



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

Opening remarks at ICC Judicial Seminar “Complementarity and
Cooperation of Courts in an Interconnected Global Justice System”

Check against delivery

*The Hague
18 January 2018*

Your Excellency, President Carmona,

Your Excellency, President of the Assembly of States Parties, Judge Kwon,

Honourable chief justices and other esteemed judges representing national, regional and international courts and tribunals.

Dear fellow judges of the ICC,

It is for me a great pleasure to open this judicial seminar. This is the first time a gathering of this type takes place at the seat of the International Criminal Court. It is the first one of what I hope will become a regular exchange among judges of the world.

Today's seminar has been made possible by the financial support of the European Commission, for which we are highly appreciative.

At the outset, I would like to express my gratitude to all of you for being here today. You have all taken time from your busy schedules, some of you have even travelled from other continents to be here today.

Your commitment to participate in this event really means a great deal. We are truly honoured by the presence of so many judges, from a total of twenty-five national jurisdictions, and eight international or regional courts and tribunals.

To facilitate our interaction, we have arranged interpretation in English, French and Spanish.

*

Deseo saludar a los participantes de habla hispana antes de continuar mi presentación en los dos idiomas de trabajo de la Corte Penal Internacional, que son el Francés y el Inglés.

*

Nous vous avons conviés à participer à cette conversation parce que nous sommes convaincus et souhaitons souligner que nous faisons tous partie d'un système de justice mondialisé et interconnecté. Par cette conversation, nous souhaitons également améliorer notre efficacité dans l'accomplissement de nos mandats respectifs.

Nos mandats et nos champs de compétence sont différents, mais nous partageons un seul et même but : garantir l'imputabilité et résoudre les conflits au moyen de la justice.

En plus de ce but commun, les affaires dont nos instances sont saisies sont de plus en plus liées entre elles. De mêmes événements peuvent donner lieu à des procédures criminelles et civiles devant les instances nationales, des procédures devant des tribunaux hybrides ou régionaux, notamment les cours de droits humains, et des procédures devant des tribunaux internationaux comme notre cour, la CPI.

Plusieurs des défis auxquels nous sommes confrontés sont les mêmes, et nous avons beaucoup à apprendre de nos expériences respectives.

Ces défis sont nombreux, mais je crois que le premier d'entre eux est l'efficacité et la qualité des procédures judiciaires. Évidemment, le besoin d'efficacité varie selon la nature du tribunal. Cela étant, nos justiciables s'attendent tous à ce que justice soit rendue en temps utile. Il s'agit à la fois d'une question de saine gestion des deniers publics et de légitimité.

La Cour pénale internationale ne fait pas exception. La communauté internationale et les victimes se tournent vers la CPI et les autres tribunaux internationaux avec l'espoir que justice sera rendue, et sera rendue sans délai. La célérité des procédures est par ailleurs une composante de l'équité procédurale et des droits fondamentaux des accusés.

Je suis heureuse de constater que d'énormes progrès ont été accomplis par la Cour en cette matière. Grâce à un dialogue collectif et constructif, nous avons mis en œuvre plusieurs réformes dont les effets se font déjà ressentir dans nos salles d'audience et dans nos affaires. Nous observons, notamment, une diminution drastique du temps nécessaire à la conduite de certaines phases ou aspects de la procédure.

L'amélioration des procédures judiciaires a été rendue possible grâce aux échanges de vues et discussions constructives que les juges de la CPI ont eues. De telles discussions ne doivent pas se tenir seulement parmi les juges d'un tribunal. Puisque nos tribunaux font face aux mêmes défis, il est impératif que le dialogue sur la façon de résoudre ces problèmes soit ouvert et déborde du cadre de chaque tribunal. J'espère que ce séminaire constituera le point de départ pour un tel dialogue et que d'autres événements semblables suivront dans le futur.

Dear colleagues,

As you know, the International Criminal Court has an ambitious – albeit limited – mandate to investigate and prosecute the gravest international crimes: genocide, crimes against humanity, war crimes and the crime of aggression.

The Court is permanent and its mandate is intended to be global, although our founding treaty, the Rome Statute, has not yet attained universal participation.

At the same time, the International Criminal Court is a court of last resort intended to complement and not to replace national jurisdictions. The primary responsibility to investigate and prosecute crimes of international concern is vested in States, with the ICC stepping in as a measure of last resort if the national jurisdiction is unable or unwilling to carry out such proceedings.

Indeed, as explicitly stated in the Preamble of the Rome Statute, the Court was established on the premise that the effective prosecution of international crimes is ensured by taking measures at the national level and by enhancing international cooperation.

Experience has shown that in an increasingly globalized world, justice is also interconnected. Ensuring accountability for the gravest crimes cannot be treated as being exclusively a national issue, or only a matter of international concern. It is both.

International and national jurisdictions influence each other at a normative level. Norms in a national setting cannot be applied in isolation from international norms and jurisprudence. Conversely, international tribunals apply norms arising from national systems and generally recognized principles of law. The procedural system of the International Criminal Court, in particular, is a hybrid regime that combines elements of the main legal systems and traditions of the world, mainly the common law and civil law systems and we often turn to national jurisprudence to assist us in our own interpretation of our applicable law.

Beyond normative interrelation, we often need each other's cooperation to do our work in practice. It is not only ideas and norms that trespass national borders. So do suspects, witnesses and evidence, including digital information. Cross-border judicial cooperation and regional collaboration is essential to effectively tackle crime in a shrinking world.

In particular, ending impunity for genocide, crimes against humanity, war crimes and aggression is only possible with a shared vision and a joint commitment. I hope that today we will sharpen that vision and strengthen that commitment.

Dear colleagues,

The specific themes selected for this seminar deal with two crucial elements that connect us in the exercise of our mandate in a global justice system: Complementarity and Cooperation of Courts.

The topics were intentionally designed to be very wide, in order not to restrict discussions at this first seminar, from which we can build future conversations on more specific topics.

In order to start the discussions, each theme will be very briefly introduced by an ICC judge, and the free exchange that will follow will be moderated by another ICC judge.

I encourage everyone to participate actively in the discussion; the format was made such – with presentations kept to a minimum – as to allow as much as interaction as possible.

I once more thank you wholeheartedly for your presence here, and I wish everyone very productive discussions today.

I look forward to what I am sure will be a fruitful exchange.

Thank you.