



Cour
Pénale
Internationale

International
Criminal
Court

Le Président
The President

Judge Piotr Hofmański

President, International Criminal Court

**Address to the United Nations General Assembly
presenting the Court's Annual Report to the United Nations**

Monday, 31 October 2022

United Nations, New York

Your Excellency, President of the General Assembly,
Excellencies,
Esteemed delegates,
Ladies and gentlemen:

It is an honour for me to appear for the second time before this august assembly to present the annual report of the International Criminal Court.

In accordance with established practice, I will restrict my remarks to an overview of the Court's current state of affairs and selected topical issues, while the written report, issued as A/77/305, contains a comprehensive account of the Court's activities in the reporting period.

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2022 is a special year for the ICC, as we celebrate the Court's 20th anniversary.

On the 1st of July, 2002, the Rome Statute entered into force, after the 60th ratification of the Statute had been deposited with the United Nations Secretary-General.

That marked the beginning of the ICC's jurisdiction, and made it possible for the Court to be officially set up and gradually start its work.

It was a historic moment for the international community's efforts to ensure accountability for the most serious crimes under international law: genocide, crimes against humanity, war crimes, and the crime of aggression.

The United Nations was heavily involved in the long process of creating the ICC.

The International Law Commission had worked on an ICC statute already in the 1950s, inspired by the International Military Tribunals set up in Nuremberg and Tokyo after World War II.

But, as you know, the Cold War stopped that process. The world was too divided to agree on establishing an international criminal court.

The idea was revived in this hall, notably by the then Prime Minister of Trinidad and Tobago, A.N.R. Robinson, in 1989. The new spirit of international cooperation in the 1990s made it possible to reactivate the process.

The UN tribunals created by the Security Council for the former Yugoslavia and Rwanda in 1993 and 1994 paved the way.

And after three years of intense negotiations under the auspices of the United Nations, culminating in a 5-week conference in Rome, the statute of the ICC was finally adopted in 1998, and it came into force four years later.

And now the ICC is here to stay.

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During 20 years of operations, the ICC has done much more than many imagined it would do.

The Court has opened investigations in 16 countries, on four different continents: Africa, Asia, Europe and South America.

31 cases involving 51 suspects or accused have been brought before the Court so far.

Individual cases have addressed a wide variety of crimes including sexual violence in conflict, the use of child soldiers, attacks on civilians and peacekeepers, forcible displacement, destruction of cultural heritage, and much more.

The ICC has ushered in a concept of international criminal justice that gives victims a strong role in the process.

Global awareness about the ICC is higher than ever, and the Court has beyond any doubt become one of the pillars of the international legal system.

The Statute has inspired numerous states to update their criminal legislation so that they can prosecute cases in their national courts if necessary, just like they should.

The ICC and its Statute have anchored key legal principles of international criminal law, serving as a bedrock for all those who are striving to strengthen the fight against impunity for the gravest crimes.

And, there is growing scientific evidence that the ICC and the Rome Statute are having a deterrent effect in those countries that joined the treaty. Naturally, it is not a magic wand – but on average, adherence to the system does in the long term have a positive influence on preventing conflicts and atrocities.

In sum, I dare say the ICC has achieved more in 20 years than many thought possible.

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Mr President,

The past 12 months have been marked by a stark increase in the ICC's workload.

We have had a record number of five cases on trial this year, four of them currently in the phase of hearing the presentation of evidence. Accordingly, our three courtrooms are constantly full of activity, and this will continue to be the case next year as well.

As I reported last year, the ICC's trials never stopped during the pandemic, as we kept hearings going with technological solutions and necessary safety measures to protect the health of the participants. In April this year, in coordination with the Host State authorities, we were finally able to lift the restrictions on entering the ICC building, and the trials are again open for physical attendance by visitors, while staff too have returned to work at the premises.

Two of the four cases currently on trial stem from the situation in the Central African Republic II. In the Yekatom & Ngaïssona case, the Prosecution's presentation of evidence continued throughout the reporting period. The trial in the Said case commenced just over a month ago, and the Prosecution is now presenting evidence.

In the Al-Hassan trial, concerning alleged crimes in Timbuktu, Mali, the prosecution case has concluded and the Defence is now presenting evidence.

And in the trial of Abd-al-Rahman, the Prosecution case is ongoing. This is the ICC's first trial in the situation in Darfur, Sudan. I hope to see improved cooperation so that other cases from that situation could follow as soon as possible. The arrest warrants have been outstanding for far too long.

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Mr President,

In addition to the ongoing trials, another five cases are at the victim reparations stage, also an all-time high.

In the Katanga and Lubanga cases, the reparation of victims in the Ituri District of the Democratic Republic of the Congo is well advanced. In the Ntaganda case, also concerning crimes against victims in the Ituri District, the implementation of reparations has begun.

The reparation order in the Al Mahdi case, concerning the destruction of mausoleums in Timbuktu, has been partially implemented and the work on reparations continues.

In the Ongwen case, which is the Court's first trial concerning Uganda and the Lord's Resistance Army, the Trial Chamber has received submissions and will issue a reparation order. However I should note that the conviction is not final, with an appeal pending before the Appeals Chamber.

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In the Pre-Trial Division, three new arrest warrants were issued during the reporting period, in the situation in Georgia, and one arrest warrant was unsealed in the situation in the Central African Republic.

In that same situation, Mr Mokom was transferred to the ICC's custody pursuant to an arrest warrant, and the confirmation of charges hearing will be held at the end of January. If the charges are confirmed, the case will go to trial.

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Mr President,

If the judges and the Registry of the ICC are busy coping with an unprecedented workload, so is the Office of the Prosecutor.

Not only is the Office of the Prosecutor involved in all the ongoing judicial proceedings, but it is also the organ responsible for conducting the ICC's investigations.

In the last 12 months, the Prosecutor opened three new investigations. into the situation in the Philippines, with judicial authorisation, the situation in Venezuela, following a referral by a number of States Parties, and into the situation in Ukraine, also following a referral by several States Parties.

The Prosecutor's Office has been active in Ukraine since the opening of the investigation and now has a continuous presence on the ground. The Prosecutor is also collaborating with various national authorities in the context of this investigation.

The Governments of the Philippines and Venezuela have each informed the ICC Prosecutor that their national authorities are investigating the alleged crimes in question, and accordingly asked the Prosecutor to defer to their national investigations. Under article 18 of the Rome Statute, the Court's Prosecutor must comply with that request, unless the Pre-Trial Chamber, on the Prosecutor's application, decides to authorise the resumption of investigative activities.

The Court's Prosecutor has made such a request in relation to the Philippines situation, which is pending, and signalled his intention to do the same in the Venezuela situation. It is then for the judges of the Pre-Trial Chamber to determine whether the State in question is indeed discharging its responsibility to investigate the alleged crimes in question.

This, obviously, goes to the issue of complementarity, which is a key principle of the Rome Statute. By all means, it is the most desirable course of action that alleged crimes are addressed by competent national authorities, rather than the ICC. And, ideally, the very existence of the ICC will increase the likelihood that that will happen. In other words, the Court's shadow can be – and has proven to be – an incentive for national authorities to take action against impunity.

The ICC has no desire to get involved, if justice is achievable the by national jurisdictions – on the contrary, we want to see them succeed, and we are happy to support capacity building efforts where we can. On that note, I am happy to report that earlier this month, the ICC and the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders signed a cooperation agreement, which among other things foresees collaboration between the Court and UNAFEI in the training of lawyers.

Still, while we encourage national jurisdictions to do the job, it is important that the ICC remains available as a court of last resort, or a backup mechanism, when justice cannot for whatever reason be delivered domestically.

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Here we can see the ICC's significance for the goal of ensuring access to justice for victims, which is one of the key objectives under Sustainable Development Goal 16 of United Nations Agenda 2030. The ICC is an avenue for justice when other avenues do not exist, or they are blocked.

The Court is proud to contribute to SDG16 by helping to reduce violence, by supporting the rule of law and strong institutions – and by enhancing victims' access to justice.

As I alluded to earlier, victims have a very strong position at the ICC compared to earlier international tribunals, where their role in the judicial proceedings was largely limited to that of witnesses.

In contrast, the Rome Statute gives victims the right to participate in the proceedings, and to request reparation for the harm they have suffered.

The ICC invests a great deal of time, energy and resources into making the victim-centred vision of justice a reality.

Staff of the ICC's Registry based in the Court's country offices travel to the smallest villages to inform victims and affected communities about the legal process. They inform victims about their rights and they assist those interested to apply for participation in the proceedings. Free legal aid is available to enable the representation of victims in the judicial proceedings by competent counsel.

The ICC's Trust Fund for Victims is a big part of the Court's commitment to victims, as it raises donations from States and other entities to make it possible for reparations to take place even when the convicted person does not have the necessary means.

To demonstrate the scale of the ICC's victim-oriented work, let me give you some numbers:

- More than 21,000 individual victims have formally participated in ICC proceedings so far.
- Close to 3,000 individual victims have received court-ordered reparations, and this number is rising all the time as implementation progresses.
- And almost a hundred thousand individuals have directly benefitted from projects of the Trust Fund for Victims under its assistance mandate.

Reparations and assistance to victims can take many different forms, including psychological or physical rehabilitation, monetary compensation, community projects for education and healthcare, symbolic measures such as monuments, ceremonies or apologies, and so forth. The measures are always tailored to the particular circumstances of each case and the type of harm suffered by the victims.

I take the opportunity to appeal to all States to make donations to the Trust Fund for Victims to support its crucial work. With the current progression of cases at the ICC, the need for these resources is higher than ever before, and it will continue to rise. Without sufficient funds, we risk failing the expectations of victims. We must not allow that to happen.

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Mr President,

At a time of much uncertainty about the future of the world, and grave threats to the rules-based international system, the commitment of the Court's 123 States Parties to cooperate with the ICC and support its operations is immensely valuable.

By electing to join the Statute, those 123 States have obtained legal protection against the gravest atrocities, they have shown solidarity with victims worldwide, they have demonstrated commitment to the rule of law at the international level, and they have become active participants in shaping the Rome Statute system from the inside.

I call upon all other States to follow that path, in the interest of humanity, the international community as a whole, and, last but not least, for their own benefit.

I haste to stress that joining a treaty is, naturally, a sovereign decision for each country. It can never be forced. At the same time, I strongly believe that each country should give the matter very serious consideration. All people should have access to justice, regardless of their gender, religion or ethnicity.

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Mr. President,

Before I finish my remarks, I would be remiss not to thank the United Nations for its crucial support and cooperation with the Court, under the leadership of the Secretary-General.

The wide-ranging assistance provided by the UN on a reimbursable basis continues to be essential for the effective conduct of the Court's mandate, whether it comes in the form of field support, communication or conference services, security coordination, exchange of personnel, provision of information, or judicial assistance. All of this is part and parcel of the Court's daily activities, and we are grateful to work hand in hand with the United Nations for the rule of law and the protection of human rights.

Indeed, the main objectives of the UN and the ICC are closely aligned. As I said a week ago on United Nations Day, global cooperation and a rules-based international order are key to addressing the gravest threats facing humankind.

The Court always endeavours to stay in regular contact with relevant UN entities and look for ways to further develop our cooperation. In this context I am delighted to report that, earlier this month, the Court and the United Nations Development Programme concluded a new Framework Agreement that will facilitate UNDP's operational support to the ICC worldwide and serve as a legal basis for more specific agreements to be concluded with UNDP branches in different countries where the ICC may be operating. This will be very helpful for the Court's concrete activities in the field that are critical for our trials and investigations. I am grateful to the UNDP Administrator for helping us to take this important step forward in our partnership, in the spirit of shared objectives under Agenda 2030.

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Distinguished delegates,

The cooperation of States remains one of the pillars on which the ICC operations rest. From access to evidence, to the protection of witnesses, arrest of suspects, freezing of assets and the enforcement of sentences, the Court needs your help every step of the way.

It is of particular concern that 14 arrest warrants issued by the Court remain outstanding. I call upon all States to cooperate in executing these arrest warrants, so that the accusations may be heard in a court of law, with all guarantees for a fair trial.

For the States Parties, and for States having accepted the Court's jurisdiction by a declaration, cooperation with the ICC is a binding legal obligation, and it is so also for Sudan and Libya pursuant to the Security Council's resolutions under Chapter VII.

For other States, there are no obligations stemming from the Rome Statute, as a treaty only binds the parties to it. However, customary international law – not least in light of many resolutions adopted by this very Assembly – urges States to cooperate and make good faith efforts to ensure that war crimes and crimes against humanity are investigated and prosecuted. And, indeed, many States that are not parties to the Statute do so.

On that note, I take this opportunity to thank all States and entities for the cooperation extended in the past year to the Court, as well as to defence teams in ICC proceedings, which is essential for ensuring fair trials.

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Mr President,

Excellencies,

Ladies and gentlemen,

In pursuing our aspirations we often take two steps forward, one step back, and so forth. But the creation of a permanent court is a step that cannot be undone. The ICC is here to stay. It has elevated the fight against impunity irreversibly onto a new plane. It is an immensely challenging endeavour, but one we cannot give up on. We may be far from eradicating impunity, but we can make it clear every day with our actions that we do not tolerate it.

Thank you for your attention and your support.

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