


**Fifteenth session**

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**Report of the Court on cooperation**
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## I. Introduction

1. This report on cooperation is submitted by the International Criminal Court (“ICC” or “the Court”) pursuant to paragraph 28 of resolution ICC-ASP/14/Res.3 (“2015 resolution on cooperation”). It covers the period 2 September 2015 to 1 September 2016.<sup>1</sup>
2. Similar to the Court’s 2014 and 2015 cooperation reports<sup>2</sup>, this report is meant to provide an update to ICC States Parties on the different cooperation efforts undertaken by the Court with the support of States and other stakeholders during the reporting period.
3. Enhancing cooperation with States Parties, non-States Parties and other relevant stakeholders remained high on the Court’s agenda. Additionally, the Court continued to develop its interaction and cooperation with international and regional organizations in order to maintain and foster further support for its activities.
4. In accordance with the Relationship Agreement, the United Nations (“UN”) provides facilities and services to the Court on a reimbursable basis. The Court’s 2013 report on the status of ongoing cooperation between the Court and the United Nations, including in the field<sup>3</sup>, remains a reference tool for understanding the many forms of cooperation between the UN and the Court, ranging from dialogue aimed at identifying challenges in the execution of the respective mandates of and cooperation between the two institutions to a practical working relationship, including exchange of information and reports, administrative and personnel arrangements, provision of services and facilities, logistical support in the field, financial matters, travel arrangements and judicial assistance, the appearance of UN staff in court to provide testimony and supporting each other’s activities in the field. For more information regarding its recent cooperation with the UN, including with the cooperation with UN peacekeeping missions and other UN presences in the field, as well as with the UN Security Council, the Court invites States and other interested parties to review its latest annual report on activities to the UN (A/71/342).
5. During the reporting period, the Court also continued to reinforce its involvement and presence in international networks of judicial practitioners and law enforcement actors and strengthened dialogue with other judicial institutions, including through the conclusion of a memorandum of understanding on cooperation with the Inter-American Court of Human Rights. Active cooperation was obtained from partners such as the International Criminal Police Organization, the European Union (“EU”), including with the European Commission, the European External Action Service, Eurojust and the European Police Office, the Council of Europe, the *Organisation internationale de la Francophonie* (“OIF”), the World Bank, the Inter-American Commission on Human Rights and the Ibero-American Legal Assistance Network.
6. The generous financial contributions of the European Commission, Finland, the Netherlands, Norway and the OIF enabled the organization of high-level and technical events. The Court is also grateful to Botswana and Romania for hosting regional high level cooperation seminars (on 29-30 October 2015<sup>4</sup> and 21-22 March 2016,<sup>5</sup> respectively), to the United Republic of Tanzania for hosting the Court’s second sub-regional seminar of counsel and the legal profession<sup>6</sup> (on 8-12 February 2016) and to the African Union Commission for co-hosting the fourth joint technical seminar in Addis Ababa<sup>7</sup> (on 23 October 2015). Technical events addressing important cooperation themes were held in The Hague, including one seminar with Court focal points of situation countries<sup>8</sup> (on 2-6 November 2015), a training session for counsel<sup>9</sup> (27-29 June 2016) and a consultative seminar organized by the Office of the Prosecutor (“OTP”) on its draft policy

<sup>1</sup> Certain information is not provided in this report in order to respect the confidentiality of a number of investigative and prosecutorial activities by the Office of the Prosecutor, as well as decisions and orders by the Chambers.

<sup>2</sup> ICC-ASP/13/23 and ICC-ASP/14/27.

<sup>3</sup> ICC-ASP/12/42.

<sup>4</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1164>.

<sup>5</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1203>.

<sup>6</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1187>.

<sup>7</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1160>.

<sup>8</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1166>.

<sup>9</sup> <https://www.icc-cpi.int/Pages/item.aspx?name=pr1226>.

on children (11 July 2016). More than 580 external participants from some 100 States and other entities attended.

7. The Court was also glad to continue its exchanges, notably in the areas of cooperation and complementarity, with the European Union, including with the holding of the second EU-ICC Roundtable on 6 July 2016 in Brussels.

8. The Court also continued to engage actively with its civil society partners and held an annual round table with non-governmental organizations from 7 to 10 June 2016 to discuss issues of common interest.

9. Thanks to the support of a number of States and specialized organisations, the Court was also able to continue its reflections and exchanges with a wide-range of experts on cooperation priority topics during this reporting period; a notable example is the expert workshop organized at the seat of the Court on 26-27 October 2015 by the Court with the support of the European Commission, the Principality of Liechtenstein and the Basel Institute on Governance's International Centre for Asset Recovery ("ICAR") on the cooperation challenges faced by the Court with respect to financial investigations. A subsequent report was produced and circulated by the Court to all States Parties, and the Court briefed The Hague Working Group ("working group") cooperation facilitation on the issue on 23 June 2016. More information on this issue can be found in paragraph 42 below.

10. The Court notes that its most recent analytical reports on cooperation matters, including its 2013 cooperation report<sup>10</sup>, as well as its 2013 report on cooperation between the Court and the United Nations referred to above<sup>11</sup>, remain valid and useful sources of information regarding the key cooperation needs of the Court.

11. Finally, the Court also notes that the 66 recommendations on cooperation adopted by States Parties in 2007<sup>12</sup>, as well as the flyer that was produced by the co-facilitators of the working group on cooperation in 2015 in collaboration with the Court in order to promote the 66 recommendations and increase their understanding and implementation, remain highly relevant.

12. Indeed, the Court strongly believes that both documents continue to form an important basis for cooperation discussions and efforts, including making the assistance to the Court more efficient and effective. The Court welcomes the decision of the Assembly of States Parties ("the Assembly") to request the Bureau "through its Working Groups, to continue its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate"<sup>13</sup>.

13. In this context, the Court thanks the co-facilitators of the working group on cooperation, H.E. Ambassador Diop Sy (Senegal) and H.E. Ambassador Van Hoorn and H.E. Ambassador Wilke (The Netherlands) for their commitment and efforts throughout the reporting period, as well as for the regular opportunities to brief the working group on its ongoing efforts as well as its main priorities and challenges concerning cooperation.

14. This updated report from the Court is intended to:

(a) Identify the core building blocks of international cooperation and judicial assistance that are required in order to ensure the functioning and performance of the cooperation framework foreseen for the Rome Statute system; and

(b) Provide an update on the recent efforts undertaken by the Court, with a view to attaining the strategic objectives set out by the Court to enhance cooperation and find solutions for the specific challenges identified by the seven cooperation priorities in the 66 recommendations flyer.

<sup>10</sup> ICC-ASP/12/35.

<sup>11</sup> *Supra* note 9.

<sup>12</sup> Resolution ICC-ASP/6/Res.2, annex II.

<sup>13</sup> ICC-ASP/14/Res.3, para. 24.

## **II. Building blocks of international cooperation and judicial assistance under the Rome Statute system: a combination of efforts and partners to enhance the enforcement of the Rome Statute**

15. When ratifying or acceding to the Rome Statute, States make a sovereign decision to accept the obligation to implement the general principles contained in the Rome Statute at the national level as well as to cooperate effectively with the Court in its work; the modalities of such cooperation (channels of communication, central authority, etc.) are to be determined by the State and a level of flexibility exists, within the limits of Part 9 of the Statute.

16. What is essential is that the cooperation and judicial assistance provided by States Parties to the different organs of the Court on the basis of Part 9 of the Rome Statute is timely and effective, allowing the Court's investigative, prosecutorial and judicial machinery to properly function.

17. Based on its fourteen years of existence, as well as drawing from the experiences of the *ad hoc* tribunals, the Court has identified several factors, or "building blocks", that contribute to making the cooperation framework established by Part 9 effective and efficient. The exact shape given to these building blocks depends on decisions taken by each State, but they are nonetheless important to strengthen the regime of cooperation under the Rome Statute and to ensure the success of the Rome Statute system. They are listed non-exhaustively below.

### **A. The importance of implementing legislation of Part 9 of the Rome Statute**

18. Adequate implementing legislation at the national level, including through integration of the relevant provisions in Part 9 of the Rome Statute into national legislation, greatly facilitates the cooperation. Recommendations 1 to 4 of the 66 recommendations further confirm this.

19. Article 88 stipulates that States Parties shall ensure the availability of the necessary national procedures for cooperation with the Court. This provision thus requires States Parties to review their national law and procedures and where necessary introduce through legislation, treaty implementation, or administrative practice, procedures in their domestic regimes to meet the cooperation obligations. Unavailability of domestic procedures for cooperation with the Court is thus not sufficient to justify a State's refusal to execute a cooperation request from the Court.

20. According to Parliamentarians for Global Action ("PGA"), to date, less than half of the 124 States Parties have adopted legislation in order to implement the cooperation obligations provided for in Part 9 of the Rome Statute.

21. There are several reasons why the implementation of the different cooperation obligations foreseen in the Rome Statute is of paramount importance to all States Parties. Firstly, clear procedures and distribution of roles and responsibilities at the domestic level will help governments ensure that they can expeditiously respond to requests for assistance coming from the Court without any undue delay.

22. Secondly, to adopt the necessary national legislation regarding cooperation with the Court guarantees that the actors involved (governmental agencies, but also witnesses, victims and suspects) have legal certainty in the way they the different requests for assistance from the Court will be treated.

23. Finally, the clear definition of a legal basis for cooperation between the Court and States Parties helps to avoid instances where a country is not capable of addressing a specific request for assistance, thus hindering the execution of the mandate of the Court.

24. The Court would like to highlight here the important work being made by PGA, which has developed reference laws of implementing legislation in French and Spanish,

and has been working with parliamentarians and government officials in different States Parties to promote the necessary implementation of Part 9.

## **B. The importance of enacting the legal mechanisms set in the Rome Statute and setting up effective procedures and structures regarding cooperation and judicial assistance**

25. During the reporting period, the cooperation needs of the Court have continued to grow, due notably to the increase in its investigative, prosecutorial and judicial activities, as well as the complexities of the situations and challenges the Court deals with. The Registry transmitted 266 primary requests for cooperation<sup>14</sup> to States and international organisations on behalf of the Chambers, on behalf of the Defence or on its own account<sup>15</sup>. The OTP sent out over **380 primary requests for assistance**<sup>16</sup> to **64 different partners**, including States Parties, non-States Parties, and international and regional organizations during the reporting period. During the same period, the OTP also received **13 requests for assistance from States**, which represents an **increase of nearly 50 per cent** compared to the last reporting period.<sup>17</sup> This increase, which has been steadfast in recent years, shows the growing integration, legitimacy and relevance of the Court in a wider network of international criminal justice actors and the OTP's increased efforts in triggering judicial action by national judicial authorities and developing mutually reinforcing judicial strategies, as outlined in the OTP Strategic Plan for 2016-2018.

26. As foreseen in article 87 of the Rome Statute, as well as by recommendations 7 and 8 of the 66 recommendations, the availability of channels of communication and simplified domestic procedures for dealing with Court cooperation requests, as well as coordination between national authorities dealing with Court cooperation requests, are of great importance for the Court, and have also been reaffirmed as a constructive step on several occasions by the Assembly. Indeed, such national mechanisms allow the Court to interact with the person or persons that have the knowledge and the experience regarding judicial cooperation requests, the experience of facilitating exchanges and mainstreaming issues within and across government institutions, the capacity to undertake relevant consultations, and they also enable the different organs of the Court to have their requests answered in an expeditious and effective manner. It is important to note here that when referring to "focal points", the Court is not necessarily referring to a physical person, but rather to the existence of a structure, mechanism or function that will remain in place and effective, even when specific individuals performing the function are replaced by someone else.

27. The Court highly values efforts to enhance the coordination and the mainstreaming of its cooperation needs within and across national authorities. In this context, the Court appreciates the current efforts led by Belgium regarding the feasibility of the establishment of a coordinating mechanism of national authorities dealing with cooperation with the Court.

## **C. The importance of concluding cooperation agreements with the Court to reinforce and complement Part 9 cooperation**

28. The relocation of witnesses under threat, the enforcement of sentences, and receiving acquitted persons or suspects or accused on interim release are highly important for the Court's functioning. The Court's experiences so far have clearly demonstrated that it cannot perform these functions on its own and that it needs the voluntary cooperation of States in this regard.

<sup>14</sup> This figure does not include follow-up requests for cooperation or requests sent as a result of the signature of a framework cooperation agreement with a State.

<sup>15</sup> This number does not reflect notifications of judicial documents, missions and requests concerning the signature of voluntary cooperation agreements.

<sup>16</sup> This number includes notifications of missions of the OTP, as well as bulk monthly notifications concerning multiple missions sent to situation countries in which the OTP has a high volume of investigative activities.

<sup>17</sup> This number does not include consultations and preliminary contacts with a view to explore the availability of relevant information.

29. The conclusion of framework cooperation agreements presents several advantages. They provide clarity and legal certainty to States with respect to the obligations and entitlements of the Court. They are cost-effective as requests can be facilitated at the operational level following a pre-agreed procedure. Conversely, *ad hoc* requests for cooperation are time consuming and therefore have an impact on the length of the proceedings. In addition, it is the Court's experience that the implementation rate for *ad hoc* requests for cooperation regarding urgent relocation of witnesses is very low.

30. Concerning **witness relocation**, both the OTP and the defence depend heavily on witnesses in the course of their investigations and for building their case. The Court works in difficult environments, either in post conflict situations or where conflicts still exist. In this context, the ability of the Court to protect its witnesses is vital and relocation is an indispensable tool in the most serious situations. In the last five years, the Court has made extensive efforts to facilitate the conclusion of agreements with States to enable the relocation of witnesses facing severe threats on account of their interaction with the Court. The relocation agreements are extremely flexible as witnesses are accepted on a case-by-case basis. The time usually necessary for States to process specific requests outside the scope of a relocation agreement hamper the Court's ability to address urgent demands for relocation, thus putting witnesses at continued risk. There are also possibilities for the relocation to be cost-neutral for the receiving States with the use of the Special Fund for Relocations. Finally, a State willing to accept relocated witnesses does not need to have a witness protection programme in place, but can benefit from capacity building projects thanks to the Court's developing partnerships with rule of law agencies. It should also be noted that in many cases the mere physical relocation of the witness to another country is sufficient to remove the threat, without other special protection measures. More information on recent efforts undertaken regarding witness relocation agreements can be found in paragraphs 44 to 46 below.

31. The support of States for the conclusion of **agreements on interim release and release of persons** is essential to ensure that the rights enshrined in the Statute are fully respected. The signature of such agreements would be a clear sign by States that they want a Court that is impartial and respectful of the rights of the defence. More information on recent efforts undertaken regarding interim release and release of persons' agreements can be found in paragraphs 47 and 48 below.

32. Furthermore, and pursuant to article 103, the Court relies on the cooperation of States for the **enforcement of sentences** of imprisonment imposed by the Court. The purpose of the agreements is to provide a clear framework and a common understanding of procedural as well as substantive issues by grouping together all relevant provisions that are located, in a disparate manner, in the Statute and the Rules of Procedure and Evidence. These address the issues that might arise in case of possible future enforcement of sentences in the prison facilities of the State Party in question. It should be noted that the agreements do not create an obligation for the State Party to accept the enforcement of any specific sentence in the future; in other words, a State Party that enters into a framework agreement with the Court retains the right to refuse the enforcement of any individual sentence imposed by the Court.

33. More information on recent efforts undertaken regarding enforcement of sentences agreements can be found in paragraphs 49 to 53 below.

#### **D. The importance of consistent political will and strong diplomatic support for the Court**

34. Political will from States Parties in cooperating timely and fully with the Court, in adopting the necessary domestic changes to ensure this cooperation is effective and efficient, as well as in consistently supporting the mandate and integrity of the Court and of the Rome Statute, are and remain of fundamental importance.

35. As already emphasised in its 2013 report on cooperation, the Court sees the importance of these activities as not only contributing to a better understanding and the strengthening of the Rome Statute system of international criminal justice, but also and more critically as a tool to protect and enhance cooperation with the Court.

36. As the Court operates today in highly sensitive and complex situations, where many interests are at play, it believes it is crucial, for its legitimacy and also for its efficiency in carrying out its judicial and prosecutorial activities, to create a framework of public and diplomatic support for the Court and the Rome Statute system, strong enough to ensure that States Parties that are under a legal obligation to cooperate with the Court, but that face challenges in doing so because of political, economic, security or capacity-related matters, do not have to carry alone the pressure that could result from these situations.

#### **E. The importance of mainstreaming ICC mandate and issues within judicial assistance and law enforcement networks in order to exchange information and strengthen capacities**

37. The capacity of the Court to fulfil its mandate, and in particular with regards to the investigations conducted by the OTP and its capacity to identify and obtain access to relevant evidence for its cases, and to the financial investigations conducted by both the OTP and the Registry in coordination, is greatly facilitated by its inclusion in relevant law enforcement and other practitioners' networks active around the world.

38. Identifying early enough where there might be information on crimes relevant to the ICC mandate and other crimes connected to these crimes – that do not happen in isolation from other types of criminality - or on incidents or individuals of interest to the OTP investigations is of crucial importance for it to conduct and facilitate its evidence collection. The smooth and diligent exchanges of information, best practices and expertise that comes with being involved and active in such networks is crucial to the success of the Court. It is also, as experience shows, an important tool for States' judicial authorities to be better aware of our work and able to assist and to be in a position to request and obtain assistance from the Court in return.

### **III. Update on the Court's priorities regarding cooperation**

39. In the Court's view, the identified areas of priority in the 66 recommendations flyer provide an adequate basic framework to enhance discussions and engage concretely on tangible actions involving the Court, States and other stakeholders, mindful of specific interests and capacities as well as the cooperation obligations established in Part 9 of the Rome Statute.

40. Furthermore, the Court hopes that the identification of these seven priorities and the development of the 66 Recommendations flyer will serve as a useful lens that will help the relevant partners to focus their actions towards increasing and strengthening the cooperation between the Court, States and other stakeholders. The Court will continue to actively seek opportunities, and whenever possible take part in activities aimed at contributing to these efforts.

41. The following update is meant to provide an overview of the recent efforts undertaken by the Court in order to increase and strengthen cooperation with the Court in some of these priority areas.

#### **A. Identification, freezing and seizing of assets (Priority 4 in the 66 recommendations flyer)**

42. The Court continues its dialogue with States to enhance cooperation in the field of the identification, tracing, freezing and seizure of assets. Further to the seminar organized on 26 and 27 October 2015, the Registry presented to the working group's cooperation facilitation on 23 June 2016 the Court's report on cooperation challenges faced by the Court with respect to financial investigations. The Court is working on implementing the recommendations addressed to it in this report, in particular regarding the need to raise awareness concerning its mandate in this area, as well as the mapping of existing national legislation or procedures on the tracing, freezing and seizure of assets. These efforts must be continued with the engagement of all States Parties especially with regard to the adjustment of domestic cooperation laws in this area when necessary, as well as in the

deployment of efforts to raise awareness of the specificity of the requests emanating from the Court among relevant domestic authorities.

43. The Court has also looked into the possibility of developing exchanges with the private sector on a pro bono basis in order to benefit from the expertise of private companies in this area. It also engaged with international organisations to benefit from training on financial investigations. The Basel Institute thus conducted training for the OTP and selected staff members of the Registry on 25 and 26 January 2016. The Court is also looking into ways of reinforcing the cooperation of requested States at the regional level so that the exchange of financial information can benefit it. The Court continues to participate in different networks of law enforcement in the area of recovery of assets to support its activities. It also continues developing relationships with international organizations and civil society that may provide capacity building in this area for interested States.

## B. Cooperation agreements (Priority 5 in the 66 recommendations flyer)

44. Concerning **witness protection and relocation agreements**, the Registry continues to look for alternative and practical solutions, and has brought the number of relocation agreements to 17, i.e. two additional agreements since the last reporting period. As indicated in the 2015 report, the implementation of *ad hoc* solutions by the Registry to supplement the lack of relocation agreements entails a double cost. The first cost is on the quality of life of the relocated witness and relatives who are unable to durably resettle in a new environment, and live in the constant anxiety inherent to temporary situations. The second cost is financial, due to the increased management costs in relation to temporary solutions.

45. One of the practical approaches that has been considered effective in witness relocation by the Registry is the agreed practical arrangement at the operational level, which are concluded directly between the Victims and Witnesses Section (“VWS”) of the Registry and the witness protection agency of a State, when the national legislation of said State permits it. This has proven to expedite the conclusion and implementation of the arrangements concerning witness relocation.

46. The number of States donating and benefiting from the Special Fund for Relocations has also increased. Eight States have made donations, including three new States, during the reporting period. In this respect, the Registry welcomes the increased interest by States to cooperate with the Court through donations as a positive way to contribute to witness protection.

47. The Registry still promotes the signature of **agreements on interim release and on release of persons**. No new agreement was signed during the reporting period.

48. The Registry continues to support the work of the Defence, in line with its mandate under rule 20 of the Rules of Procedure and Evidence (“RPE”). As such, the Registry has transmitted 36 requests on behalf of the Defence.

49. In a welcome development, a framework agreement on the **enforcement of sentences** was concluded between the Court and Norway, and it entered into force in August 2016. This is the first new framework agreement on the enforcement of sentences concluded since January 2012, bringing the total number of such framework agreements in force to eight.

50. In addition, in November 2015, the Court welcomed the conclusion of *ad hoc* agreements with the Democratic Republic of the Congo (“DRC”) on the enforcement of two sentences of imprisonment pronounced by the Court. The Court is appreciative of the close cooperation of the DRC authorities and the support of the Dutch and French authorities in relation to the transfer of the two convicted persons to the DRC.

51. The necessity to conclude further framework agreements on the enforcement of sentences remains pressing. First, the concrete need for the enforcement of sentences is likely to increase in the coming years as more cases proceed toward conclusion. In the Court’s experience to date, it has become evident that, for a range of legitimate practical reasons, not every State Party on the list of States willing to accept sentenced persons will be available to enforce every sentence pronounced by the Court. This reality underscores



the need to expand the list of States which have indicated their willingness to accept sentenced persons.

52. Furthermore, in view of the principle enshrined in the Rome Statute that States Parties should share the responsibility for enforcing sentences of imprisonment in accordance with principles of equitable distribution, and in order to ensure that the Court is able to address the different kinds of situations that may arise in terms of geographical, legal, social, cultural, linguistic, security and other factors, it remains vital for more States Parties, from all regional groups, to consider the conclusion of framework agreements on the enforcement of sentences with the Court. It is of particular concern that a very limited number of States Parties outside of Western Europe have thus far expressed their willingness to accept sentenced persons.

53. The Presidency of the Court continues its efforts to initiate or continue negotiations on enforcement agreements, and stands available to discuss all aspects of the matter with States, including avenues to address obstacles that may exist. The Court recalls in this respect the memorandum of understanding with the United Nations Office on Drugs and Crime (“UNODC”), which establishes a framework for the Court and UNODC to cooperate in assisting States Parties desiring to build their capacity to receive sentenced persons in accordance with international standards.

### **C. Arrest and surrender (Priority 3 in the 66 recommendations flyer)**

54. On 15 April 2016, Pre-Trial Chamber II rendered “The Corrigendum of ‘Orders to the Registrar concerning action to be taken in case of information relating to travel of suspects’”<sup>18</sup> (the “Orders”), whereby it instructed the Registry to take action in the “scenario whereby the Court, or any of its organs, receives information relating to travel, whether planned or ongoing, of persons for whom a warrant of arrest, still in effect, has been issued by the Court and who are still at large.”<sup>19</sup>

55. Pursuant to the Orders, from 2 September 2015 to 1 September 2016, the Registry transmitted 27 requests of follow-up requests for arrest and surrender, including to three States Parties. The Registry has subsequently submitted five public reports to the Chamber detailing the aforementioned efforts.<sup>20</sup> In this context, the Chamber has issued two decisions of non-cooperation.<sup>21</sup>

56. Additionally, increased coordinated efforts between the OTP and the Registry have been undertaken by creating an inter-organ working group on arrest strategies with a view to enhancing the prospect of the successful arrest and surrender of persons for whom a warrant of arrest has been issued by the Court and who are still at large.

57. The Court has also increased its interaction with the focal points on non-cooperation with regards to potential cases of non-cooperation. The Court is thankful to the focal points for the exchange of information related to this very important matter, and for the development of a “Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation”. The Court welcomes this initiative and highlights the importance for the Court to be able to gather in a timely manner as much information as possible with respect to the potential travel of suspects. Indeed, this initiative may foster increased and timely exchange of information and contribute to overcoming some of the difficulties that the Court has encountered in this regard.

58. In particular, these difficulties relate to the gathering of information regarding the potential travel of suspects at large (exact dates, confirmation of presence on the territory), the identification of focal points within the relevant national institution who can be reached urgently (i.e. after work hours and on weekends) in potentially visited countries by suspects at large, and information on the outcomes of demarches conducted by all other relevant actors (the Assembly, States Parties, regional and international organizations, civil society, etc).

<sup>18</sup> ICC-02/05-01/09-235-Corr.

<sup>19</sup> *Ibid*, page 3.

<sup>20</sup> ICC-02/05-01/09-271, ICC-02/05-01/09-269, ICC-02/05-01/09-265, ICC-02/05-01/09-260, ICC-02/05-01/09-255, ICC-02/05-01/09-251.

<sup>21</sup> ICC-02/05-01/09-266, ICC-02/05-01/09-267.

59. In light of the above and in order to ensure that information can be shared with the relevant units and sections of the Court in a timely and effective manner, the Court has established a joint email address (OTP-Registry) to which information regarding the travel of persons subject to a warrant of arrest can be sent directly.

60. The Court would also like to highlight again that the capacity of the UN Security Council to refer a situation to the Court is crucial to promote accountability, but active follow-up to referrals by the Council in terms of ensuring cooperation is necessary to ensure that effective justice can be delivered. The arrest and surrender of individuals subject to warrants of arrest are of particular importance. The Court also recalls the provisions of article 115 (b) of the Rome Statute, in accordance with which funds of the Court may be provided by the United Nations, in particular in relation to the expenses incurred due to referrals by the Council.

61. The Court has transmitted a total of 14 communications on non-cooperation to the Council regarding Darfur and Libya, including three during the reporting period. On 1 March 2016, the Secretary-General transmitted to the President of the Court a copy of a letter, dated 21 December 2015, from the then President of the Council, indicating that the decisions of the Pre-Trial Chambers concerning non-cooperation in the situations in Darfur and Libya had been brought to the attention of the members of the Council. The Court looks forward to engaging with interested parties to develop methods of structured dialogue between the Court and the Council, to discuss how to improve the implementation of obligations created by the Council, including the execution of arrest warrants, and to seek more constructive strategies for attaining the mutual goals of preventing and ending impunity for atrocity crimes.

62. As highlighted in its 2016 annual report on activities to the UN, the Court continues to welcome the guidelines of the Secretary-General on contacts with persons who are the subject of arrest warrants or summonses issued by the Court, and looks forward to further engaging in a dialogue aimed at facilitating cooperation on sanctions-related matters with the UN, including through the development of strategic partnerships and thematic discussions.<sup>22</sup>

#### **D. Mainstreaming the Court in regional and international fora**

63. As in the past, the Court has continued to encourage the mainstreaming, coordination and integration of Court issues between States Parties in the bilateral contacts, as well as in their capacity as members of regional and international organizations.

64. The Court believes regional and international organizations are important fora for States Parties to discuss and align support to and cooperation with the Court. Recommendation 61 notes that “States Parties should through their membership of international and regional organisations work to promote the mainstreaming of Court issues, horizontally and vertically within the organisations”. This is also supported by paragraph 22 of the 2015 resolution on cooperation, which “emphasizes the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and encourages States Parties to use their capacity as members of international and regional organizations to that end”.

65. The Court emphasizes the important role played by States Parties in these regional and international organizations in initiating and supporting joint statements, positions, declarations and resolutions promoting the Court and its general and situational activities (recommendation 62<sup>23</sup>), as these will contribute to strengthening the legitimacy of the Court, and encourage all relevant actors to provide the necessary cooperation to the Court.

66. Regarding the mainstreaming of its activities and mandate within the UN structure, the Court highlights in particular paragraph 23 of the 2015 resolution on cooperation, which “urges States Parties to explore possibilities for facilitating further cooperation and

<sup>22</sup> A/71/342, paras. 85-87.

<sup>23</sup> “States Parties should, where appropriate, initiate and support joint statements, positions, declarations and resolutions to be issued through regional and international organisations promoting the Court and its general and situational activities”.

communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions".

67. Further information and suggestions from the Court on areas to consider for further mainstreaming of Court activities within the UN system can be found in the Court's 2016 annual report on activities to the UN.<sup>24</sup>

#### **IV. Conclusion**

68. The Court looks forward to continuing its active engagement with States Parties, including through the working group cooperation facilitation, in order to find creative, tangible and concrete solutions to address the seven cooperation priorities identified. The different activities carried out by the Court during the reporting period should be understood as part of a wider strategy to enhance cooperation and find solutions for the specific challenges identified.

69. The Court would warmly welcome any initiatives by States to engage in dialogue with the Court on the issues addressed this report, to provide feedback, or to discuss proposals for the purpose of enhancing cooperation and for solving any obstacles that may exist.

70. The Court underlines that the timely, consistent and strong support and cooperation from States Parties, as well as other relevant stakeholders, is essential to allow the Court to fulfil its mandate effectively and efficiently, providing meaningful justice to victims and the affected communities, as well as reinforcing the legitimacy and credibility of the Rome Statute system and the commitment of the international community towards it.

71. The Court is thankful to the Assembly and the States Parties, as well as many non-States Parties and other stakeholders and partners, for their cooperation and support and remains available for further discussion or information on the basis of this as well as past reports.

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<sup>24</sup> A/71/342, paras. 88-90.