

**Eighteenth session**

The Hague, 2-7 December 2019

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

1. This Report on Cooperation is submitted by the International Criminal Court (“ICC” or “Court”) pursuant to paragraph 31 of resolution ICC-ASP/17/Res.3 (“2018 resolution on cooperation”). It covers the period of 2 September 2018 to 1 September 2019.¹
2. Similar to the Court’s 2014, 2015, 2016, 2017 and 2018 cooperation reports², this report is meant to provide an update on the different cooperation efforts undertaken by the Court with the support of States and other stakeholders during the reporting period.
3. This report should be read in conjunction with the latest ICC annual report to the United Nations General Assembly (A/74/324), providing, *inter alia*, information on the Court’s recent cooperation with the United Nations (“UN”).
4. The Court also recalls its analytical reports on cooperation matters, notably its general 2013 cooperation report³ and its specific 2013 report on cooperation between the Court and the UN,⁴ as useful sources of information regarding the key cooperation needs of the Court which remain valid to date.
5. Finally, the Court underlines the continued relevance of the 66 recommendations on cooperation adopted by States Parties in 2007,⁵ as well as the flyer that was produced by the co-facilitators of the working group on cooperation in 2015⁶ in collaboration with the Court in order to promote the 66 recommendations and increase understanding and implementation of them.
6. Indeed, the Court strongly believes that both documents continue to form an important basis for cooperation discussions and efforts, which can render the assistance to the Court more efficient and effective. The Court therefore welcomed the decision of the Assembly of States Parties (“Assembly” or “ASP”) 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”.⁷

¹ 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.

² ICC-ASP/13/23, ICC-ASP/14/27, ICC-ASP/15/9, ICC-ASP/16/16 and ICC-ASP/17/16.

³ ICC-ASP/12/35.

⁴ ICC-ASP/12/42.

⁵ Resolution ICC-ASP/6/Res.2, annex II.

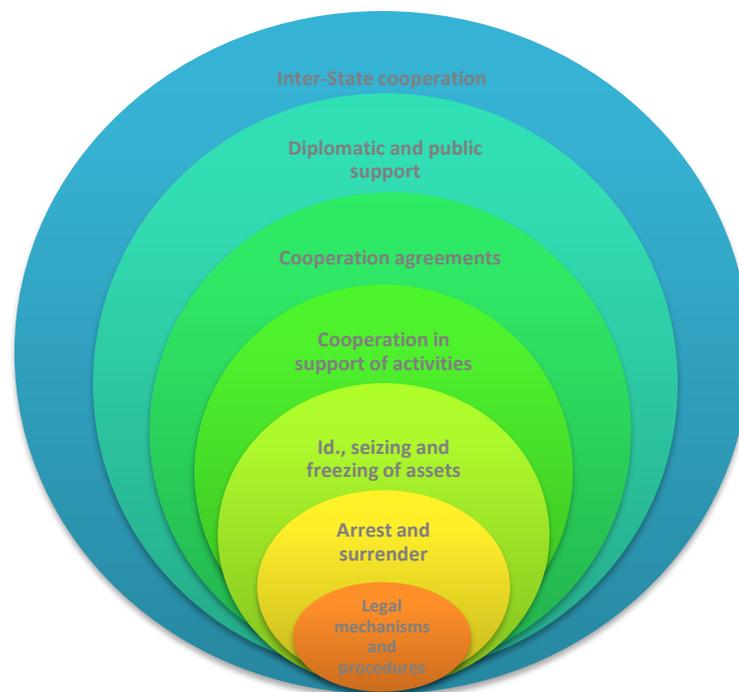
⁶ “Recommendations on States’ Cooperation with the International Criminal Court (ICC): Experiences and Priorities”, [https://www.icc-cpi.int/news/seminarBooks/66%20Recommendations%20Flyer%20\(ENG\).pdf](https://www.icc-cpi.int/news/seminarBooks/66%20Recommendations%20Flyer%20(ENG).pdf).

⁷ ICC-ASP/17/Res.3, para. 26.

7. During the reporting period, the Court had the opportunity to continue to engage with States Parties on its cooperation priorities and challenges, as well as to brief them regularly on its ongoing efforts aimed at advancing these priorities, including in the context of the facilitation on cooperation of the Hague Working Group.

8. Using as a compass the seven priority areas for cooperation identified in the 66 recommendations flyer, this report is intended to provide (i) an update on the efforts undertaken by the Court during the reporting period to strengthen cooperation in those areas; and (ii) the Court's contribution to the 66 recommendations implementation review, identifying recommendations for a way forward for each cooperation priority, based on the Court's experience and lessons learned in the past 16 years of operation.

II. Update on ICC efforts regarding the seven priority areas for cooperation identified in the 66 recommendations – and recommendations on way forward



The seven priority areas for cooperation identified in the 66 Recommendations Flyer

1. Enacting the legal mechanisms set in the Rome Statute and setting up effective procedures and structures regarding cooperation and judicial assistance

(a) Update on ICC efforts during the reporting period

9. From 21 to 24 January 2019, the Court held at its seat its 6th Focal Points Seminar on Cooperation with attendance by 28 national focal points from situation countries (the Democratic Republic of the Congo, Uganda, the Central African Republic, Libya, Côte d'Ivoire, Mali and Georgia) and other countries of relevance for the judicial activities of the Court and which are instrumental in facilitating the cooperation between the Court and the competent authorities.

10. These gatherings provide a unique platform to enhance dialogue and cooperation between the Court and States, including on new developments in terms of technical areas of cooperation (such as witness protection, disclosure, cooperation with the Defence, financial investigations and asset recovery, implementation of arrest warrants); they also have contributed to the development of an informal network of national experts on cooperation

with the Court that can share and learn from each other's experiences. The Court has benefited in this context from the support and participation of the HWG cooperation co-facilitators, as well as from regional and specialized networks and organizations, that have also shared their expertise and provided new avenues for States to interact and seek support should they need it to fulfil their cooperation obligations vis-à-vis the Court.

11. Additionally, the seminar was also an opportunity to highlight how the Court and the national focal points can support efforts towards complementarity and sharing of experiences. In that vein, the HWG co-facilitators on complementarity, Australia and Romania, were able to present the work conducted by the ASP on this issue, and non governmental organizations were also invited to explain how they can assist States in building capacity with a view to investigate and prosecute ICC crimes as well as strengthen their cooperation with the Court.

12. For the first time in the context of the Focal Points Seminar, the Court organised a one day technical seminar with 21 experts immediately following on the Focal Points gathering; it focused on cooperation on financial investigations and the recovery of assets and it took place on 25 January 2019 at the seat of the Court. This seminar was organised in the same spirit as the previous seminar organised at the Court in October 2015 pertaining to the cooperation challenges faced by the Court when conducting financial investigations, and it took into consideration the Paris declaration adopted by the ASP in 2017 encouraging States and the Court to reinforce their work in this important area. Further information on this technical seminar can be found in paragraph 54 of this report.

13. During the reporting period, the Registry has conducted high-level and technical missions to Chile, Costa Rica and Panama, to *inter alia* hold in-depth discussions with national authorities with the purpose of clarifying the cooperation framework set in the Rome Statute as well as of understanding the national proceedings regarding cooperation requests emanating from the ICC. These missions allow for engagement with multi-ministerial counterparts that are part of the national effort in cooperating with the Court, and allow the Registry to identify specific focal points as well as areas of further cooperation (including regarding cooperation agreements). They can also be used as opportunities to raise awareness of the Rome Statute and the Court within a variety of relevant pools of interlocutors, such as the judiciary, law enforcement agencies, bar associations, specialized units working on witness protection or asset recovery, as well as civil society, academia and students.

(b) *Recommendations on way forward*

14. As recalled by paragraphs 6 to 8 of the 2018 ASP resolution on cooperation, as well as in the Paris Declaration with respect to the tracing and recovery of assets, adequate implementing legislation at the national level, including through integration of the relevant provisions of the Rome Statute into national legislation, greatly facilitates cooperation between the Court and States. As less than half of the 122 States Parties have adopted legislation in order to implement the cooperation obligations provided for in Part 9 to this date, the Registry of the ICC has availed itself in several instances during the reporting period to provide support and technical advice to interested States engaged in a domestic process to adopt cooperation implementing legislation. While the Registry will not provide substantive advice on matters for national concern, it is ready to participate in discussions and provide written submissions to national stakeholders at the request of the State on the key elements of Part 9, and share what has been its experience and lessons learned in the last 15 years of implementing the cooperation provisions with States Parties.

15. Clear procedures and distribution of roles and responsibilities at the domestic level in the national implementing legislation will help governments ensure that they can expeditiously respond to requests for assistance coming from the Court without any undue delay and that they can also investigate and prosecute ICC crimes before their national jurisdictions as relevant.

16. Further, 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 on the way the different requests for assistance from the Court will be treated.

17. Finally, the clear definition of a legal basis for cooperation between the Court and States Parties covering all relevant aspects of potential judicial cooperation requests 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.

18. In addition, it has been the Court's experience that the availability of channels of communication and simplified domestic procedures for dealing with ICC cooperation requests, as well as coordination and information sharing between national authorities dealing with Court cooperation requests, all contribute to a smoother, more efficient cooperation.

19. As paragraph 15 of the 2017 resolution on cooperation stresses, it is a matter of priority for the Court that States that have not yet done so to become parties to the Agreement on Privileges and Immunities of the ICC ("APIC"), and that they incorporate it in their national legislation, as appropriate.

20. States Parties are under an obligation stemming from article 48 of the Rome Statute to "respect such privileges and immunities of the Court as are necessary for the fulfilment of its purposes". Paragraphs 2-4 of article 48 furthermore provide for the privileges and immunities of specific categories of Court officials and other persons. However, the general nature of article 48 may give rise to differing interpretations of the exact scope of the Court's privileges and immunities in concrete situations. This may be problematic for the Court as well as for the States concerned.

21. Indeed, the Court faces various challenges in the context of its operations relating to the interpretation or application of the relevant legal provisions, or the absence of necessary privileges and immunities. In instances of travel to States that have not become parties to the APIC, the Registry has to send notes verbales based on article 48 and invite States to grant the privileges and immunities, instead of relying on existing legal protections covered by the APIC. Given the current and potential future contexts of operation of the Court, as well as the liability issues that can be attached, the lack of these legal protections for staff and its work can have clear legal, financial and reputational consequences for the Court and States.

22. APIC increases legal clarity and security by specifying in detail the scope of the Court's privileges and immunities. By acceding to or ratifying APIC, States can ensure consistent and unambiguous application of the Court's privileges and immunities on their territory.

23. Consequently, all States Parties are strongly urged to ratify or accede to APIC for their own as well as the Court's benefit. States are also encouraged to implement the provisions relating to the Court's privileges and immunities in their national legislation, and to take active steps to ensure that the relevant national authorities are aware of the Court's privileges and immunities and their practical implications.

2. Cooperation in support of preliminary examinations, investigations, prosecutions and judicial proceedings (including with the Defence)

(a) Update on ICC efforts during the reporting period

24. In the context of its investigations and prosecutions, the OTP submitted over 587 requests for assistance to 77 different partners, including States Parties, non-Party States, and international and regional organisations, during the reporting period, representing an increase of 3,52 per cent compared to the last reporting period. During the same period, the Office also received 38 formal requests for judicial assistance from States, representing an increase of more than 80 per cent compared to the last reporting period as well as numerous requests for preliminary information checks for expertise, training and operational advice, including on local contacts or contexts and standard operating procedures in a given environment.

25. Notwithstanding the very high number of requests as well as the variety of the types of support requested by the OTP from States, overall, cooperation has been forthcoming and positive. Nevertheless, the OTP continues to experience challenges in the execution of certain particularly large, technical or sensitive requests and continues to dedicate much time and efforts to consult with the relevant authorities and identify suitable procedures.

26. During the reporting period, the Registry transmitted 321 requests for cooperation to States and international organisations on behalf of the Chambers, on behalf of the Defence or on its own account⁸.

27. In line with paragraph 13 of the 2018 resolution on cooperation, and in accordance with its mandate, the Registry has continued its efforts to encourage States to enhance their cooperation with requests from the Defence teams, in order to ensure the fairness of the proceedings before the Court, as well as to contribute to the expeditiousness of proceedings. Reference is made here to paragraph 26 of the 2018 Report on cooperation, which further details the forms of cooperation and assistance needed from the Defence teams from States.

28. Based on its experience, the Registry continues to deal with challenges regarding cooperation with the Defence teams, and most specifically linked to privileges and immunities; an important element of the assistance provided by the Registry to the Defence teams is to ensure that, whenever possible, the members of the teams enjoy Privileges and Immunities, which are fundamental for the performance of their duties in the territory of States where they operate. This assistance is however not always possible given the lack of internal mechanisms in the relevant States to provide such privileges and immunities.

29. Another area that has called for increased efforts of the Registry in recent years in the area of voluntary cooperation pertains to States' support to the Trust Fund for Family Visits ("TFFV"). As part of its ongoing efforts to achieve and maintain the highest standards of justice and fairness, the Court endeavours to uphold its obligations related to non-judicial aspects of Court administration, including by facilitating family visits for detained persons. The right of all persons detained by the Court to receive such visits is provided for under Regulation 100(1) of the Regulations of the Court and Regulation 179 of the Registry.

30. In its decision of 10 March 2009, the ICC Presidency upheld that the Court had an obligation to provide and fund family visits for indigent detained persons due to the fact that (i) persons detained in The Hague tend to be far from where their family is located, and (ii) pre-trial proceedings and detention, during which time detained persons are presumed innocent, can extend over several years. Reinforcing the decision of the Presidency, the ASP, in Resolution ICC-ASP/8/Res.4 (2009), mindful of the overall responsibility of the Registrar to manage the detention centre and ensure that detainees are treated humanely in the course of detention in different phases of the trial arising from the sui generis nature of the Court, reaffirmed that according to existing law and standards, the right to family visits does not constitute a co-relative legal right to have such visits paid for by the detaining authority or any other authority, and invited the Court to continue to address the well-being of detainees in its custody, paying particular attention to the maintenance of family contacts.

31. Subsequently, the ASP in ICC-ASP/9/Res.4 (2010) decided to establish a special fund within the Registry for the purpose of funding family visits for indigent detainees entirely through voluntary donations, and charged the Court with promoting the special fund and collecting contributions from States Parties, other States, non-governmental organizations, civil society, individuals and other entities.

32. In the experience of the Court, and its Detention Centre in particular, the facilitation of family visits for indigent detained persons through the TFFV has played a critical role in promoting psychosocial well-being. This, in turn, has had a significant, positive impact on how judicial proceedings have progressed. Having direct contact with immediate family members helps detained persons to maintain their mental and physical health throughout

⁸ This number does not reflect notifications of judicial documents, missions and requests concerning the signature of voluntary cooperation agreements.

what is an often lengthy judicial process. Accordingly, in contributing to the well-being of detainees, facilitating the maintenance of family contacts can save the Court valuable time, as well as human and financial resources, for example, by preventing the delay of proceedings due to issues related to a detained person's mental or physical health.

33. As family visits for indigent detainees are subsidized entirely through voluntary contributions by States, non-governmental organizations and individuals to the TFFV, the full and timely implementation of these essential rights is intrinsically linked to the availability of adequate funding. Since its inception, the Fund has received a total of close to 250,000 Euros from five States. While the Court is very thankful to the States that have supported the Trust Fund, it wishes to alert the States to the fact that the Fund is currently depleted, and therefore stresses the importance of sustainable and adequate funding for this activity, so as to avoid the risk of infringing on the Court's obligations and potential negative outfalls on the integrity of the proceedings and the legitimacy of the ICC. The Registry has been reaching out to States Parties for several years on a regular basis to call for voluntary donations for this Fund, and will be launching a brochure and a communication campaign around this issue to continue to stress the importance of this matter.

34. During the reporting period, the Court has also continued to receive crucial support and cooperation from the UN. The Court has welcomed the issuance of the "Best practices manual for United Nations-International Criminal Court cooperation" in 2016, as well as the ongoing engagement with the UN in order to further clarify and mainstream the needs and mandates and the cooperation procedures between the two institutions. The Court is grateful for the important role OLA plays in coordinating its requests for assistance to various departments of the UN Secretariat, to the UN funds, programmes and offices, as well as to Specialized Agencies, and relies on its Liaising Office based in New York to engage strategically with the UN and States.

35. During the reporting period, the Court continued to maintain Country Offices in the DRC, the CAR, Mali, Côte d'Ivoire, Uganda and Georgia. The Country Offices provide in-country security, administrative and logistical support to the activities of the parties and participants to the proceedings in front of the Court, notably the OTP, defence teams and the Trust Fund for Victims ("TFV"). The Country Offices also handle a number of Registry functions in relation to witness protection, victim participation, outreach and cooperation. Engagement and cooperation with national and local authorities, international organisations and the diplomatic community are among the key aspects in the work of the Country Offices, and without which the Court could not maintain sustainable operations in the situation countries. During the reporting period, the Court continued to strengthen its cooperation with the UN, especially in Mali with the peacekeeping operation on the ground ("MINUSCA").

(b) *Recommendations on way forward*

36. States should strive to maintain a high level of cooperation for all requests coming from the Court, including requests that might be perceived as sensitive or technically complicated at first glance. In particular, they could consider offering consultations and facilitating meetings between the Court organs formulating the requests and the competent national authorities ultimately in charge of executing them with a view to finding solutions together, to suggesting potential alternative ways to assist or transmit the information sought, or organising regular bilateral meetings to follow up on execution of such requests to exchange on the most efficient way forward.

37. The matter of cooperation with the Defence teams is a very important one for the Court, and it is recalled by paragraph 13 of the 2018 Resolution on cooperation, which "urges States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court".

38. Based on the analysis of the main challenges regarding cooperation with the Defence teams, the Registry has identified the following recommendations for the consideration of States and other stakeholders to provide further reflection on possible avenues to explore to enhance this form of cooperation:

- (a) States could consider informing the Registry on whether they would prefer to receive requests for cooperation from the Defence teams through the Registry or directly from the teams;
- (b) States could consider mainstreaming information within national judiciary and law enforcement on the legal framework of the Court and cooperation obligations with the Court as a whole, including Defence teams;
- (c) States could consider specific discussion among States and the ICC on the challenges and impediments (whether legal, technical, logistical or financial) faced by States to answer Defence requests for cooperation;
- (d) Compliance by the Defence teams of the requirements established by the ICC jurisprudence regarding the cooperation requests, i.e. specificity, relevance and specificity;
- (e) Regular meetings of Defence Teams with the ICC Focal Points from the relevant international organizations;
- (f) Ratification of the Agreement on Privileges and Immunities by all States Parties;
- (g) States could consider having clear and agreed procedures at the domestic level regarding privileges and immunities; not only for ICC staff but also for Defence teams; and
- (h) States could consider signing the framework agreements on interim release, release and enforcement of sentences.

39. Besides cooperation in support of the Court's activities, the Court wishes to recall also the challenges related to non-cooperation. In furtherance of prerogatives and obligations under the Statute, it is hoped that the ASP will increase its efforts with a view to preventing non-compliance, especially in the critical matter of the arrest of persons subject to warrants issued by the Court. In this respect, the Court is grateful for the appointment by the Bureau of the non-cooperation focal points, as well as for their efforts to develop the "Toolkit for the Implementation of the Informal Dimension of the Assembly Procedures Relating to Non-Cooperation". As the ASP has requested the Bureau, "through the focal points on non-cooperation, to continue engaging with all relevant stakeholders to conduct a review of the Assembly Procedures relating to non-cooperation, with a view to recommending any necessary additions or amendments", the Court hopes that further consultations will take place with a view to strengthening these procedures, as well as to developing guidelines regarding the formal dimension of the ASP procedures regarding non-cooperation.

40. The Court would also like to highlight again that the capacity of the UN Security Council to refer a situation to the Court is a crucial tool to promote accountability and avoid an impunity gap, but active follow-up to referrals by the Council in terms of ensuring cooperation remains necessary to ensure that effective justice can be delivered when peace, security and well-being of the world are threatened.

41. The Court has transmitted a total of 16 communications on non-cooperation to the Council regarding Darfur and Libya, including one 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. Since then there has been no formal reaction from the Council to the communications on non-cooperation. 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. Following the Arria-formula meeting on the ICC and the Council, organised on 6 July 2018, the Court continues to highlight and make efforts, where appropriate, to follow-up on concrete areas and ideas that can contribute to enhancing the interaction between both bodies. States Parties – in particular through their Permanent Missions in New York – play a lead role in this regard.

3. Arrest and surrender

(a) Update on ICC efforts during the reporting period

42. During the reporting period, Mr Alfred Yekatom was surrendered to the Court by the Central African authorities on 17 November 2018; Mr Patrice-Edouard Ngaïssona was arrested by the authorities of the French Republic on 12 December 2018 and transferred to the ICC detention centre on 23 January 2019, upon completion of necessary national proceedings. Both suspects were sought for alleged crimes committed in the context of the situation in the Central African Republic II.

43. Court-issued requests for arrest and surrender remain outstanding against 15 individuals:

- (a) DRC: Sylvestre Mudacumura, since 2012;
- (b) Uganda: Joseph Kony and Vincent Otti, since 2005;
- (c) Darfur: Ahmad Harun and Ali Kushayb, since 2007; Omar Al-Bashir, since 2009 and 2010; Abdel Raheem Muhammad Hussein, since 2012; Abdallah Banda, since 2014;
- (d) Kenya: Walter Barasa, since 2013; Paul Gicheru and Philip Kipkoech Bett, since 2015;
- (e) Libya: Saif Al-Islam Gaddafi, since 2011; Al-Tuhamy Mohamed Khaled, since 2013; Mahmoud Mustafa Busayf Al-Werfalli, since 2017; and
- (f) Côte d'Ivoire: Simone Gbagbo, since 2012.

44. The pending arrest warrants are an unfortunate testament to the challenges the Court faces in terms of cooperation. The ICC will not be able to fully exercise its mandate without arrests and/or surrenders, as court proceedings cannot commence without the presence of the suspect(s). The Court therefore appreciates any efforts and strategies devised by States Parties to work towards ensuring the timely arrest and surrender of those individuals at large. The priority given to this matter during the second half of the reporting period by the HWG co-facilitators on cooperation is welcome; the Court believes additional efforts are needed by all States Parties to ensure suspects are brought to the Court to answer to the charges levelled against them.

45. The OTP and the Registry continued their common efforts to devise and implement strategies to facilitate the arrest of suspects within the inter-organ working group on arrest strategies created in March 2016. The working group continued to meet regularly to exchange views and information on judicial activities relevant to the warrants of arrest, to centralise, verify and analyse factual information received from external or internal sources, to develop sources and foster support from relevant state and non-State partners, to share and confront leads, to make use of investigative tools available to the OTP and to develop and implement joint cooperation strategies and missions to foster arrest of ICC fugitives.

46. In view of the past difficulties faced by other international criminal tribunals to obtain the arrest of suspects, the Court undertook a number of actions at the end of 2018 to promote the importance of arrest as a priority for the Court and States. A seminar was organised on 7 November 2018 at the seat of the Court by the co-facilitators on cooperation of the Hague Working Group to discuss inter alia how States can efficiently cooperate with the Court. This seminar aimed at providing a better understanding of the procedures and challenges faced within the diplomatic community for communication to the different capitals. The issue was also raised by the Prosecutor and the Registrar during the cooperation session of the Assembly of States Parties to stress the importance of both high level political commitment and more practical contributions such as the provisions of information or transportation. In addition, the Court has increased its efforts to highlight this issue namely by (i) creating and keeping up to date a dedicated website page on suspects at large, (ii) preparing a leaflet that underscores the importance of arrest and reminds about the outstanding warrants and (iii) launching a social media campaign to raise awareness on this issue.

(b) Recommendations on way forward

47. Based on its experience, the Court believes that in order to galvanize arrest efforts, different types of actions are needed for each warrant at different stages, all of relevance to the States. These notably include:

- (a) Tracking efforts (whereabouts, movements, activities):
 - (i) Access to information from national authorities, including when appropriate specialised services (if only to validate or invalidate information collected by the Court);
 - (ii) Transmission of information and alerts on suspects; and
 - (iii) Availability of judicial measures and tools to facilitate access to information on the whereabouts of suspects;
- (b) Identification of potential leverage and partners:
 - (i) Support in multilateral fora (UN, regional, specialised networks) and bilateral encounters, and efforts to keep the issue on the agenda;
 - (ii) Insertion of arrest warrant execution in talking points and external relation strategies;
 - (iii) Focus on compliance with ICC decisions;
 - (iv) Link arrests to the importance of the Court's mandate. Campaigns and reminders on the alleged crimes and the charges, especially in the situation where the investigations take place; and
 - (v) Reactivity when information sent on suspects movements;
- (c) Operational support:
 - (i) Surrender procedures and availability of legal and technical processes;
 - (ii) The existence of exceptions to UN travel bans for the fulfilment of a judicial process are also a useful tool for the ICC for the purposes of bringing arrested individuals to the Court, and these mechanisms need to be triggered on an urgent and simplified basis; and
 - (iii) Transport and logistics.

48. With arrest warrants outstanding against 15 individuals, the time is ripe to encourage all relevant stakeholders to re-commit and make meaningful strides in order to find remedy to this crucial challenge to the cooperation regime and the credibility of the Rome Statute system.

49. Through its dedicated Working group and its external relations efforts, the Court will continue to promote further informal exchanges and coordination with States and relevant intergovernmental organizations to share information and develop concrete strategies towards arrests, including but not limited to efforts concerning sanctions and travel bans.

50. The Court has also developed factsheets on the suspects at large, a leaflet to increase attention for and knowledge of pending warrants, as well as reformulated its website to further highlight the issue and make relevant information easier to access as well as to facilitate transmission of relevant information from external sources. These efforts were combined with a communication campaign launched in November 2018, and the Court will continue to call upon its States Parties to support it with similar efforts at the national and regional levels.

4. Identification, seizing and freezing of assets

(a) *Update on ICC efforts during the reporting period*

51. Regarding this key cooperation matter, the Court is thankful to the HWG cooperation co-facilitators for the efforts put forward in the course of 2017, including the organization of a conference on "The International Criminal Court and International Cooperation: The Challenges of Asset Recovery" in Paris on 20 October 2017, with the support of the Court, as well as the adoption of the Paris Declaration, which forms a very useful basis for further discussions and concrete enhancements regarding cooperation in this area.

52. The OTP and the Registry have approached several State Parties on a bilateral basis during the reporting period to explore with them ways to access information in a timely manner and identify focal points among the relevant authorities and fast track channels to ensure preservation of relevant information. Reference is made here to paragraphs 48 to 56 of the 2018 ICC Report on cooperation, which detail the specific legal and operational framework in which the Court seeks cooperation from States and other stakeholders in the area of financial investigations and recovery of assets.

53. The Court has continued its efforts to exchange with States to improve its requests and explain its specific mandate to States as recommended by the Assembly of States Parties following the Paris Declaration. On 25 January 2019, it organised a technical seminar on cooperation with respect to financial investigation and recovery of assets at the headquarters of the ICC, providing a forum of discussions with the focal points of the Court in situation countries and States receiving requests for cooperation of this nature. The seminar had three objectives (i) discuss further the specific challenges pertaining to the cooperation with the ICC and the courses of action proposed by States identified during previous fora (ii) discuss how to ensure diffusion of this specific knowledge not only at the focal point level but to all practitioners in the country and (iii) encourage exchanges between States that have been receiving requests for assistance from the Court in this field. The format of the exercise enables substantive exchanges with experts in countries and should be replicated with partners from different regions. The Registry raised the importance of this issue during high-level and technical missions undertaken during the reporting period, notably in Latin America, as well as in Western and Eastern Europe.

54. During the reporting period, the Registry faced difficulties in obtaining diligent replies from States in this area. In one case, the requests sent to States in 2018 requesting the identification, tracing and freezing of assets have not received yet a reply at the moment of the drafting of this report. The Registry is also exploring for the first time the issue related to the cooperation of States with respect to enforcement of fines.

(b) *Recommendations on way forward*

55. A number of immediate steps could indeed be taken by States to support the work of the Court:

(a) The adoption of the necessary legislation or procedures in line with Rome Statute obligations to be in a position to reply timely and effectively to relevant requests from the Court. It is paramount that the Court can count on the full and timely cooperation from States in order to successfully reconstruct the complex asset recovery scheme of any given ICC suspect and/or accused;

(b) Streamlining ICC specific needs domestically so that the prosecution of war crimes and crimes against humanity triggers the same reflexes in terms of financial intelligence and investigations as the prosecution of financial crimes or transnational organised crimes. It is hoped that the leaflet that was produced last year by the Court will help the national experts in understanding better these needs;

(c) The opening of domestic investigations into possible financial crimes on the basis of information received by the Court so that States can use the full arsenal offered by their national law;

(d) The appointment of focal points on freezing of assets, without prejudice to the formal channels of communication identified by each State, to follow-up on exchanges with the ICC as appropriate;

(e) Within the judicial context, by replying to the Chamber's requests and asking for clarification where required, States can contribute in shaping the Court's case-law on this complex matter; and

(f) Periodic bilateral meetings can be organised so that the staff of the Court understand the specificity of relevant national systems and identify the best procedures to follow together with the requested State; the Court has already started to include this item in all planned meetings with relevant State representatives it meets, whether at the headquarters in during missions.

56. Subject to the Chamber's authorization, the Registry recommends to share information provided individually by several States amongst these States with a view to obtaining a more general picture of the estate of the person. This way, States can combine their analytical efforts to obtain more targeted and comprehensive information to the benefit of the Court.

5. Cooperation agreements

(a) *Update on ICC efforts during the reporting period*

57. During the reporting period, the Court concluded agreements on the enforcement of sentences with the Republic of Slovenia, on 7 December of 2018, and with Georgia, on 24 January 2019. Similar agreements on the enforcement of sentences are currently in force between the ICC and the governments of Argentina, Austria, Belgium, Denmark, Finland, Mali, Norway, Serbia, Sweden and the United Kingdom of Great Britain and Northern Ireland. The Presidency of the Court calls on all other States Parties to consider entering to such an agreement with the Court, which would be consistent with the principle of equitable distribution, as provided for in article 103(3)(a) of the Statute and rule 201 of the Rules of Procedure and Evidence. The Presidency stands available to provide additional information and enter into bilateral discussions with any interested State Party regarding agreements on the enforcement of sentences.

58. One additional country signed an agreement on the relocation of witnesses with the Court during the reporting period.

59. The Registry continued to engage actively on the promotion and the negotiation of cooperation agreements. As part of these efforts, the Registry engaged directly with over 21 States during the reporting period, including nine from the GRULAC region, two WEOG, six Eastern European, two African States and 2 States from the Asia-Pacific group. It conducted high-level missions to three countries and working level missions to five countries in order to further exchange on the agreements, and used the opportunity of the cooperation seminars, high level visits to the Court and other gatherings to raise the matter with a wide range of stakeholders. The Registry has also continued to develop the practice of informal videoconferences with relevant officials in capitals of interested States in order to provide additional information and clarify concerns or misconceptions on the agreements. This has proven to be a quite successful practice, and one that the Registry is ready to explore with other interested countries. Finally, the Registry continues to rely on the brochure on cooperation it has developed in English, French and Spanish to promote better understanding of its needs, as well as to share with interested States model agreements they can consider in their national discussions.

60. Finally, the Registry is also engaging with States that have recently adopted implementing legislation concerning Part 9, which also foresee in part or in whole cooperation regarding the subject-matter of the agreements, and during the reporting period have work with two of these States to identify further steps in order to operationalize their support in these critical areas.

61. The Court is grateful in this regard for the support of civil society to promote these agreements, and is in particular thankful to the Coalition for the ICC, Parliamentarians for Global Action and the International Bar Association for their work.

62. Given the scarce amount of framework or ad hoc cooperation agreements on interim release, the Registry is facing challenges to implement the Chambers' decisions on this regard. As emphasized many times by the Court, the consequences of the absence of States Parties willing to accept released persons are serious. For example, individuals who cannot be successfully relocated may remain *de facto* detained, despite having been released. In this respect, other international criminal tribunals such as the International Criminal Tribunal for Rwanda, have had encountered difficulties finding States willing to accept acquitted persons on their territory. In addition to the egregious impact such a situation would have on the released person, it prevents the Court's system from functioning and runs counter to the Court's objective of applying the highest international standards. Moreover, in the case that the Pre-Trial or Trial Chamber grants a person with interim release, in order for it to be effective, the Court must rely on States Parties and their willingness to accept the person on their territory. If States Parties are unwilling to do so, this could hamper the possibility of interim release or render it impossible.

63. In February this year, the Appeals Chamber decided on the conditional release of both Mr. Gbagbo and Mr. Blé Goudé in the situation in Côte d'Ivoire. A signatory country of the interim release agreement accepted to receive Mr. Gbagbo on its territory. As regards to Mr Blé Goudé, efforts have been on-going to find a suitable solution. These include:

(a) 40 requests have been sent to States Parties. Amongst the reasons for the selected countries were: existence of legal arrangements, family ties, geographical proximity to the Court, interests of the defence and other parties and participants; and

(b) Bilateral meetings and phone conferences with States' experts aimed at conveying the importance of the situation, as well as focused on finding concrete answers to the challenges put forward.

64. While these energies are geared towards finding a solution to the case at hand, it is crucial to build a common understanding of the fact that voluntary cooperation requires sustained multilateral efforts for the Court and States Parties to find effective long-term answers.

65. In recognition of this, the seminars that the Court has been organising with the financial support of the EU have consistently included a segment on voluntary cooperation. Technical Registry missions have also been deployed to targeted and interested countries. This is a recent practice that has borne results, and the Registry remains available for States to consider receiving the Registry's experts.

66. Additionally, the Registrar and Registry management have actively been pursuing the conclusion of cooperation agreements in all meetings with Ambassadors and visiting high-level dignitaries. Since 2017, a booklet explaining the agreements, answering to the frequent questions and including the framework agreements for negotiation has also been part of the outreach on voluntary cooperation, and is available online on the Court's website.

(b) *Recommendations on way forward*

67. Based on the efforts of the last four years to prioritize the signature of these agreements, the Court has identified some recommendations for the consideration of States:

(a) The inclusion of elements of the cooperation agreements in the provisions of national implementing legislation of the Rome Statute, which will facilitate the negotiation, if needed, with the Court, for the later operationalization of this cooperation; the Registry is available to advise States in this regard, if relevant;

(b) The possibility to engage in synergies between the cooperation and the complementarity facilitations, especially when considering the identified needs of certain States and available organizations or States that can share their expertise or provide capacity-building activities, including in areas covered by the cooperation agreements (such as witness protection, monitoring systems, reintegration programs or the penitentiary national systems);

(c) The possibility for States that have signed cooperation agreements with the Court to act as “goodwill Ambassadors” in their region and in their contacts with other States, in order to explain how they are working with the Court and to clarify implications and opportunities;

(d) The availability of the Court to take part in videoconferences or technical engagements with the relevant national stakeholders of interest countries, to discuss in detail the agreements and how they can function within the national legal framework of each State;

(e) The possibility of including the signature of cooperation agreements as an item in the agenda of meetings of regional groups; and

(f) The availability of the Special Fund for Relocations and of Memoranda of Understanding with the UNODC, which can contribute to neutralize costs for the State, as well as to enhance the national capacity of an interested State, not only to cooperation with the Court but also to strengthen its domestic system.

6. Diplomatic and public support in national, bilateral, regional and international settings

(a) Update on ICC efforts during the reporting period

68. From 24 to 27 September 2019, the ICC President and Prosecutor attended the 74th session of the UN General Assembly (“UNGA”) at the UN Headquarters in New York, to advance their respective mandates under the Rome Statute. Drawing Heads of State and Government, ministers, senior officials and civil society leaders, the annual high-level segment of the UNGA provided a key strategic for the Court’s principals to highlight the work of the ICC within their respective roles, to build support, and to draw on synergies with relevant stakeholders and actors to further the goals of the Rome Statute. The President and the Prosecutor held several bilateral meetings with a number of Heads of State and Government and other dignitaries from States Parties and also not party to the Rome Statute, in addition to addressing the Informal Ministerial Network (“IMN”) for the ICC, a network of over 30 Ministers of Foreign Affairs representing ICC States Parties from all regional groups.

69. The President addressed the 55th Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) on 29 June 2019, highlighting that peace, development, the rule of law and justice are interlinked, and calling for the active support of ECOWAS member states for the Court’s work. The President also conducted many other missions and reached out to government leaders in States Parties as well as States not party to the Rome Statute with a view to galvanising support for the Court’s mandate and activities.

70. The Court continued its dedicated efforts to engage with the European Union (“EU”), in various fora and platforms, including the EU Political and Security Committee, which visited the Court on 4 July 2019, and the COJUR-ICC, as well as with the EU Special Representative for Human Rights, Mr Eamon Gilmore. The Prosecutor also participated in the European Parliament’s Human Rights Week, in November 2018, on the occasion of the 70th anniversary of the Universal Declaration of Human Rights. She also participate, on 23 May 2019, in the fourth EU Day against Impunity for Genocide, Crimes against Humanity and War Crimes, organized by the Romanian Presidency of the Council of the EU and Eurojust.

71. The OTP continued its practice of organising regular diplomatic meetings with the various regional groupings. During the reporting period, the Prosecutor briefed, inter alia, the African, Caribbean, and Pacific Group of States (“ACP”) on 24 January 2019, in Brussels.

72. In addition to previously mentioned high level and technical missions to Latin America and the Caribbean to promote cooperation, universality and raise awareness on the mandate of the Court (Chile, Costa Rica and Panama), the Registry conducted a technical mission to Uruguay in May 2019 to meet with the authorities and discuss cooperation agreements with the ICC.

73. The Court also organized its third Retreat with African States Parties to the Rome Statute in Addis Ababa, Ethiopia, on 12 June 2019, to promote dialogue between the African States Parties to the Rome Statute and the ICC. The Retreat counted, for the first time, with the participation of the African Union (“AU”) Legal Counsel, Dr. Namira Negm. Government delegates from 22 African States, as well as representatives of the Organisation Internationale de la Francophonie, the ICC and TFV officials shared experiences and explored further avenues for engagement and cooperation, including within the framework of the complementarity principle enshrined in the Rome Statute. Discussions focused on avenues and suggestions for enhancing communication and coordination, ways to strengthen engagement and activities to ensure accountability and the closing of the impunity gap (including through cooperation and complementarity efforts), the importance of the Trust Fund for Victims, as well as possible ways forward. This Retreat builds on a series of seminars, organised jointly by the ICC and the AU, held annually in Addis Ababa between 2011 and 2015, as well as similar retreats organised in 2016 and 2017. The event was organised with the financial support of the European Commission and the OIF.

74. From 15 to 17 February 2019, the Prosecutor attended the 55th edition of the Munich Security Conference. The Prosecutor’s participation aimed to bring to the Conference’s high-level discussions much-needed attention on accountability for atrocity crimes, and build support for the operations of her Office. The Prosecutor also participated in a side-event organised by the Aurora Humanitarian Initiative, examining, in a solution-oriented discussion, how to protect people from genocide, war crimes and crimes against humanity. In the margins of the Conference, Prosecutor Bensouda held meetings with senior officials from States, regional and international organizations, as well as civil society, to build support, advance cooperation, and/or operational interests relating to the Office’s ongoing preliminary examinations and investigations.

75. In October 2018, the Registry undertook technical missions to Singapore, Malaysia and Indonesia in the context of the Court’s work to promote the universality of the Rome Statute in the Asia-Pacific region. A follow-up mission to Malaysia took place in April 2019 and sought to enhance understanding of the ICC and the Rome Statute system amongst different stakeholder groups in Malaysia, including the government, legal professionals, civil society and the diplomatic community, following Malaysia’s withdrawal of its accession to the Rome Statute. The ICC delegation also discussed cooperation agreements with government representatives and participated in the Asia-Pacific Regional Strategy Meeting of the Coalition for the ICC (CICC) on 11 April 2019, which included 40+ participants from the Asia-Pacific region. Furthermore, on 12 July 2019, the ICC and The Hague Project Peace and Justice hosted the second event for the Asia-Pacific Forum of The Hague. The event facilitated a dialogue about the Asia Pacific region’s engagement with and contribution to international criminal justice with the focus on victim’s perspectives and demands for justice. The event took place on the day of the finals of Chinese moot court. More than 160 persons attended the event and more than 20,000 viewers around the world watched it via Facebook Live. This Asia-Pacific Forum was started in 2018 and is anticipated to continue in the coming years.

(b) *Recommendations on way forward*

76. The Court believes further engagement with regional organizations can help promote efforts regarding universality, implementing legislation, cooperation and complementarity, as well as raise awareness of its work, dispel misconceptions, and encourage wider geographical representation within its staff.

77. For this purpose, the Court welcomes opportunities to integrate its work and mandate within the activities of regional and specialized organizations. The Court will also continue to seek increased exchanges and integration with specialised organisations on key cooperation priorities, such as regional and international networks of prosecutors and law enforcement, as well as financial investigations and asset recovery, such as UN Office on Drugs and Crime, CARIN, FATF and its regional branches, Interpol, Europol, Eurojust, Justice Rapid Response and the International Commission on Missing Persons (“ICMP”).

78. The Court will continue to work towards expanding its relations with States, organizations and partners that can help facilitate such integration, and will also maximize such opportunities by also bringing forward other key objectives for the Court, such as the ongoing efforts from the Registry to promote geographical representation of all States Parties within its staff.

7. Inter-State cooperation in the context of the Rome Statute system

(a) *Update on ICC efforts during the reporting period*

79. As already previously mentioned regarding the focal points seminars and the work of the Court with regional and specialized networks, progress on many of the concrete areas of cooperation of concern for the Court can benefit from exchanges of experience and expertise, as well as mutual assistance between States, as well as between States, the Court and other relevant partners. The Court attempts to promote these exchanges in the context for instance of the cooperation agreements it negotiates with States, as well as by availing the expertise it has developed in the many areas of its work in its fifteen years of operations; these are further detailed in the Court's 2012 report on complementarity⁹.

80. During the reporting period, the OTP continued its efforts under Strategic Goal 9 of its Strategic Plan 2016-2018 and Strategic Goal 6 under the Strategic Plan 2019-2021, aimed at developing, with partners and to the extent permissible under the Rome Statute, a coordinated investigative and prosecutorial strategy to close the *impunity gap*. To tackle both the crimes under its direct jurisdiction that it cannot prosecute itself and the complex international, transnational and domestic associated crimes being committed in the situations under investigation and fuelling the violence and the continuation of conflicts, the OTP has continued to engage, where appropriate and within its mandate and means, with national and regional authorities in charge of law enforcement. This has included: sharing its experience, technical expertise and lessons learned; contributing to specialised training needs by judicial actors; assisting or advising on standard setting for complex investigative activities; providing technical assistance when needed and appropriate; devising strategies to preserve evidence collectively; as well as transmission of information and evidence in its possession that may be relevant to those actors to tackle ICC crimes and the interconnected areas of criminality, thus contributing to a multi-layered, multi-party approach. The OTP has further streamlined its internal processes to ensure a diligent turnaround of information and support requested by national jurisdictions and to address the increasing number of demands received in a timely manner and to offer them access to relevant information including through missions to its Headquarters.

81. Coordination and sharing of expertise and lessons learned have continued and actually increased in particular in the context of the OTP's investigations in Libya, in the Central African Republic (CAR II), through the OTP's interaction with the Special Criminal Court.

(b) *Recommendations on way forward*

82. The Court believes in the mutual benefits that can result in further synergies and exchanges between the cooperation and complementarity discussions, and looks forward to the launching of the database promoted by the complementarity co-facilitators in this regard.

⁹ ICC-ASP/11/39.

III. Conclusion

83. 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.

84. The Court would warmly welcome any initiatives by States to engage in dialogue with the Court on the issues addressed in this report, to provide feedback, or to discuss proposals for the purpose of enhancing cooperation and for addressing any obstacles that may exist, including, *inter alia*, in the context of the process of review undertaken by States Parties in 2019, with a view to strengthen the Court and the Rome Statute system.

85. 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.
