International Criminal Court: 20 years, billions spent, limited success as US considers sanctions

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As the U.S. weighs sanctions against the International Criminal Court (ICC) over potential arrest warrants for Israeli officials, some experts have questioned the value of the court, given its track record since its founding.

‘[The ICC] has been around for over two decades, [but] it has less than 10 successful prosecutions,’ Orde Kittrie, a senior fellow at the Foundation for Defense of Democracies and law professor at Arizona State University’s Sandra Day O’Connor College of Law, told Fox News Digital. ‘It's spent over $2 billion. It's been really ineffective.’

As of July 2022, 31 cases have appeared before the ICC, which resulted in 10 convictions and four acquittals. The court has issued 37 arrest warrants, with 21 people ultimately detained while 12 people remain at large, according to the [European Union’s External Action Service](https://www.eeas.europa.eu/eeas/20-years-international-criminal-justice-against-most-horrific-crimes_en).

The ICC’s total annual budget for 2023 totaled around $183,500,000, which is an increase of around $34,500,000 or around 20% increase from 2022’s budget.

Member states each bear a portion of the overall budget based on the size of their economies, with the most significant funds coming from large European economies, Japan, South Korea, Australia and Brazil, according to the [Journal of Human Rights](https://www.tandfonline.com/doi/full/10.1080/14754835.2022.2156276#:~:text=In%20other%20words%2C%20states%20are,Korea%2C%20Australia%2C%20and%20Brazil).

Japan ranked as the largest contributor in 2022 with around $26,850,000, while Germany and France rank thereafter with around $19,000,000 and $14,400,000, respectively.

Appropriations for the court are divided into nine categories: the Judiciary, Office of the Prosecutor, the Registry, Secretariat of the Assembly of States Parties, Premises, Secretariat of the Trust Fund for Victims, Permanent Premises Project – Host State Loan, Independent Oversight Mechanism and Office of Internal Audit. The court also notes that ‘assets that the Court holds are normally not held to generate commercial returns and are therefore non-cash generating assets,’ meaning it must build its budget from contributions alone.

Even with that sizable budget, and the significant increase year over year, the court relies heavily on the cooperation of members to enable its operations. Outgoing Registrar Peter Lewis in 2023 said the court faced an unprecedented workload – even before taking on the investigation into alleged crimes in the Gaza Strip – and that state parties’ cooperation remained crucial to any success.

This makes any sanctions against the organization a potentially crippling measure: Then-President Trump in 2020 authorized an asset freeze and family entry ban against ICC officials after the court opened investigations into [alleged U.S. war crimes conducted in Afghanistan](https://www.foxnews.com/world/iccs-request-reopen-investigation-afghanistan-war-crimes-approved).

‘The ICC Prosecutor … thinks the Biden administration is more interested in a cozy relationship with the ICC than with protecting Israelis and Americans from its power grab,’ Anne Bayefsky, director of the Touro Institute on Human Rights and the Holocaust as well as president of Human Rights Voices, told Fox News Digital.

‘If President Biden does not immediately invoke the American Service Members Protection Act, terminate all cooperation and support of the ICC, and use his authority to sanction ICC officials for their outrageous prosecution – actually persecution – of the democratic representatives of the Jewish state … justice will have been dealt a disastrous blow,’ Bayefsky said.

The Biden administration increased its cooperation with the ICC, offering assistance and intelligence to the court to bolster its [investigation into alleged Russian war crimes](https://www.foxnews.com/world/international-court-issues-arrest-warrants-russian-officers-attacks-ukraines-infrastructure) during the invasion of Ukraine, though Kittrie noted that the ICC case against Putin ‘hasn’t made a difference’ and possibly merely added ‘some sense’ of legitimacy for the ICC prosecutor.

Bayefsky and others have urged the Biden administration to invoke the American Servicemembers Protection Act and sanction the ICC in response to any arrest warrants for Israeli officials.

During a speech in the Rose Garden on Wednesday at a [press conference with Kenyan President William Ruto](https://www.foxnews.com/world/kenyan-president-biden-appeal-global-leaders-reduce-huge-debt-developing-countries), Biden reiterated that the U.S. ‘made our position clear on the ICC … we don't recognize the jurisdiction of the ICC, the way it's being exercised, and it's that simple. We don't think there's an equivalence between what Israel did and Hamas did.’

The Rome Statute counts 124 signatories, including most of Africa, Europe and South America, but it does not include some notable holdouts: the United States, China, Russia, Ukraine, Israel, Saudi Arabia, Iran, North Korea and Turkey, among others.

The Biden administration [reversed the](https://www.foxnews.com/politics/biden-reverses-trump-era-policies-lifts-sanctions-on-international-criminal-court)[sanctions](https://www.foxnews.com/politics/biden-reverses-trump-era-policies-lifts-sanctions-on-international-criminal-court)but reinforced the position that the U.S. continued to ‘disagree strongly with the ICC’s actions relating to the Afghanistan and Palestinian situations.’

[The Center for Constitutional Rights](https://ccrjustice.org/factsheet-us-sanctions-international-criminal-court) argued that the sanctions delayed critical investigations at the ICC, ‘directly and indirectly negatively’ impacting the work at the ICC, though perhaps not as drastically as the U.S. would have hoped.

Instead, the group argued that the sanctions created a difficult working relationship for the ICC and any potential collaborators, such as civil society organizations, investigators, lawyers and victims who would worry about facing similar sanctions for helping the ICC.

The ICC, which commenced operations in 2002, bases its authority on the signatories of the Rome Statute, which outlines four core international crimes that the court will prosecute: genocide, crimes against humanity, war crimes, and crimes of aggression, all of which are ‘not subject to any statute of limitations’ but limited to only crimes that occurred after the statute came into force.

President Clinton signed the statute in 2000, but he demanded that the eventual ICC should address ‘fundamental concerns’ before he or any other U.S. president considered putting the statute before the U.S. Senate for ratification. The Bush administration took it a step further, withdrawing the U.S. signature and instead adopting the [American Servicemembers Protection Act](https://www.govinfo.gov/content/pkg/COMPS-3074/pdf/COMPS-3074.pdf).

Also known as the ‘Hague Invasion Act,’ the law allows the president to use ‘all means necessary and appropriate to bring about the release’ of U.S. or allied citizens detained or imprisoned by the ICC.

The bill also prevents the U.S. from providing support for the ICC, per Sec. 2004: The U.S. is prohibited from responding to requests for cooperation, of providing support to the court (including from law enforcement), of helping with extradition and using appropriated funds to assist the court, among others.