



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Le Président
The President



Judge Piotr Hofmański

President of the International Criminal Court

*Remarks to the 22nd Session of the
Assembly of States Parties to the Rome Statute*

4 December 2023

New York

Madam President of Assembly,
Honourable Ministers,
Excellencies,
Mr Legal Counsel of the United Nations,
Mr Prosecutor,
Madam Chair of the Board of Directors,
Mr Registrar,
Ladies and Gentlemen:

Public speaking can make anyone a bit nervous. Especially when addressing a large, important high-level meeting such as this one.

But I assure you that I was much more nervous nine years ago, when I was in this same building as a candidate for ICC judge!

And I can guess that there are many persons in this room today who are experiencing similar nervousness or excitement...

Don't worry, I will not discuss the judicial elections any more than that, except to say that I am confident this Assembly will elect the best possible candidates.

*

I am also not going to repeat today the contents of the Court's annual report on its activities.

Instead, I would like to use this opportunity to share some reflections, as my term as Judge and President of the ICC is coming to an end on March 10th next year.

Without a doubt, one of the dominant themes during my Presidency was the Review process.

Especially in 2021 and 2022, the assessment of the Independent Expert Report (IER) recommendations required considerable time and effort from the Court, on top of a very heavy judicial workload.

But it was worth it. I firmly believe that the Court has become a stronger institution as a result.

The Review has been an excellent example of the Court and the Assembly working together in a constructive manner.

There were a few tricky areas where we had to walk a fine line in order not to undermine the Court's independence. But I believe that was successfully done with the help of good will on both sides.

*

One of the most significant results of the Review process concerns workplace culture at the ICC. During the last two years, we have done a lot:

- We recruited an Ombudsperson and a permanent Focal Point for Gender Equality.
- We updated the Court's policies on harassment, discrimination, misconduct, sexual abuse, and disciplinary procedures. And the judges amended the Code of Judicial Ethics to subject themselves to these policies as well, to the extent allowed by the Rome Statute.
- We adopted a Court-wide Strategy on Gender Equality and Workplace Culture.
- We conducted detailed surveys and evaluations to get a realistic picture of what the staff experience is.
- And we made Ethics and Standards of Conduct one of the top priorities in the Court's new Strategic Plan.

I would like to stress that these cannot be just one-off measures. Making – and maintaining – the ICC a safe and rewarding workplace for everyone requires a permanent commitment.

This really is crucial. Everyone must be treated with respect. And everyone must be accountable for their actions.

*

Madam President,

Another major strand of the Review process that kept me very busy was of course the part of the IER report that concerned the Judiciary. I am very happy to state that the assessment of all judiciary related recommendations was finalised earlier this year, and many of them have already been implemented as well.

Much of this tied together perfectly with the longstanding efforts of judges on enhancing the Court's judicial process. This work has been largely built around annual retreats, where the 18 judges meet to agree on measures to harmonise working methods and to expedite proceedings.

During the last three years, much has been achieved in this respect, and I can only highlight a few key outcomes, such as :

- a model decision on Directions for the Conduct of Proceedings;
- a unified approach to victims' applications – the so-called "ABC method";
- several measures expediting the pre-trial to trial transition; and
- guidelines on dissenting and separate opinions.

In addition, the judges have worked closely with the Advisory Committee on Legal Texts and the ASP's Study Group on Governance as well as the Working Group on Amendments on a number of important amendment proposals that are now before this Assembly.

*

Madam President,

One defining feature of my term as President has – sadly – been attacks against the ICC.

I became President at a time when the previous Prosecutor of the ICC was still the subject of unacceptable measures imposed by the United States. Fortunately, these were withdrawn soon thereafter.

But, as you all know, the Court has since become the target of new threats and attacks.

Notably, the authorities of the Russian Federation have initiated criminal proceedings against six ICC Judges and the ICC Prosecutor, placing these individuals, including myself, on a wanted list. All of this, because we are fulfilling our mandate, whether performing judicial or administrative functions.

This is an unprecedented attack on the judicial independence at the international level. I am very appreciative of the strong support we have received from our States Parties and others in the face of these troubling measures. That support will remain critical for the foreseeable future.

I am also gravely concerned by a recent cyber-attack against the Court's information systems, committed with the objective of espionage.

I would like to thank the Netherlands, our Host State, for the excellent support it provided for the immediate and forceful steps the Court took to respond to the cyber-attack. Under the Registrar's able leadership, we are now upgrading and enhancing our digital systems to make them more resilient.

There is no doubt that attempts to undermine the ICC will continue in many forms. There will always be resistance against the Court's mandate from someone, somewhere. But we will remain resilient. We will not be intimidated.

We cannot compromise justice. And we cannot compromise the rule of law.

*

On that note, I want to underline the paramount importance of the Court's independence. This is a fundamental value which must not only be respected, but actively safeguarded at all times.

The whole point of having a court, a judicial body, is to have an independent, impartial arbiter to apply the law which the legislators – in this case States – have adopted.

A fundamental aspect of that division of tasks is the separation of powers. On certain issues, we must always keep an appropriate distance. Not just between the Court and others, but also between the Judiciary of the Court and the Office of the Prosecutor.

As a court, the ICC is different from most other international organisations, because States are technically not part of the organisation, and even less so in charge of its activities.

And yet we need your support and cooperation. But it is important that that support is not made conditional upon the Court acting in any specific way in the matters that fall under judicial and prosecutorial independence.

Indeed, support for the Court should be support for the institution and all its activities as a whole, and never just for one particular investigation or specific cases. That would be a slippery slope. And it would risk damaging the way the Court is perceived.

I have always said that the ICC is a court for everybody. We must live up to that promise.

And that's not an easy task. Look at the state of the world.

In my three years as President, the global news have been filled with armed conflicts and widespread suffering of civilians in different parts of the world under the ICC's jurisdiction.

Let's face it: this is a test for the Court. It's a test for the Rome Statute system. The eyes of the world are upon us. The expectations are high.

This is a huge challenge. The ability of the Rome Statute system to grow and gain more global support depends on our ability to deliver tangible results, in an independent and impartial manner.

Equal standards must be applied to every situation, and to alleged perpetrators on all sides in any investigation.

This is critical for the ICC's credibility as a court of law.

*

Madam President,

When I became President of the Court, I made promoting universal ratification of the Rome Statute one of my priorities. Perhaps I was too optimistic as I had hopes of seeing many countries join the treaty during my term.

However, I am absolutely delighted that the Republic of Armenia finally brought us the fantastic news of the first new ratification since 2019! Congratulations, and thank you, Armenia!

To all the other States Parties present, I say: please, redouble your national efforts to promote universality of the Rome Statute. We need the collective push of the ICC community to encourage others to take the courageous step that Armenia has just taken.

The road ahead us may be long, and the journey may be slow, but we must not abandon the goal of universal ratification.

*

Madam President,
Excellencies,
Ladies and gentlemen:

My overarching goal as a President and Judge of the ICC has always been clear: strengthen the rule of law and focus on the Court's core mandate, which is to deliver justice. Tangible justice. Justice which is fair – fair to both parties and all participants to the proceedings.

Justice is a team effort. None of us can do it alone.

On that note, I want to take this opportunity to thank everyone at the ICC I have worked with – my fellow judges, the other elected officials, the staff of the Court, and the counsel for the defence and for victims.

I thank the victims and witnesses who have bravely participated in the proceedings.

I thank the States and international organisations that extended crucial support for the Court's operations.

I thank the countless civil society organisations whose advocacy and commitment is crucial for the vitality of the Rome Statute system.

I thank the academic community for their important contributions to the legal and intellectual discussions on the ICC.

I thank my friends and my family for always standing by me.

And, I thank the Assembly of States Parties for all its support for the Court during my term as President, under the excellent leadership of President Silvia Fernández.

Silvia, it has been a great pleasure to work with you. Although I will truly miss you, I do also look forward to working with the new President of the Assembly during my last months at the ICC.

And I wish her, as well as my successor – whoever it may be – the best of luck and success for the next three years.

Please take good care of this precious Court of ours.

Thank you.

[end]