

**Twentieth session**

The Hague, 6-11 December 2021

**Report of the Bureau on the Plan of action of
the Assembly of States Parties for achieving universality and
full implementation of the Rome Statute of
the International Criminal Court****I. Introduction**

1. At its fifth session, the Assembly of States Parties adopted, by consensus, the Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court (hereinafter "the Plan of Action").¹
2. At its nineteenth session, the Assembly of States Parties (hereinafter "the Assembly") welcomed the annual report of the Bureau on the Plan of action, endorsed the recommendations contained therein and requested the Bureau to continue to monitor the implementation of the Plan and to report thereon to the Assembly during its twentieth session.²
3. The Plan of action calls upon States Parties to proactively make use of the political, financial and technical means at their disposal to promote the universality and full implementation of the Rome Statute through bilateral, regional and multilateral relationships. Furthermore, the Plan of action calls upon the Secretariat to support States in their efforts to promote universality and full implementation of the Statute by acting as a focal point for information exchange, within existing resources, including by collecting and ensuring dissemination of such information. It also requires the Assembly, through its Bureau, to keep the Plan of action under review.
4. On 6 April 2021 the Bureau of the Assembly re-appointed the Netherlands and the Republic of Korea as *ad country* focal points to facilitate the implementation of the Plan of action.
5. The reporting period covers the period after the adoption of the previous report (ICC-ASP/19/30, November 2020) until November 2021. During this period, the *ad country* focal points conducted consultations and briefings in order to exchange information between States, Court officials, members of civil society and other interested parties.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fifth session, The Hague, 23 November to 1 December 2006* (ICC-ASP/5/32), Part III, ICC-ASP/5/Res.3, annex I.

² Resolution ICC-ASP/19/Res.6 of 16 December 2020, para.9 and annex I, para. 1.

II. Updates on efforts to promote universality and full implementation of the Rome Statute

A. Activities of the Court

6. The Court continued to contribute actively to the efforts to promote universality and full implementation of the Rome Statute in cooperation and coordination with other actors, including the Assembly, the co-focal points on the Plan of action, States Parties, regional and intergovernmental organizations, and civil society, notably the Coalition for the ICC and Parliamentarians for Global Action. While restrictions related to the Covid-19 prevented the holding of regional seminars as well as high-level engagements with States not party to the Statute, many important activities nevertheless took place during the reporting period. Where possible, the Court employed alternative methods instead of in-person communication that could not take place.

7. The Registry remains ready, when requested and when considered helpful for advancing national implementation of the Rome Statute, to participate in discussions and share what has been its experience in applying the cooperation provisions of the Statute with States Parties.

8. The Court's public information activities, notably through the ICC website and social media channels, maintained in multiple languages, and platforms of influencers such as the United Nations (UN), continued to serve as a crucial tool for raising awareness and providing access to information essential for the promotion of the universality and full implementation of the Rome Statute. The Court liaises closely with UN communication teams, which has enabled promoting ratification of the Rome Statute on UN platforms as a way of supporting Sustainable Development Goal 16, Peace and Justice. In addition with the support of the European Commission virtual ICC course of 15 lectures in Spanish for national practitioners, judges and prosecutors has been filmed, culminating in the final two closing lectures on cooperation and universality; versions in French and English are expected to be produced in the coming months, and all three language versions will be featured on the ICC website.

9. The Court continued to disseminate the booklet titled "Joining the International Criminal Court – Why does it matter", which is available on the Court's website in English³ and French⁴ and hard copies of which can be provided upon request. The booklet is particularly designed to address common misconceptions and concerns about the Rome Statute and the Court, as well as highlight the benefits that joining the Statute offers to the State in question as well as to the international community as a whole. As such, the booklet seeks, *inter alia*, to support the efforts of national stakeholders advocating the ratification of the Statute in their respective countries.

10. The President, Prosecutor and Registrar used various occasions of meetings, exchanges and public speeches to draw attention to the need for increasing membership in the Rome Statute as well as its implementation in national legislation, both in terms of providing national procedures for cooperation as well as incorporating the Rome Statute crimes in national law.

11. Approximately 1,500 visitors, from States Parties as well as non-States Parties, visited virtually the ICC and received online presentations on the Court, its mandate and current activities. These included briefings organized for key stakeholders, such as lawyers, prosecutors, judges, members of parliament, journalists and junior diplomats from various regions, including representatives of States not party to the Statute. In addition, 120 members of high-level delegations were able to be safely received at the Court in person while the COVID-19 pandemic is ongoing. Court representatives also took part in events organized by civil society actors in a national context. Judicial events and hearings have continued with a reduced external participation (around 505 individuals) due to the COVID-19 related restrictions. Last but not least, the Court developed, with the financial support of the European Commission, a Virtual Visit space for its website in Arabic, *inter alia* to promote

³ https://www.icc-cpi.int/iccdocs/PIDS/publications/Universality_Eng.pdf

⁴ https://www.icc-cpi.int/iccdocs/PIDS/publications/Universality_fra.pdf

universality of the Rome Statute by raising awareness of the Court, its mandate and its legal process. Spanish, English and French were done in the previous period.

12. Under its Legal Professionals Programme (LPP) funded by the European Commission, the Court seeks to offer young and mid-career legal professionals from situation countries and developing regions an opportunity to enhance their professional skills in the field of international criminal law by working at the Court. One of the objectives of the program is to benefit the national jurisdictions of the participants, who will bring their enhanced knowledge and skills back to their domestic system upon return from the Court. During the reporting period, six persons spent between four and six months working in the different organs of the Court under the LPP.

13. The free, online ICC Legal Tools Database (LTD),⁵ which is supported by the Court with the financial assistance of the European Commission, continued to be a leading international law source. The LTD plays an important role by providing free global access to international criminal law legal sources, for which there is high demand globally, including in States not party to the Statute. As such, the LTD helps promote awareness of the Court and its jurisprudence in jurisdictions that may join the Rome Statute in the future, as well as strengthen the Court's profile as a leading institution in the field, reinforcing positive perceptions among legal communities as a key stakeholder group. With the support of the European Commission, the Court is in the process of developing the LTD interface in additional languages to the existing English language version.

B. Activities of the President of the Assembly and the Secretariat

14. The President of the Assembly of States Parties, Ms. Silvia Fernández de Gurmendi, held a series of meetings throughout the reporting period where she encouraged States to become parties to the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court, and stressed the importance for States to have implementing legislation at the national level. She emphasized in those meetings that the universality of the Rome Statute would not just promote the legitimacy of the Court but also expand its jurisdiction given that the Court can only enhance its reach through ratifications to the Statute in the absence of a referral by the United Nations Security Council.

15. The President has coordinated with H.E. Mr. Bob Rae, Vice-President of the Assembly and Coordinator of its New York Working Group to reach out to non-States Parties and encouraged them to consult their capitals with an aim to ratifying the Rome Statute. She also addressed the crucial importance of universality before major regional organizations including the European Union and the Organization of American States as well as the regional groups of States Parties in the contexts of the Assembly and the United Nations, and called for their action to further promote universality.

16. The President worked closely with civil society organizations, including the Coalition for the International Criminal Court, Parliamentarians for Global Action, Human Rights Watch, Open Society Justice Initiative and the American Bar Association's ICC Project, the International Bar Association, the American Society of International Law, as well as in connection with their local NGOs and focal points, to promote the environmental conducive to expanding the universality of the Rome Statute.

17. The Secretariat, for its part, continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 19 November, the Secretariat had received six responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute. Relevant information submitted by States and international organizations can be found on the Assembly's website.⁶

⁵ <http://www.legal-tools.org/>

⁶ See: https://asp.icc-cpi.int/en_menus/asp/sessions/plan%20of%20action/Pages/plan%20of%20action.aspx.

C. Activities of the focal points

18. While the COVID-19 related restrictions prevented the holding of planned events for the promotion of the universality, the co-focal points continued to contribute actively to the efforts to promote, as far as possible, the universality and full implementation of the Rome Statute in many occasions, including through bilateral/multilateral contacts and high-level engagements with States not a party to the Statute. The co-focal points continued to actively reach out to States Parties and third States, including through contacts from their respective capitals and diplomatic missions. They also maintained an ongoing dialogue with representatives of international organisations and civil society in order to build support for further accessions to the Rome Statute and to other relevant instruments.

D. Activities of international organizations and other organizations

19. Parliamentarians for Global Action (PGA) organized several virtual high-level meetings to advance the universal ratification and full implementation of the Rome Statute: a global Consultative Assembly of Parliamentarians on the ICC and the Rule of Law with the participation of 85 Parliamentarians, and three regional events: a Middle East and North Africa Parliamentary Working Group meeting with Parliamentarians from Iraq, Jordan, Palestine and Yemen; a Workshop on the Fight Against Impunity for Mass Atrocities, hosted by the Nigerian Parliament with the participation of Parliamentarians from Cabo Verde, Guinea Bissau, The Gambia and Togo; and a Regional Seminar on International Justice for the legislators from Latin America, including Chile, Colombia, and Ecuador. PGA also worked with its members in Ukraine on finalizing the adoption of the implementing legislation, while also promoting the ratification of the Statute. In addition, PGA provided to its members in several other countries technical assistance on the full implementation of the Statute and the adoption of all amendments to the Statute. To advance the domestic implementing process, PGA also organized a visit of Parliamentarians from Ghana to the ICC.

20. As a result, more than 80 parliamentarians in 40 States committed to country-specific action points toward universality and full implementation. Countries in Latin America (4), Africa (1) and Europe (1) are currently working toward the adoption of the full implementation legislation.

21. In 2021, the Coalition for the International Criminal Court (CICC) has promoted activities related to the advancement of the universal ratification and implementation of the Rome Statute of the ICC around the world. The Coalition for the International Criminal Court (CICC), its member organisations in Ukraine and other international members, continued to advocate with the Ukrainian authorities and Parliament for the ratification of the ICC Rome Statute and for the full alignment of national legislation with international criminal and humanitarian law. In May 2021, civil society welcomed the adoption of the Ukrainian legislation harmonizing domestic law with international criminal and humanitarian law by the Parliament. In September 2021, CICC members urged the Ukrainian President to sign and promulgate the law without delay.⁷

III. Recommendations

22. In general, there is a continuing need for further sustained efforts in promoting the universality and full implementation of the Rome Statute and the Agreement on Privileges and Immunities of the Court. Many activities are already being undertaken on an on-going basis, and the scope for better coordination and identification of possible synergies as well as more systematic follow-up on initiatives should be explored further. Enhanced use of ICT and social media could play an important role in this regard, in particular when reaching out to academia and students, building on existing initiatives. Against this background, the following recommendations are made:

⁷ <https://www.coalitionfortheicc.org/news/20211006/civil-society-urges-ukraine-president-sign-international-crimes-law>.

A. To the Assembly of States Parties

1. To continue to monitor closely the implementation of the Plan of action.

B. To the States Parties

2. To continue to promote, as far as possible, the universality and full implementation of the Rome Statute in their bilateral, regional and multilateral relationships, including enhancing the cooperation between international and regional organizations and the Court;
3. To continue their efforts to disseminate information on the Court at the national, regional and international level, including through events, seminars, publications, courses and other initiatives that may raise awareness about the work of the Court;
4. To continue to provide the Secretariat with updated information relevant to the universality and full implementation of the Rome Statute, including current contact information on national focal points;
5. To continue to promote, as far as possible, the universality and full implementation of the Rome Statute in collaboration with the Court, civil society, academia, international organizations and professional organizations;
6. To organize, in conjunction with the Court, civil society, academia, international organizations and professional associations, seminars, panel discussions and events focusing on promoting the universality and full implementation of the Rome Statute, in New York, in The Hague and in different regions, and to disseminate information about the Court's work and the provisions of the Rome Statute;
7. To continue to provide, wherever possible, technical and financial assistance to States wishing to become party to the Statute and to those wishing to implement the Statute in their national legislation;
8. To provide financial and/or other support, wherever possible, to civil society, academia, international organizations and professional associations that provide technical assistance to overcome the challenges to ratification and implementation identified in this report;
9. To continue to contribute to the Trust Fund for Least Developed Countries and other developing States to promote the attendance of States not party to the sessions of the Assembly; and
10. To continue to cooperate with the Court so that it can fulfil its functions accordingly.

C. To the Secretariat of the Assembly of States Parties

11. To continue to support States in their efforts to promote the universality and full implementation of the Rome Statute by acting as a focal point for information exchange and by making available updated information on this matter, including on the website of the Court;
12. To compile information on all available resources and potential donors, and post it on the Court's website for easy access by States; and
13. To prepare a matrix to serve the purpose of enhanced information-sharing between potential recipients and donors of technical assistance.

Annex I

Draft language to be included in the omnibus resolution

A. Universality of the Rome Statute

1. ~~Welcomes the State that has become a Party to the Rome Statute of the International Criminal Court since the eighteenth session of the Assembly and~~ *Invites* States not yet parties to the Rome Statute of the International Criminal Court to become parties to the Rome Statute, as amended, as soon as possible and *calls upon* all States Parties to intensify their efforts to promote universality;
2. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;⁸
3. Welcomes with appreciation also the continuation by the President of the Assembly of the dialogue on the “Relationship between Africa and the International Criminal Court” initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and invites the Bureau to further widen and deepen this dialogue as needed with all interested State Parties;
4. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice⁹ as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly¹⁰ and otherwise;
5. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;
6. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));¹¹
7. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law, and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as and when appropriate;
8. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute¹² and *notes with appreciation* the efforts of the Court’s President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

⁸ Depository Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

⁹ *Official Records... Review Conference...* 2010 (RC/11), part II.B, Kampala declaration (RC/Decl.1), para 12.

¹⁰ See ICC – Secretariat of the Assembly of States Parties at https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJD/Pages/default.aspx.

¹¹ ICC-ASP/5/Res.3, annex I.

¹² ICC-ASP/19/30.

9. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,¹³ and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

B. Mandates of the Assembly of States Parties for the intersessional period

- a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute; and
 - b) *requests* the Bureau to continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its ~~twentieth~~ **twenty-first** session;
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¹³ See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf.