



Mrs Fatou Bensouda
Prosecutor of the International Criminal Court

Sixth Plenary Meeting | The Importance of Cooperation

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Honourable Minister of Justice Aminata Mallé Sanogo,
Your Excellency, President Kaba,
Madam President,
Mr Registrar,
Mr Dive,
Excellencies,
Ladies and Gentlemen,

I am grateful for the opportunity afforded in the context of this sixth plenary meeting to exchange views on the crucial topic of cooperation, which is the *sine qua non* for the Court's success in effectively fulfilling its mandate under the Rome Statute.

The Rome Statute system has two essential pillars: on the one hand, an independent and permanent International Criminal Court as its judicial arm, and on the other, the pillar of execution crucially provided by States Parties. The effectiveness and efficiency of the former relies heavily on the strength of the latter.

When ratifying the Rome Statute, States make a sovereign decision to be bound by the provisions of that treaty, and by so doing, express their commitment to international criminal justice.

They accept the obligation to investigate and prosecute Rome Statute crimes at the national level, as well as to fully cooperate with the Court in its work.

As we know, Part 9 of the Rome Statute sets out the legal framework for cooperation between the International Criminal Court and States Parties.

The exact modalities of cooperation are to be determined by the State concerned with a certain level of flexibility within the contours of Part 9 of the Statute.

What remains essential is that the cooperation and judicial assistance provided by States Parties to the different organs of the Court are genuine, timely and effective. This is crucial to the properly functioning of the Court's prosecutorial and judicial machinery.

As highlighted in my Office's Strategic Plan for 2016-2018, which was finalised and publicised earlier this week, cooperation – perhaps more than ever – has become a determining factor to achieve successful results for my Office, and more generally, for the Court as a whole.

In 2014 alone, my Office addressed more than 400 requests for assistance. The majority of such requests are being successfully implemented.

I take this opportunity to publically acknowledge and express my deepest gratitude to the States which through their support have served as a crucial lifeline for the success of my Office's operations and activities.

In fact, I note that over time, we have seen an increase in compliance from States. This may indeed indicate a growing consolidation of the Rome Statute system.

At the same time, however, 40 per cent of requests for assistance remain unexecuted. This presents significant challenges for my Office's capacity to fulfil its mandate in an efficient and effective manner.

Our experience has demonstrated all too well how challenging it is for the Court to operate when State cooperation is not forthcoming. This is particularly true when it comes to the execution of the Judges' decisions.

We currently have warrants of arrest outstanding against 13 individuals, some dating as far back as 2005; that is more than a decade ago.

This situation must be remedied. The failure to do so sends a negative message regarding the Court's ability to bring tangible justice to victims and affected communities.

In the world of public opinion, it may also cast doubt on the commitment and support of States Parties towards the Court. *We must work together* to avoid such misreading of our joint commitment to the cause of international criminal justice.

My Office very much welcomes the ongoing efforts of the Assembly of States Parties on a strategy and action plan to support arrests.

These commendable efforts are aimed at identifying avenues and tools to explore how the number of 13 outstanding arrest warrants can be significantly lowered. My Office will continue to support and contribute to such initiatives.

Excellencies,
Ladies and Gentlemen,

Additionally, cooperation has both internal and external dimensions. The *internal* dimension relates to the Office's operational excellence, for example, in how it prepares and submits requests for assistance.

The *external* element – which is largely outside my Office's sphere of influence – refers for example to responses received to our requests for assistance.

I strongly believe that, in order to improve cooperation, investment is needed in *both* dimensions, not only by my Office, but by all our cooperation partners.

In relation to the internal element of cooperation, as set out in my Office's new Strategic Plan, we continue to heavily invest in enhancing efficiencies. We have focused on three key elements.

First, we ensure that there is strategic and operational advice and cooperation support available to our integrated teams. This includes clear drafting and following-up on requests for assistance, galvanising cooperation efforts with other actors for the arrest and surrender of individuals sought by the Court, as well as establishing and maintaining general cooperation networks.

Second, we aim to consolidate and expand networks of general and operational focal points and judicial actors, and to streamline and standardise processes and interactions with partners.

Third, we continue to enhance our practices with regards to requests for assistance sent to States. We continue to strive to submit tailored and focused requests, to meet expectations of States in conformity with their domestic legal requirements. This practice will also help avoid delays and the resubmission of revised requests.

In relation to the external element of cooperation, allow me to stress the importance of States continuing to review and where needed, enhance their practices, ensuring they have adequate procedures in place at a national level to respond swiftly and accurately to the Court's requests for cooperation.

In this regard, my Office welcomes the ongoing efforts of the Assembly to review its 66 recommendations on cooperation and to develop a strategy and action plan to support arrests, with a view to increasing the effectiveness and efficiency of cooperation.

In particular, the Flyer which has been developed under the 'cooperation facilitation' of Ambassador Van Hoorn and Ambassador Diop Sy allows States to easily identify the priority areas for action and follow-up in this regard.

We believe that it is now crucial for States to focus, as a second step, on the identification of specific challenges and lessons learned from the implementation of these 66 recommendations, taking stock of more than a decade of operational practice. My Office remains committed to supporting the genuine efforts of States Parties in this regard.

Excellencies,
Ladies and Gentlemen,

Allow me to conclude by emphasising that both situation-related cooperation as well as general diplomatic and political support for the Court's mandate remains crucial.

This includes mainstreaming ICC issues in bilateral and multilateral discussions as well as in domestic judicial procedures.

Resolutions, statements, and speeches in support of the ICC's work help raise awareness about the need to address atrocity crimes through accountability, as well as contribute to the understanding of international criminal justice around the world.

Importantly, such support contributes to addressing misperceptions as well as politicisation of the work of the Court.

Allow me to reiterate my earlier message from the opening session of this august body:

State cooperation is essential for this Court to be able to conduct its operations, in the field and in the courtrooms, in an effective and diligent manner.

Cooperation also means that the ICC will require the strong and consistent commitment of its States Parties to safeguard its independent judicial functions. This is critical to the success and longevity of this judicial institution, which is so key to our joint commitment

to fight impunity for the world's worst crimes and to the establishment of the international rule of law.

Excellencies,
Ladies and Gentlemen,

In order to succeed, our work at the Office of the Prosecutor needs to be reinforced by other actors in the Rome Statute system, in particular by States.

I highly value the support already provided by States to my Office, and look forward to further collaboration.

As we deliberate on the fundamental issues of cooperation, the Court's budgetary needs and other significant matters within the proceedings of this 14th Assembly, I conclude my remarks by recalling a most pertinent quote from our 1998 discussions in Rome:

In the prospect of an international criminal court lies the promise of universal justice. That is the simple and soaring hope of this vision [...]

We will do our part to see it through till the end.

We ask you to do yours in our struggle to ensure that *no ruler, no State, no junta and no army anywhere* can abuse human rights with impunity.

Only then will the innocents of distant wars and conflicts know *that they, too, may sleep under the cover of justice; that they, too, have rights*, and that those who violate those rights [*will be held accountable*]. – end quote.

Excellencies,
Ladies and Gentlemen,

Let us always recall and stay committed to the spirit of 1998, and the historically important achievement of the creation of this International Criminal Court.

When our collective efforts to fight impunity for atrocity crimes are consistently applied and merged, it is when we will have finally ensured that during war or conflict, the laws will no longer remain silent.

Robust and unwavering cooperation from States Parties remains crucial to that coveted goal.

My Office counts on your support.

I thank you. | OTP