

**Cour
Pénale
Internationale**

**International
Criminal
Court**

THE PRESIDENT

**SECOND ASSEMBLY OF STATES PARTIES
TO THE ROME STATUTE OF
THE INTERNATIONAL CRIMINAL COURT**

Second Session

**Address by Judge Philippe Kirsch
President of the ICC**

New York, September 8, 2003

Mr. President,

It is my pleasure to address the Assembly of States Parties today as you begin your second session. I thank you, on behalf of the Court, for your support and commitment to the establishment of the ICC.

Today I will inform you about the work we, the officials and staff of the ICC, have done so far in building this new institution. I would also like to draw your attention to document ICC-ASP/2/5, which contains the first annual Report of the ICC to the Assembly of States Parties. We submit this report because we thought it would be useful to provide you with a comprehensive overview of the major developments at the Court so far, over the Court's first year of existence. We will continue to do so on a regular basis.

As you said in your opening statement, in the last few months, the ICC has become a reality. The Court is no longer an aspiration, but is a functioning institution. The most senior officials have been appointed and the Court is in the process of building its structures and devising its procedures. We are preparing to meet the challenge that is set for us by the international community: to ensure the even-handed and effective delivery of justice and, in so doing, to conduct efficient, transparent and fair proceedings.

The Court and its Judiciary must be ready for its first case and thus, as indicated in my statement to this Assembly at its April session, the Judges began the process of drafting the **Regulations of the Court** soon after the inauguration of the Court on 11 March.

As you will recall, the Regulations will have to be adopted by an absolute majority of Judges and will then be circulated to States Parties for their comments. As I indicated in April, the Judges organised themselves early on into Working Groups to prepare the different chapters of the Regulations. The different chapters address the following issues: General Provisions; Composition and administration of the Court; Proceedings before the Court; Participation of victims and reparations; and Defence counsel and Detention matters.

The results of this process were then discussed in a plenary session in June. After the meeting, a group of Registry staff members was entrusted with the elaboration of a draft text of the Regulations of the Court. This drafting Board works under the guidance and supervision of different Judges staying in The Hague for that purpose and serving as interlocutors, and submits its results regularly to all the Judges for comments.

By the beginning of October, three successive draft regulations will have been sent to the Judges on the basis of those comments. The current draft contains 140 Regulations. A final and consolidated draft will serve as a basis for another **plenary meeting of Judges** from 10 to 28 November. The Prosecutor and the Registrar will likewise present their observations in the elaboration of the Regulations; both will participate in the discussions on the Regulations during the November Plenary. Our objective, if at all possible, is to finalise the document by the end of the year.

Through this process, the Judges strive to guarantee at the same time that all stages of the criminal process, Pre-Trial, Trial and Appeal, are carried out as efficiently as possible, and maintain the highest standards of justice. In both areas of effectiveness and due process, the Judges have tried to draw relevant lessons from past practice, including that of the International *ad hoc* tribunals, while examining carefully the implications of a number of features that are particular to our Court. The preparation of Regulations is no routine task. It is extremely important, for the proper functioning of the Court, to achieve the right results.

The Judges are fully aware that transparency and inclusiveness are important for this process. We are currently looking into the most appropriate ways to enhance public awareness and ensure a wider participation in the process. The Presidency has made some proposals to the Judges in this area. The results of these endeavours will be known soon.

Si la Cour est aujourd'hui une institution tangible et fonctionnelle, il demeure néanmoins que des tâches considérables nous attendent afin de la rendre pleinement opérationnelle. Par

exemple, un travail important d'administration, d'infrastructure et d'organisation dans les Chambres, reste à être accompli. Ce travail nécessitera la présence des Juges. Ces derniers forment un groupe riche de sa diversité, diversité de cultures juridiques, de traditions et d'expériences professionnelles. Cette diversité nécessite d'échanger et de débattre fréquemment, afin de coordonner l'approche des juges sur une multitude de dossiers. Les Juges devront parvenir à une entente commune sur des questions clés, telles que le principe de complémentarité et le **Code d'éthique des juges**. Ce code, le premier en son genre dans ce contexte, est destiné à garantir que les Juges se conformeront aux plus hauts standards de justice et d'équité. Il s'agira d'une étape importante dans la sauvegarde du respect des principes fondamentaux de la Cour : l'indépendance, l'impartialité, la règle de droit et le professionnalisme.

Alors que le moment se rapproche où les premières causes seront entendues par la Cour, et dans le cadre de sa responsabilité d'assurer que l'autorité judiciaire soit prête pour ces premières causes, la Présidence appellera graduellement les juges des différentes Sections à **agir à temps plein**, en fonction de la charge de travail de la Cour et en vertu de l'Article 35 du Statut. Nous prévoyons que les Sections préliminaire et des appels seront en place dans les premiers mois de 2004. À ce moment, donc à peu près un an après l'inauguration de la Cour, les juges de ces Sections exerceront à temps plein au siège de la Cour. La Chambre préliminaire sera considérablement impliquée dès les premières étapes concernant les enquêtes et des questions touchant à la compétence de la Cour et la recevabilité des affaires. Par ailleurs, il se peut que des appels surgissent immédiatement, ce qui nécessite la mise en place simultanée de la Section d'appel. La Section de première instance sera mise sur pied lorsque les procédures atteindront une étape plus avancée. Il est également possible que les juges de cette Section soient appelés à assumer leurs fonctions avant que cette Section soit établie lorsque se présenteront des besoins spécifiques.

Parmi les sujets qui vous intéressent particulièrement, se trouve la question du budget. La Cour a expliqué dans la présentation de son budget les différentes raisons associées aux fonds demandés. Les besoins ont été évalués en fonction de certaines hypothèses concernant le développement de la Cour lors de l'année à venir. Parmi celles-ci, la plus importante est

que le Cour suppose qu'en 2004 elle sera confrontée à une situation faisant l'objet d'une enquête, et une situation faisant l'objet d'une analyse. Le budget de la Cour a été revu par le **Comité du budget et des finances à New York** au cours du mois d'août. Une brève visite de certains des membres de ce Comité à La Haye, leur a donné l'occasion de s'entretenir directement avec les représentants de la Cour. Lors de sa réunion à New York, le Comité a examiné le budget pour l'année 2004, premier budget établi par la Cour elle-même. Il a recommandé quelques ajustements à l'Assemblée. La Cour souhaite maintenant discuter de ces questions avec les membres de l'Assemblée des États Parties et appréhender comment ces derniers envisagent la future charge de travail de la Cour.

Pour l'avenir, la Cour est attachée à l'idée de travailler de très près avec tous les protagonistes du processus budgétaire. Nous sommes pleinement conscients que la responsabilité et la transparence sont parties intégrantes de notre travail. Par ailleurs, la Cour doit pouvoir bénéficier d'une certaine **flexibilité dans l'exécution du budget**. Comme cela a été souligné dans le document budgétaire, l'approche de la Cour est plus fonctionnelle que structurelle : ce sont les fonctions à accomplir qui déterminent notre structure, nos méthodes de travail et nos besoins en ressources. Aussi, nous continuerons à adapter la répartition des fonds en réponse aux nécessités qui se présenteront à nous ; tout comme nous l'avons fait lors du premier exercice financier. À cet égard, il convient de rappeler l'importance d'un dialogue continue et structuré avec le Comité du budget et des finances. Je suis confiant dans le fait que la relation entre le Comité et la Cour sera fondée sur la coopération et le dialogue, dans le respect de l'indépendance des deux organismes. Dans cette perspective, nous accueillons positivement la recommandation du Comité de lui présenter **des rapports tous les quelques mois** qui traiteront de questions telles que les dépenses de la Cour, les avancements significatifs dans chaque programme majeur ainsi que les contributions.

In the context of the budget, one issue needs to be mentioned. A slight divergence between the different language versions of Annex VI, contained in last year's budget, has come to our attention: in certain versions of the text, including the English, para.11 of the document entitled "**Conditions of service and compensation** of the judges of the ICC" provides for a special allowance for each day the Judges are engaged in the business of the Court. Yet other

versions seem to require, in addition, a presence at the seat of the Court for this entitlement. We have consulted with the coordinator of the document who confirmed that the English version was the negotiated text and represents the correct meaning. He also drew attention to the wording of the provision to explain its intent. A correction of the inaccurate versions would be welcome.

Moving now to other topics, you will recall that under article 2 of the Statute, the Court is to be brought into a relationship with the UN through a **Relationship Agreement** to be concluded by the President on behalf of the Court. At its first meeting, the ASP adopted a Draft Relationship Agreement which will form the basis of negotiations between the Court and the UN. The Court has initiated the process of discussions with the UN Secretariat regarding the conclusion of the Agreement.

The ICC's relationship with other international actors will also be significant as it meets the challenge of building a transparent and accessible Court. The ICC enjoyed the support of the international public, NGOs and civil society in the years leading up to the establishment of the Court. This dialogue with international civil society will continue to be valuable as the Court moves forward with its operations.

On another issue, we have had constructive discussions with the **Host Country** on topics such as the interim and permanent premises of the Court, as well as the Headquarters Agreement. In the past months, our positions have been moving closer together on several topics as we work toward our joint objective of building a strong and independent Court in The Hague. The Registrar will provide you with more details about our ongoing discussions.

Having highlighted the importance of the Court's relationship with the United Nations, I call as well on the cooperation of States Parties regarding the **Agreement on Privileges and Immunities**, essential to the proper functioning and integrity of the Court. Without privileges and immunities, the personnel of the Court will have great difficulty acting

outside the Host State. I therefore ask all States Parties to support the work of individuals and personnel of the ICC through the signature and ratification of the Agreement.

Regular acquittals of **financial commitments of States Parties** are likewise essential for the future of the institution. We have noted that a number of states have not yet paid their assessed contributions. We welcome States Parties' contributions as we move forward with the Court and toward the effective exercise of justice.

World events remind us continuously why the world needs the International Criminal Court. We have seen individuals responsible for the death and torture of hundreds of thousands of people escape punishment. The ICC must succeed. The Court is now ready to take up its mission. We count on your support in this common endeavour.

I thank you.