give their permission for the Prosecutor to start an investigation in this way.

Referral: One of the ways in which situations are brought before the Court for consideration. State Parties and the Security Council may make referrals to the Prosecutor of the ICC. *See page 12.*

Registry: The organ of the Court responsible for providing administrative and operational support to the President, Chambers and to the Office of the Prosecutor. It also provides support for the defence and victims, and is responsible for public information and outreach of the Court.

Situation: A situation under the consideration of the Court. A situation might be defined by a particular conflict involving certain actors and behaviour that may amount to crimes within the ICC's jurisdiction. The limits of the situation may be established by the referral from the State Party or the UN Security Council that first requested the Court to act. Or they may be established by the Court itself, where the initiative to investigate crimes comes from the Court itself.

State Parties: States that have ratified or acceded to the Rome Statute of the International Criminal Court. As of October 2018, one hundred and twenty-three (123) countries are States Parties to the Rome Statute.

Victim: For the purposes of the ICC, a victim is a person who has suffered harm as a result of the commission of a crime within the jurisdiction of the Court.

VPRS: Victims Participation and Reparations Section. The Section informs victims of their rights before the ICC, assists victims in relation to their applications for participation in proceedings or for reparations, and keeps the Chamber informed and provides advice. It also assists victims in obtaining legal advice and organizing their legal representation.

VWU: Victims and Witnesses Unit. The Unit provides protection and psychological support to witnesses, victims who appear before the Court and others who are at risk on account of the testimony they have given. It is also responsible for witness protection programmes.

Witness: A person who gives evidence before the Court by testimony. A witness is normally called by the Prosecutor, who is trying to prove the criminal case against an accused, or the defence, who is defending the accused against the accusation. A witness may also be called by the legal representative of victims or by the Chamber.