



**Cour
Pénale
Internationale**

**International
Criminal
Court**



**Judge Silvia Fernández de Gurmendi
President of the International Criminal Court**

Presentation of the Court's annual report to the Assembly of States Parties

Check against delivery

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The Hague, Netherlands

Mr President of the Assembly of States Parties,
Madam Prosecutor,
Mr Registrar,
Mr Chair of the Board of the Trust Fund for Victims,
Excellencies,
Distinguished delegates,

It is a great pleasure for me to present the Court's annual report to the Assembly of States Parties to the Rome Statute, and to do this for this first time in my capacity as President of the Court.

I would like to start by thanking the States Parties for the extensive support and cooperation that they – you – provide to the Court.

The continued commitment of the States Parties to the letter and spirit of the Rome Statute is vital to the attainment of the Court's objectives and the annual meetings of the Assembly play an important part in upholding this commitment.

Full cooperation with the Court's investigations and prosecutions, in accordance with the obligations of States Parties under the Statute, is a precondition for the successful conduct of the Court's mandate. I am happy to note that the Court receives strong cooperation from its States Parties in every region, as well as from many non-States parties which cooperate with the Court on a voluntary basis.

Various forms of voluntary cooperation, such as those relating to witness relocation and sentence enforcement, are also essential for the Court's operational capabilities. I look forward to the opportunity to elaborate on these questions during the Plenary Meeting on Cooperation this Friday.

Just as the Court expects cooperation from the international community, we must also recognise that it is expected from the Court that we do our part of the job well, by providing high quality justice in a timely manner.

Mr. President,

For these reasons, the main priority that I have set for my mandate is to enhance the effectiveness and efficiency of the institution.

Over recent months the judges have made unprecedented collective efforts to expedite the criminal process by adopting best practices and revising working methods, including by developing a Pre-Trial Practice Manual, which has been published on the website of the Court and is included as an annex to the Progress Report of the Working Group on Lessons Learnt. This is just one example of the important progress on expediting the proceedings that the judges, working together, have managed to achieve.

I look forward to briefing the Assembly in more detail on these developments during the Plenary Meeting on the Efficiency and Effectiveness of Court Proceedings.

Another crucial topic for efficiency is the governance of the Court. The structure of the Court, as the experience of other tribunals has also shown, is a challenging one in terms of ensuring common objectives and unity of voice. While being one Court, our institution combines different components with different roles and independent mandates and this has the potential of creating fragmentation and tensions between organs.

Only by fully coordinating our efforts can we achieve good governance, cohesion of action and alignment of vision. Regular consultations and adequate cooperation and coordination at all levels are essential. I am very pleased to inform you that the principals of the Court are working together in a constructive spirit of dialogue, making maximum use of existing coordinating mechanisms. In particular, the Coordination Council, in which the three principals sit, as well as various inter-organ working groups, meet on a regular basis in order to discuss issues of Court-wide concern.

We recognise that ensuring sufficient cohesion at the Court is a continuing challenge, and our coordination efforts need to be sustained and enhanced in some areas.

As requested by the Assembly of State Parties, we have started a process to develop performance indicators of the Court. We recognize the importance of assessing our performance and measuring, inter alia, whether our reforms to expedite proceedings at the Court and to increase their effectiveness achieve results, while preserving the fairness of the judicial process. We have provided a report to the Assembly which gives an overview of the progress made this year in this regard.

Developing indicators for a judicial institution is not an easy task as it requires assessing and understanding complex factors. This is even more difficult when an international criminal court is in question, as some of the factors impacting on its performance are external factors beyond the institution's control. However, while our work on performance indicators is still at an early stage, we are confident that we will achieve meaningful results in the near future.

One of the Court's basic governance tools is its Strategic Plan, which sets out its broad goals for a five-year period, together with more detailed, shorter-term objectives. The broad structure of the current plan dates from 2013. Since then, the Court's casework has grown, and we have been developing other governance tools such as systematic risk management, and the performance indicators I just mentioned. Taken together, these tools should form a basis for both Court-wide and organ-specific decisions on how to confront current challenges, and how to plan resource needs and priorities. We will therefore be reviewing and updating the Court-wide plan in the months ahead to take full account of these developments, and as a basis for developing organ-specific plans where these do not already exist.

Mr President,

Let me now give a concise update on the Court's judicial developments. More details can be found in the written report that you have before you.

We have reached several milestones in the past year. The Court issued its first two final appeals judgments on the merits as well as the first appeals judgments on sentencing and reparations.

Two new trials have recently commenced hearings of evidence before the Court, and a third trial is due to commence early in 2016. Together with one existing trial, this means that next year we already expect to have up to four trials running, involving a total of 10 accused persons – the Court’s busiest year so far in terms of trial proceedings.

In addition to these cases, two further suspects were transferred to the ICC this year, Mr Dominic Ongwen, an alleged Brigade Commander in the Lord’s Resistance Army in Uganda, and, most recently, Mr Ahmad Al Faqi Al Mahdi, on charges of war crimes regarding the destruction of historical and religious monuments in Timbuktu, Mali. Pre-trial proceedings in both cases are currently under way and hearings on confirmation of charges are scheduled for early next year. If charges are eventually confirmed, this would mean that two further cases may be before the Trial Division in the course of next year.

In September 2014 the Prosecutor opened her ninth investigation, following a second referral from the Central African Republic. The Prosecutor has also recently requested judicial authorisation to open an investigation into the situation in Georgia for crimes allegedly committed in and around South Ossetia.

Mr President,

Victims and the communities affected by the crimes under the Court’s jurisdiction have a special importance in the activities of the Court.

During the past year, the Court has reached some important milestones in the implementation of its unique reparations mandate, which gives unprecedented attention to the rights of victims of international crimes.

The first Appeals judgment on reparations, in the case of Mr Thomas Lubanga, provided more clarity on the principles to be applied for reparations under the Rome Statute and in the circumstances of this particular case instructed the Trust Fund for Victims associated with the Court to produce a draft implementation plan for reparations in accordance with the Trust Fund’s mandate. The Trust Fund filed its draft implementation plan earlier this month and the matter is now in the hands of the Trial Chamber.

Reparations proceedings are also under way in the case of Mr Germain Katanga, whose conviction for crimes against humanity and war crimes committed in the Ituri District of the Democratic Republic of the Congo became final last year.

The participation of victims is an important aspect of the Court’s proceedings, providing those affected by the crimes a formal channel to express their views and concerns.

The Registry plays an important role in providing services that are essential for the participation of victims, from informing them about their rights to the processing of applications and provision of legal assistance for representation in the proceedings.

In addition to the role offered to victims in the context of criminal proceedings, the Court must engage broadly with victims and find appropriate forms of reaching out to them. The Court’s field presences and external operations play a crucial role in this regard. While the Court’s seat is located

in The Hague, we must ensure that the justice we provide is meaningful to those to whom it matters the most.

However, field offices are not only important for the purposes of victim participation, representation and outreach. They are a necessary element to support the conduct of judicial proceedings at the seat of the Court. Without a strong and effective field presence, the operational needs of parties and participants, for example in relation to witness protection, cannot be met.

Mr President,

In the context of the Court's field operations, I would like to acknowledge the valuable assistance we receive on a reimbursable basis from the United Nations, in accordance with the Relationship agreement between the two organizations.

The cooperation between the Court and the United Nations ranges from logistical assistance in the field to administrative and personnel arrangements, judicial assistance and the provision of services such as those relating security, satellite communications or the use of conference facilities. Cooperation also works in the other direction, and the Court has on occasions provided logistical and security support to the UN.

All in all, the relationship between the UN and the ICC is doing very well, and the Court is very grateful for the support it receives.

But there are also challenges that persist. One of these is the continuing lack of full cooperation in relation to the two situations that the Security Council formally referred to the Prosecutor. During the reporting period, the Court made three judicial findings of non-cooperation, two with respect to Sudan and one with respect to Libya. This brings the total number of non-cooperation findings referred to the Council to eleven.

For the Court to be able to discharge its mandate effectively, full compliance with the relevant Security Council resolutions is required. The Court alone is not in a position to obtain that compliance – so we look to the Council, and the States Parties on the Council, for active support in this regard.

Active efforts by our States Parties are also essential in addressing other challenges related to cooperation, notably the outstanding requests for arrest and transfer concerning presently 13 persons.

Mr President,

In order to enhance support for the Court, mutual understanding of each other's needs and concerns is essential. As President of the Court, I have deployed all my efforts to maintain a broad and continuous dialogue with representatives of States, international and regional organizations and civil society, at The Hague and New York as well during visits and missions abroad. At the seat of the Court, I also engage on a regular basis with visiting delegations from other courts and tribunals, national judicial institutions, parliaments, professional associations and academia.

This dialogue has taken place in different settings, sometimes bilaterally and sometimes in collective meetings with regional groups or other configurations. I intend to continue this practice, and further meetings with regional groups and others are already being planned for the coming months.

Other officials and staff members of the Court also engage with States, international and regional organizations and civil society in order to foster support for the Court's activities. Just last month, the Court and the African Union held a joint technical seminar at the AU headquarters in Addis Ababa – this is the fourth of a series of seminars that started in 2011.

The Court has also held cooperation seminars in Central America and Southern Africa this year with the kind assistance of donors, as well as a seminar with focal points for cooperation from situation countries and other States. We look forward to continuing this practice in the coming year, hopefully starting with a seminar in Northern Africa.

As said, this dialogue between the Court and different actors is extremely important. It is also imperative to ensure that this dialogue takes place with due regard to the judicial mandate of the Court and the need to preserve its independence and integrity. This dialogue can never become an avenue for discussing judicial proceedings taking place at the Court, or other issues that may infringe upon judicial or prosecutorial independence.

As a judicial institution, the International Criminal Court is a distinct kind of international organisation. The Rome Statute explicitly requires the judges to be independent in the performance of their functions, and requires the Prosecutor and her staff not to seek or act on instructions from any external source.

Independence of the judicial and prosecutorial functions from external influence is essential to the Court's identity and the achievement of its goals. Without independence, the Court's whole *raison d'être* is compromised.

Mr President,

I would like to commend the efforts of several States Parties as well as civil society in encouraging non-States parties to give consideration to joining the Rome Statute.

More than 70 States are yet to join the Rome Statute, but I would like to recall that they can nonetheless contribute to the work of the Court, and indeed, many non-States parties provide valuable cooperation for our operations.

I would also like to take this opportunity to say that I am delighted to see so many non-States parties present at this Assembly in observer capacity, and I hope to welcome many of them to the ICC family during my term as President.

Only with global participation can the Court be fully effective in intervening wherever core international crimes are committed with impunity. Our deterrent effect equally depends on the reach of our jurisdiction.

Mr President,

In less than two weeks' time, the Court will begin moving to its new, Permanent Premises. This historic transition occurs at a very opportune time, since as I have explained we are facing an unprecedented number of court proceedings next year. The new, purpose-built premises will provide more capacity for handling the Court's growing caseload as well as better facilities for public access.

In addition to new premises, the Court needs sufficient resources for its operation. The Court fully recognises the continuing pressure on national budgets. At the same time, we cannot ignore the growing caseload which we face, which results from work done over the last decade and more.

While the budget proposal following CBF reductions which is currently before you represents a further increase over previous years, it represents a significant constraint on the Court's ability to deliver on its mandate.

The progress of the current trials will be limited by the availability of only two courtroom support teams. The Prosecutor will need to reduce her planned level of investigations. The Registry will suffer serious delays in filling a significant number of vacant posts, with an inevitable impact on the services it can offer to its clients for much of next year. 2016 will therefore be a particularly challenging year for the ICC.

I know that the budget discussions have been difficult for States and for the Committee on Budget and Finance. As soon as this Assembly is over, I will be sitting down with my two fellow Heads of Organs to identify ways of improving the budgetary process within the Court, including how the budget document itself is presented.

We will discuss these issues further with the Committee on Budget and Finance at their meeting next April, with a view to producing a budget which reflects the needs of the ICC as a whole, is easier to understand and includes clearer and more coherent justification of the Court's specific needs in line with the One-Court principle.

Mr President,

The Assembly plays an important role in the Rome Statute system of international criminal justice.

I would like to thank the Assembly and States for their support of the Court, and at the same time pledge the Court's continued commitment to the values of the Rome Statute.

I wish you a very successful Assembly.

Thank you.

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