



Joining the International Criminal Court

Why does it matter?

A photograph of a modern building with a grid of windows. The building is composed of several interconnected volumes. The upper part is a tall, rectangular block with a dense grid of windows. Below it is a lower, more horizontal section, also with a grid of windows, some of which are white. In the foreground, there is a glass-enclosed courtyard or atrium with a glass railing. The sky is clear blue.

**Meet
the ICC**

WHAT IS THE INTERNATIONAL CRIMINAL COURT (ICC)?

It is the world's first permanent international criminal court with jurisdiction to prosecute individuals responsible for the most serious crimes under international law, namely genocide, crimes against humanity, war crimes and the crime of aggression¹. The Rome Statute, the ICC's founding treaty, was adopted on 17 July 1998 by 120 States, and entered into force on 1 July 2002 – the date the Court became operational. As of January 2018, 123 States are parties to the Rome Statute.

IS THE ICC A UNITED NATIONS BODY?

The Court is not a United Nations body. The Court is a permanent, independent institution established by an international treaty. In 2004, the Court and the UN signed a relationship agreement which establishes the legal foundation for cooperation. The ICC is also different from the UN *ad hoc* international criminal

tribunals for Rwanda and the former Yugoslavia, established by the UN Security Council to deal with specific situations, or the International Court of Justice, which deals with legal disputes between States. Nor is the ICC a human rights court as its mandate is to investigate and prosecute specific crimes defined in the Rome Statute.

IS THE ICC MEANT TO REPLACE NATIONAL COURTS?

No, the ICC is not a substitute for domestic courts. The ICC is an independent and impartial institution and a “court of last resort”. In other words, the ICC intervenes only in situations where States themselves are either unwilling or unable to genuinely investigate and prosecute the perpetrators of genocide, war crimes and crimes against humanity such crimes. The functioning of the Court is based on the ‘principle of complementarity’, under which its States Parties have affirmed their primary responsibility to investigate, prosecute and punish the perpetrators of the most heinous crimes under international law and protect the victims of these crimes.

¹ At its sixteenth session held from 4 to 14 December 2017, the Assembly of States Parties decided to activate the Court's jurisdiction over the crime of aggression as of 17 July 2018.

WHEN CAN THE ICC INVESTIGATE CRIMES?

The Prosecutor can initiate an investigation following a referral from a State Party or the UN Security Council. When the UN Security Council refers a situation to the Court, it can do so regarding any State member of the UN, including non-States Parties of the ICC (this was for instance the case for Darfur, Sudan; and Libya). The Prosecutor can also initiate an investigation on his or her own initiative, with the authorization of the Judges of the Pre-Trial Chamber. The Court may exercise jurisdiction in situations where the alleged perpetrator is a national of a State Party, or where a crime was committed on the territory of State Party.

A State not party to the Rome Statute may decide to accept the jurisdiction of the Court on an *ad hoc* basis.

IS THE ICC'S JURISDICTION TIME BOUND?

The jurisdiction of the ICC is non-retroactive. This means the ICC has no power to investigate events that took place before 1 July 2002. For States that ratify or accede after this date, the Court has jurisdiction for crimes committed only after the Rome Statute has entered into force in that State Party, unless that State declares otherwise.

The ICC and States



WHAT IS THE ROLE OF STATES PARTIES?

Joining the Rome Statute is a voluntary, sovereign decision for each State to make. The Court tries individuals allegedly responsible for crimes falling within its jurisdiction. The ICC cannot prosecute groups or States. States Parties have a limited but important role in the proceedings. A State which has referred a situation to the ICC can challenge the decision in the event the Prosecutor decides not to initiate an investigation; a State Party can challenge the admissibility of a case or the jurisdiction of the Court; and a State Party can submit *amicus curiae* briefs.

Furthermore, under the ICC system, States Parties have the general obligation to fully cooperate with the Court on matters related to its investigations and prosecutions. States Parties can conclude cooperation agreements with the Court, such as agreements on the enforcement of sentences, agreements on witness relocation and agreements on interim release or final release. These negotiated bilateral agreements help States Parties and the Court simplify procedures for

cooperation, and contribute to a more effective functioning of the Court.

ARE STATES PARTIES INVOLVED IN THE COURT'S GOVERNANCE?

Yes, through their participation in the Assembly of States Parties to the Rome Statute, in which all States Parties are members. The Assembly meets at least once a year, provides oversight for the administration of the Court and approves the ICC's budget. In addition, States can actively participate in shaping the future of international criminal justice and cooperate on issues related to assistance and capacity building.

The ICC is funded by the States Parties. In addition to their annual contributions to the Court's budget, States can make voluntary contributions to a number of important special funds, such as the Trust Fund for Victims, the Special Funds for Family Visits, or the Special Funds for Relocations. The Assembly also elects the Judges and the Prosecutor. Joining the Rome Statute also opens up more career prospects for nationals, including for the highest positions within the Court.

WHEN IT COMES TO UNIVERSALITY, WHAT HAVE STATES PARTIES COMMITTED TO?

In the 2006 “Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the ICC”, States Parties committed:

- To continue to promote the universality and full implementation of the Rome Statute;
- To continue to disseminate information on the Court at the national, regional and international level;
- To continue to provide the Secretariat of the Assembly of States Parties with updated information relevant to the universality and full implementation of the Rome Statute;
- To organise seminars, panel discussions and events focusing on promoting the universality and

full implementation of the Rome Statute in New York, in The Hague and in different regions;

- To continue to provide technical and financial assistance to States wishing to become party to the Rome Statute and those wishing to implement the Statute in their national legislation;
- To provide financial and/or other support to civil society, academia, international organisations and professional associations that provide technical assistance;
- To continue to contribute to the Trust Fund for Least Developed Countries and other developing States in order to promote the attendance of non-States Parties to the sessions of the Assembly of States Parties; and
- To continue to cooperate with the Court.



Why join the Rome Statute

Minister DINI

Secretary General

Hon. I

JOINING THE ROME STATUTE IS AN EXPRESSION OF SOLIDARITY WITH THE VICTIMS

Victims have the right to participate in the proceedings before the Court through a legal representative. States Parties to the Rome Statute have established a Trust Fund for Victims, an independent institution through which victims and their families can receive assistance and reparations, including restitution, compensation and rehabilitation.

JOINING THE ROME STATUTE IS A POWERFUL FOREIGN POLICY STATEMENT

States Parties and the international community continue to reaffirm their commitment to the ICC. Ratifying or acceding to the Rome Statute shows commitment to international law and peace and security and strengthens the resolve of multilateral diplomacy.

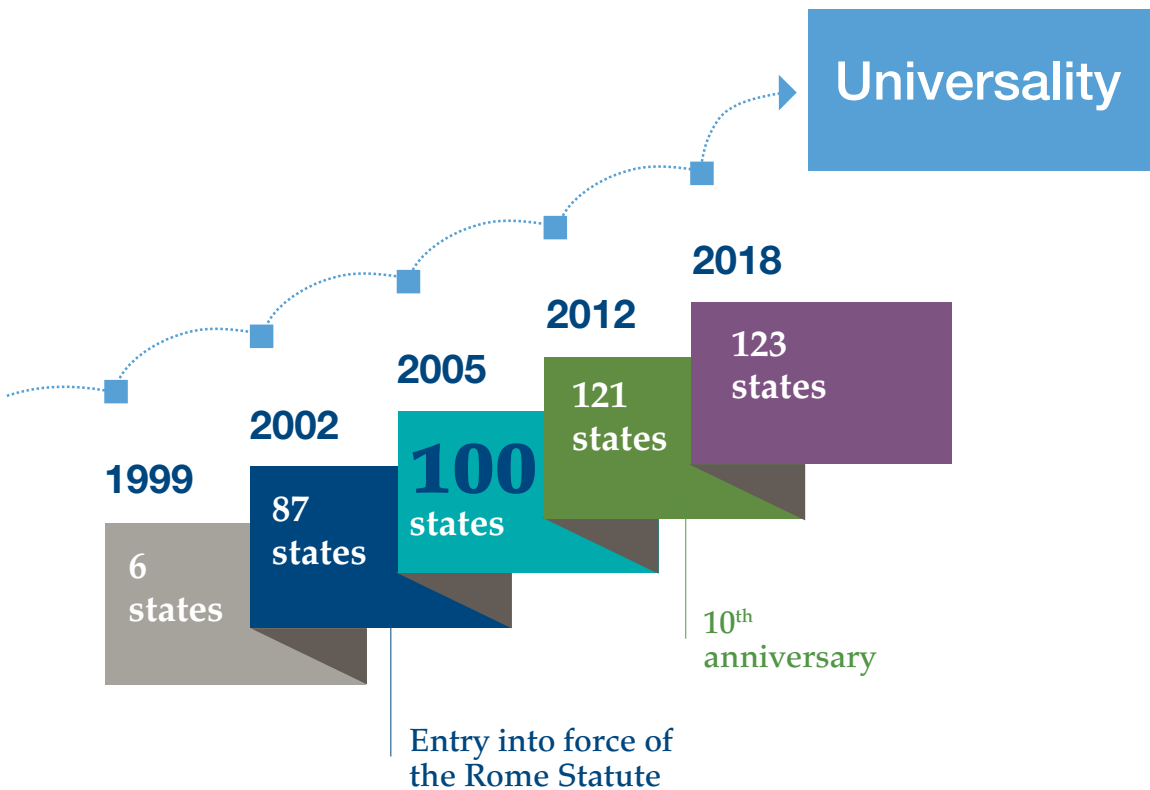
JOINING THE ROME STATUTE CONTRIBUTES TO THE PREVENTION AND DETERRENCE OF FUTURE CRIMES

Through its preliminary examinations, investigations and judicial processes, the ICC's work can help prevent future crimes from happening by putting potential perpetrators on notice that anyone may be held responsible if they commit core international crimes.

JOINING THE ROME STATUTE REINFORCES THE EQUALITY OF ALL BEFORE THE LAW

The Rome Statute sets one standard for all – no one is below or above the law. As official capacity is irrelevant under the Rome Statute, all individuals can be brought to justice for grave international crimes.

Ratification of the ICC Rome Statute



JOINING THE ROME STATUTE IS A SOUND INVESTMENT IN STRENGTHENING STATES PARTIES' OWN CRIMINAL JUSTICE SYSTEMS

In order to fulfil their obligations under the Rome Statute, States Parties must implement the Rome Statute by enacting domestic legislation containing provisions on cooperation. Adopting national implementing legislation provides States Parties, among others, with the opportunity to exercise domestic jurisdiction over core international crimes and to strengthen their own criminal justice systems.

The international community recognises that the ratification of the Rome Statute and the enactment of national implementing legislation can be a complex matter, especially due to the multitude of differences between various legal systems. In this regard, technical assistance is available from several sources. Numerous States Parties to the Rome Statute and

international organisations, including the UN Secretariat, the Secretariat of the Commonwealth and the European Union, provide technical assistance in the drafting of appropriate domestic laws or amendments to national legislation.

THE COURT PLAYS A KEY ROLE IN THE INTERNATIONAL COMMUNITY'S EFFORTS TO END IMPUNITY

So far the Court has made significant progress in prosecuting those responsible for mass crimes. The ICC was set up as a contribution to a collective global effort to build a safer world for everyone. Its primary mission is to help put an end to impunity for mass atrocities. Every State that ratifies the Rome Statute helps strengthen the ICC system and contributes to the prevention of such future crimes. States not party to the Rome Statute are encouraged to consider ratification or accession as universal ratification enhances the legitimacy and effectiveness of the Court.





Cour
Pénale
Internationale

International
Criminal
Court

