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### Report of the International Criminal Court

## Report of the International Criminal Court

### Note by the Secretary-General

The annual report of the International Criminal Court on its activities for 2014/15 is submitted herewith to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 28 of General Assembly resolution 69/279.

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\* [A/70/150](#).



## Report of the International Criminal Court on its activities in 2014/15

### *Summary*

During the reporting period, the International Criminal Court faced a heavy workload. The Office of the Prosecutor conducted preliminary examination activities in 10 situations (Afghanistan, the Central African Republic, Colombia, Georgia, Guinea, Honduras, Iraq, Nigeria, Ukraine and State of Palestine) and opened a new investigation into the situation in the Central African Republic.

In the Court's first appeals judgments on the merits, the Appeals Chamber confirmed the verdict and sentence against Thomas Lubanga for the war crimes of enlisting and conscripting of children under the age of 15 years and using them to participate actively in hostilities, and upheld the acquittal of Mathieu Ngudjolo Chui, both in the situation in the Democratic Republic of the Congo. Charges against Laurent Gbagbo and Charles Blé Goudé were confirmed in the situation in Côte d'Ivoire. Dominic Ongwen was the first suspect to appear before the Court with regard to the situation in Uganda, following his transfer to the Court on 21 January 2015.

In total, the Court is currently seized of 21 cases and eight situations (Central African Republic I and II, Côte d'Ivoire, the Democratic Republic of the Congo, Kenya, Libya, Mali, Darfur (the Sudan) and Uganda.

In institutional developments, seven new judges were elected and Judge Silvia Fernández de Gurmendi (Argentina) was elected President of the Court. The Assembly of States Parties to the Rome Statute elected Sidiki Kaba (Senegal) as its new President.

Arrest warrants issued by the Court remain outstanding against 12 individuals:

- (a) Côte d'Ivoire: Simone Gbagbo, since 2012;
- (b) Democratic Republic of the Congo: Sylvestre Mudacumura, since 2012;
- (c) Kenya: Walter Barasa, since 2013;
- (d) Libya: Saif Al-Islam Gaddafi, since 2011;
- (e) Darfur (the Sudan): Ahmad Harun and Ali Kushayb, since 2007; Omar Al Bashir, since 2009; Abdel Raheem Muhammad Hussein, since 2012; and Bahar Idriss Abu Garda, since 2014;
- (f) Uganda: Joseph Kony, Vincent Otti and Okot Odhiambo, since 2005.

The Court referred two findings of non-cooperation to the Security Council during the reporting period in relation to the situation in Darfur, the Sudan, and one finding in relation to the situation in Libya.

It is expected that 2016 will be a very busy year for the Court, with the unprecedented number of four trials taking place simultaneously. Those trials alone cover alleged crimes involving more than 10,000 victims, reflecting the fact that the scope of cases at the Court is typically far broader than that of trials in national jurisdictions.

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## Contents

	<i>Page</i>
I. Introduction .....	4
II. Update on judicial and prosecutorial activities .....	4
A. Preliminary examinations .....	4
B. Situations and cases .....	7
III. International cooperation .....	13
A. Cooperation with the United Nations .....	13
B. Cooperation with and assistance from States, other international organizations and civil society .....	19
C. Cooperation between relevant partners in the context of supporting and strengthening the Rome Statute system of international criminal justice: examples of complementarity in action .....	20
IV. Institutional developments .....	21
A. Elections and appointments .....	21
B. Ratifications and accessions .....	22
V. Conclusion .....	22

## I. Introduction

1. The present report, covering the period from 1 August 2014 to 31 July 2015, is submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court.<sup>1</sup>

2. Since it would be impossible to cover all relevant developments within the report owing to its limited length, hyperlinks are provided in the electronic version of the report to pages on the Court's website, where detailed information is available on the situations and cases.

## II. Update on judicial and prosecutorial activities

### A. Preliminary examinations

3. During the reporting period, the Office of the Prosecutor opened a preliminary examination of the situation in the State of Palestine, continued preliminary examinations in Afghanistan, Colombia, Georgia, Guinea, Honduras, Iraq, Nigeria and Ukraine and concluded its preliminary examination in the Central African Republic as well as in the "Gaza Freedom Flotilla" incident, referred to the Prosecutor by the Government of the Comoros. The Office published a report on its preliminary examination activities on 2 December 2014.

4. The Office continued to analyse information received from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 August 2014 to 30 June 2015, the Office received 520 communications relating to article 15 of the Rome Statute, of which 383 were manifestly outside the Court's jurisdiction; 36 were unrelated to current situations and warranted further analysis; 68 were linked to a situation already under analysis; and 33 were linked to an investigation or prosecution.

#### 1. Afghanistan

5. The Office of the Prosecutor continued to gather and verify information on alleged crimes committed in the situation in Afghanistan and to refine its legal analysis of potential cases for the purposes of assessing admissibility. In particular, the Office took successful steps to verify information received concerning incidents in relation to potential cases in order to overcome information gaps regarding, inter alia, the attribution of incidents, the military or civilian character of a target and the number of civilian and/or military casualties resulting from a given incident or the link of alleged crimes to the armed conflict in Afghanistan.

6. The Office further engaged with relevant States and cooperation partners with a view to assessing alleged crimes and national proceedings, and gathered and received information on national proceedings in order to reach a decision on whether to seek authorization from the Pre-Trial Chamber to open an investigation of the situation in Afghanistan.

7. Pursuant to its policy on sexual and gender-based crimes, the Office examined, in particular, whether there was a reasonable basis to believe that the

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2283, No. 1272.

crime against humanity of persecution on gender grounds had been or was being committed in the situation in Afghanistan.

## **2. Central African Republic**

8. On 12 June 2014, the authorities of the Central African Republic submitted a referral to the Prosecutor of the situation in that country since 1 August 2012. On 24 September 2014, the Office published an article 53 (1) report, concluding that there was a reasonable basis to proceed with an investigation into the Central African Republic II situation, and announced the opening a new investigation in the Central African Republic.

## **3. Colombia**

9. The Office of the Prosecutor continued to consult with the authorities of Colombia and with stakeholders on issues relevant to the preliminary examination. The Office conducted missions to Bogota, gathered additional information on the areas of focus of the preliminary examination, analysed information submitted through article 15 communications and held numerous meetings with national and international stakeholders. In May, the Office met in The Hague with the Special Representative of the Secretary-General on Sexual Violence in Conflict to discuss her conclusions after her first visit to Colombia, in March 2015.

10. The Office continued to analyse the relevance and genuineness of a large number of national proceedings in order to reach determinations on admissibility. In that context, the Office kept abreast of ongoing negotiations between the Government of Colombia and the Revolutionary Armed Forces of Colombia — People's Army and contributed to public discussions on accountability and transitional justice. The Office continued to consult closely with the Colombian authorities to ensure that genuine national proceedings are carried out against those most responsible for the most serious crimes.

## **4. Georgia**

11. The Office of the Prosecutor continued to actively engage with relevant stakeholders and requested updated information on national proceedings that would enable it to conduct a comprehensive and accurate assessment of the admissibility of potential cases identified at that stage of analysis. In that process, the Office received support and continuous cooperation from Georgia, the Russian Federation and other stakeholders, including civil society organizations, the Parliamentary Assembly of the Council of Europe and the European Court of Human Rights.

12. The Office conducted a mission to Tbilisi to gather updated information on concrete investigative steps taken by the Office of the Chief Prosecutor of Georgia. The Office of the Prosecutor is analysing the information received in order to reach a decision in the near future on whether to seek authorization from the Pre-Trial Chamber to open an investigation of the situation in Georgia.

## **5. Guinea**

13. The Office of the Prosecutor continued to actively follow national proceedings relating to the events of 28 September 2009 and to mobilize stakeholders in order to support the justice efforts of the Guinean authorities. The Office met with the

judicial expert supporting the panel of judges to follow up on the progress of the investigation and to discuss issues relating to sexual crimes and the protection of victims and witnesses.

14. The Prosecutor visited Conakry in July to take stock of the progress made in the national proceedings and conveyed a preventive message to deter potential incidents of violence in the context of the presidential elections of October 2015.

## **6. Honduras**

15. The Office of the Prosecutor focused its preliminary examination on the alleged crimes committed since the presidential inauguration of 2010 throughout the country, including the Bajo Aguán region. In that context, the Office sought and analysed information from multiple sources, including the Inter-American Commission on Human Rights, the United Nations system, local and international non-governmental organizations, article 15 communications and information submitted on behalf of the Government of Honduras.

16. The Office aims to reach a determination in the near future on whether the reported acts constitute crimes within the jurisdiction of the Court.

## **7. Registered vessels of Cambodia, the Comoros and Greece**

17. On 6 November 2014, the Prosecutor announced that the information available to her did not provide a reasonable basis to proceed with an investigation of the situation on the registered vessels of Cambodia, the Comoros and Greece that arose in relation to the incident relating to the “Gaza Freedom Flotilla”. That conclusion was based on a thorough legal and factual analysis of the information available and pursuant to the requirement in article 17 (1) (d) of the Rome Statute, that cases shall be of sufficient gravity to justify further action by the Court.

18. On 29 January 2015, the representatives of the Government of the Comoros filed an application for review of the Prosecutor’s decision not to proceed, pursuant to article 53 (3) (a) of the Statute, which was granted on 16 July by Pre-Trial Chamber I; the Chamber requested the Prosecutor to reconsider the decision. The Prosecutor has appealed the Pre-Trial Chamber’s decision.

## **8. Nigeria**

19. The Office of the Prosecutor continued its analysis of alleged war crimes committed by Boko Haram and by the Nigerian security forces in the context of the armed conflict in Nigeria. It requested additional information in order to refine its identification of potential cases so that it could assess whether the national authorities were conducting genuine proceedings in relation to those most responsible for such crimes, as well as the gravity of such crimes. In reaction to reports about escalating violence in Nigeria, the Prosecutor issued a statement in January 2015.

20. In relation to the holding of general and state elections in Nigeria in March and April 2015, the Prosecutor undertook a range of activities to prevent the commission of Rome Statute crimes. They included the issuance of public statements, a mission to Abuja, targeted media interviews and consultations with international and Nigerian stakeholders.

## **9. State of Palestine**

21. On 1 January 2015, the Government of the State of Palestine lodged a declaration accepting the jurisdiction of the Court over alleged crimes committed “in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014”.<sup>2</sup> In accordance with regulation 25 (1) (c) of the Regulations of the Office of the Prosecutor, and following policy and practice, on 16 January 2015, the Prosecutor announced the opening of a preliminary examination into the situation in the State of Palestine in order to establish whether the Rome Statute criteria for opening an investigation had been met.

## **10. Iraq**

22. Having reopened the preliminary examination on the situation in Iraq on 13 May 2014, the Office of the Prosecutor began verifying and analysing the seriousness of the information received, in accordance with article 15 (2) of the Rome Statute. Notwithstanding the fact that Iraq is not a State party to the Statute, the Court has jurisdiction over alleged crimes committed on the territory of Iraq by nationals of States parties. The preliminary examination focuses on alleged crimes attributed to the armed forces of the United Kingdom of Great Britain and Northern Ireland deployed in Iraq between 2003 and 2008. The Office also gathered information on relevant national proceedings during the reporting period.

23. The Office was in close contact with the senders of the article 15 communications, namely, the European Centre for Constitutional and Human Rights and public interest lawyers, as well as the Government of the United Kingdom, in order to discuss the Office’s preliminary examination process, policies and analysis requirements and the provision of relevant additional information.

## **11. Ukraine**

24. The preliminary examination has focused on the gathering of information from reliable sources to assess whether the alleged crimes fall within the subject-matter jurisdiction of the Court. The Office of the Prosecutor engaged with representatives of Ukrainian civil society to gather information relevant for that assessment.

25. Additionally, the Office requested information from the Government of Ukraine and subsequently received three submissions, which it is analysing.

26. The Office conducted missions to Kyiv to follow up with the relevant Ukrainian authorities and other actors on matters relating to the preliminary examination.

## **B. Situations and cases**

27. During the reporting period, 4,002 victims were admitted to participate in proceedings before the Court. The Court also received 1,669 new applications for the participation of victims and 1,017 applications for reparations.

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<sup>2</sup> Available from [www.icc-cpi.int/iccdocs/PIDS/press/Palestine\\_A\\_12-3.pdf](http://www.icc-cpi.int/iccdocs/PIDS/press/Palestine_A_12-3.pdf).

## 1. Situation in the Democratic Republic of the Congo

### *Investigations*

28. The Office of the Prosecutor continued its investigation and work in support of the ongoing cases. It conducted 44 missions to six countries in relation to its investigation and trial preparation in the case against Bosco Ntaganda for the purpose of, inter alia, collecting evidence, screening and interviewing witnesses and securing continued cooperation. Additionally, the Office, on various occasions, requested the lifting of restrictions on the documents of the United Nations and other sources that it intended to use during trial and sought the assistance of the United Nations and other partners in making available former staff members to testify at the trial.

29. The Office conducted missions to two countries for its investigations relating to alleged crimes committed by the Forces démocratiques pour la libération du Rwanda in the Kivu provinces. Furthermore, the Office actively followed developments in the Democratic Republic of the Congo and the wider region, including disarmament, demobilization and reintegration efforts supported by the United Nations, to evaluate and foster prospects for the arrest or surrender of Sylvestre Mudacumura.

30. The Office also conducted several missions relating to the request for interim release filed by Thomas Lubanga.

31. Beyond the existing cases, active examination of alleged crimes and potential cases in the Democratic Republic of the Congo continued. The Office of the Prosecutor continued proactive discussions with the authorities of the Democratic Republic of the Congo on closing the impunity gap and fostering support for national investigations and investigations by third States into those crimes.

### *Judicial proceedings*

#### *The Prosecutor v. Thomas Lubanga Dyilo*

32. On 1 December 2014, the Appeals Chamber confirmed the verdict declaring Thomas Lubanga Dyilo guilty and the decision sentencing him to 14 years of imprisonment, which are now final. Reparation proceedings in the case are pending following the 3 March 2015 judgment of the Appeals Chamber, which amended the Trial Chamber's order for reparations and instructed the Trust Fund for Victims to present a draft implementation plan for collective reparations to Trial Chamber I.

#### *The Prosecutor v. Germain Katanga*

33. On 25 June 2014, the Defence for Germain Katanga and the Office of the Prosecutor discontinued their appeals against the judgment in the Germain Katanga case, which sentenced Mr. Katanga to a total of 12 years of imprisonment. The judgment has therefore become final. Proceedings on possible reparations to victims are pending.

#### *The Prosecutor v. Mathieu Ngudjolo Chui*

34. On 27 February 2015, following an appeal by the Prosecutor, the Appeals Chamber confirmed, by majority, the judgment of 18 December 2012 of Trial



Chamber II acquitting Mathieu Ngudjolo Chui of charges of crimes against humanity and war crimes.

*The Prosecutor v. Bosco Ntaganda*

35. Following the confirmation of charges against Bosco Ntaganda on 9 June 2014, the opening statements in the trial are scheduled to take place from 2 to 4 September 2015 before Trial Chamber VI.

## **2. Situation in the Central African Republic**

*Investigations*

36. On 24 September 2014, the Prosecutor announced the opening of a second investigation in the Central African Republic, following a referral by the Government regarding crimes within the Court's jurisdiction allegedly committed since 1 August 2012.

37. The Office of the Prosecutor was focusing its investigations on alleged crimes committed by various actors, including by the armed groups known as the Séléka and the anti-Balaka.

38. The Office conducted 35 missions to eight countries to collect evidence. Strong cooperation from the Government is ongoing. Cooperation with the United Nations and its agencies in the Central African Republic and the wider region is also ongoing and should continue. Efforts to enhance cooperation with countries in the region has been a priority for the Office since the opening of the investigation.

39. The Office encouraged national proceedings in relation to all parties to the conflict and closely followed developments on the establishment of a Special Criminal Court for the Central African Republic.

*Judicial proceedings*

*The Prosecutor v. Jean-Pierre Bemba Gombo*

40. The closing oral statements for the case took place on 12 and 13 November 2014. The judges have been deliberating and the judgment will be pronounced in due course.

*The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*

41. On 11 November 2014, Pre-Trial Chamber II partially confirmed the charges of offences against the administration of justice for the five suspects and committed them to trial. The opening of the trial before Trial Chamber VII is scheduled for 29 September 2015.

## **3. Situation in Uganda**

*Investigations*

42. The Office of the Prosecutor conducted 29 missions to obtain further evidence with a view to bringing additional charges against Dominic Ongwen. In particular, the Office was investigating crimes of sexual and gender-based violence and the recruitment and use of child soldiers. The Office was ordered by the Pre-Trial

Chamber to notify Mr. Ongwen and his defence team by 21 September 2015 of any new charges it intended to bring.

43. The Office continued to work with the Government of Uganda to verify reports that the suspect Okot Odhiambo may have been killed between October and December 2013.

#### *Judicial proceedings*

##### *The Prosecutor v. Dominic Ongwen*

44. Dominic Ongwen was surrendered to the Court's custody on 16 January 2015 and transferred to the Court's Detention Centre on 21 January 2015. His initial appearance took place on 26 January 2015; the opening of the confirmation of charges hearing was scheduled for 21 January 2016.

#### **4. Situation in Darfur (the Sudan)**

##### *Investigations*

45. The Office of the Prosecutor conducted 20 missions to nine countries and continued to monitor trends that could constitute crimes under the Rome Statute, including alleged aerial bombardments, ground attacks, common crimes, killings, attacks on civilians, sexual violence, forced displacement, attacks on humanitarian aid workers and peacekeepers and arbitrary detentions.

46. In her December 2014 report to the Security Council, the Prosecutor explained that she had decided to hibernate the investigations in Darfur because of the Council's lack of commitment to supporting the work of the Office in a situation it had referred to the Office. The decision in no way means that the Office has abandoned the cases in Darfur. The arrest warrants issued against the suspects remain outstanding and must be executed.

##### *Judicial proceedings*

##### *The Prosecutor v. Omar Hassan Ahmad Al Bashir*

47. On 9 March 2015, Pre-Trial Chamber II found that the Sudan had failed to cooperate with the Court by deliberately refusing to liaise with it and to execute the pending requests for the arrest and surrender of Omar Hassan Ahmad Al Bashir. The Chamber referred the finding of the non-cooperation of the Sudan to the Security Council.

##### *The Prosecutor v. Abdallah Banda Abakaer Nourain*

48. On 11 September 2014, Trial Chamber IV issued an arrest warrant against Abdallah Banda Abakaer Nourain because of the lack of guarantee that the accused would be in a position to surrender voluntarily, and vacated the previously scheduled trial date. On 3 March 2015, the Appeals Chamber rejected Mr. Banda's appeal against the decision replacing the summons to appear by a warrant of arrest.

##### *The Prosecutor v. Abdel Raheem Muhammad Hussein*

49. On 26 June 2015, Pre-Trial Chamber II found that the Sudan had failed to cooperate with the Court by deliberately refusing to liaise with it and execute the

pending requests for the arrest and surrender of Abdel Raheem Muhammed Hussein. The Chamber referred the finding of the non-cooperation of the Sudan to the Security Council.

## 5. Situation in Kenya

### *Investigations*

50. The Office of the Prosecutor continued to receive information on the commission of crimes against humanity during the post-election violence in 2007/08, and conducted 19 missions to five countries.

51. The Office continued to investigate alleged instances of individuals attempting to obstruct, interfere with or discourage Prosecution witnesses from giving evidence in the ongoing trial of William Samoei Ruto and Joshua Arap Sang, contrary to article 70 of the Statute.

### *Judicial proceedings*

#### *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*

52. The trial, which started on 10 September 2013, continued during the reporting period. The accused appeared voluntarily before the Court.

#### *The Prosecutor v. Uhuru Muigai Kenyatta*

53. On 3 December 2014, Trial Chamber V (b) issued a decision rejecting the application for referral of the matter to the Assembly of States Parties of the cooperation of Kenya. As at the end of the reporting period, the Prosecutor's appeal against the decision was pending.

54. On 5 December 2014, the Prosecutor filed a notice to withdraw charges against Mr. Kenyatta, following which Trial Chamber V (b) decided on 13 March 2015 to terminate the proceedings in the case.

## 6. Situation in Libya

### *Investigations*

55. The Office of the Prosecutor conducted 13 missions in seven countries and continued to monitor allegations of crimes committed by militias and armed groups in Libya.

56. The Office called for accountability for the use of violence against civilians and civilian institutions by the Islamic State of Iraq and the Levant (ISIL) (also known as Da'esh) and other actors in Libya. The Security Council also called for accountability for such violence in its resolution 2213 (2015). The Office considers that the Court's jurisdiction over Libya, granted by resolution 1970 (2011), *prima facie* extends to such crimes.

### *Judicial proceedings*

#### *The Prosecutor v. Saif Al-Islam Gaddafi*

57. On 10 December 2014, Pre-Trial Chamber I issued a finding of non-compliance by the Government of Libya with respect to the non-execution of

two requests for cooperation transmitted by the Court. The Chamber decided that the matter should be referred to the Security Council.

## **7. Situation in Côte d'Ivoire**

### *Investigations*

58. The Office of the Prosecutor continued its preparation for trial and conducted 42 missions to seven countries to collect additional evidence, screen and interview or re-interview witnesses and secure the continued cooperation of partners.

59. In parallel, the Office increased significantly its efforts to collect information on and foster support for its investigation in relation to other alleged crimes committed in Côte d'Ivoire, covering other parties to the conflict.

### *Judicial proceedings*

#### *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*

60. Charges against Laurent Gbagbo and Charles Blé Goudé were confirmed on 12 June 2014 and 11 December 2014, respectively. On 11 March 2015, Trial Chamber I joined the two cases in order to ensure the efficacy of proceedings. The opening of the trial was scheduled for 10 November 2015.

#### *The Prosecutor v. Simone Gbagbo*

61. On 11 December 2014, Pre-Trial Chamber I rejected the Government's challenge to the admissibility of the case and reminded Côte d'Ivoire of its obligation to surrender Simone Gbagbo to the Court without delay. On 27 May 2015, the Appeals Chamber confirmed the decision of Pre-Trial Chamber I declaring the case against Ms. Gbagbo admissible before the Court.

## **8. Situation in Mali**

### *Investigations*

62. The Office of the Prosecutor conducted 46 missions to nine countries to collect evidence, screen and interview witnesses and secure the continued cooperation of its partners, including States in the Sahel region.

63. The Office continued to collect information and evidence about alleged crimes in the entire territory of Mali; initial geographical emphasis was given to the three northern regions. The Office gave particular attention to allegations concerning attacks against buildings dedicated to religion and against historic monuments, including those with World Heritage status, and accordingly cooperated extensively with the United Nations and, in particular, with the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Office also sought cooperation from a number of other United Nations agencies present in Mali, particularly from the Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

### **III. International cooperation**

#### **A. Cooperation with the United Nations**

##### **1. General cooperation with United Nations Headquarters**

64. As indicated in more detail in the Court's 2013 report on the status of ongoing cooperation between the Court and the United Nations, including in the field, the many forms of cooperation range from regular dialogue aimed at identifying challenges in the execution of the respective mandates and in the cooperation between the two institutions, as well as ways of overcoming them, to a very practical working relationship which includes the exchange of information and reports, administrative and personnel arrangements, the provision of services and facilities, logistical support in the field, financial matters, travel arrangements, judicial assistance, the appearance of United Nations staff in court to provide testimony and supporting each other's activities in the field.

65. In accordance with the Relationship Agreement, the United Nations provides facilities and services to the Court on a reimbursable basis, including those that enabled the Assembly of States Parties to hold its thirteenth session at Headquarters, from 8 to 17 December 2014, and the Advisory Committee on the nominations of judges of the International Criminal Court to meet, from 8 to 12 September 2014.

66. The Court highlights the crucial support and cooperation it has received over the years from the United Nations, including from the Secretary-General and the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, whose office (the Office of Legal Affairs) ensures the transmission and coordination of judicial cooperation requests between the United Nations and its agencies and the organs of the Court and parties to the proceedings.

67. As an efficient interface between the Court and the United Nations, the Office of Legal Affairs advises the requesting organ or party on the procedure to be followed, provides updates and identifies the relevant interlocutors that the Court can contact in the various United Nations agencies or peacekeeping missions in the field.

68. The Court is also grateful for the regular interaction with and support of other United Nations entities, including the Department of Peacekeeping Operations, the Department of Political Affairs, the Department of Safety and Security, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs and the United Nations Office on Drugs and Crimes (UNODC) as well as the Special Advisers of the Secretary-General on the Responsibility to Protect; Gender Issues and the Advancement of Women; and the Prevention of Genocide; and his Special Representatives on Sexual Violence in Conflict, and for Children and Armed Conflict. The Court also appreciates its regular interaction with such United Nations agencies as UNESCO and with such programmes and funds as the United Nations Children's Fund, the United Nations Development Programme (UNDP) and the United Nations Institute for Training and Research.

69. The Court is specifically recognizant of the continued generous support provided by UN-Women in the form of the secondment of gender experts to the Office of the Prosecutor's investigation teams. On the basis of that positive experience, the Court looks forward to continuing such cooperation and the sharing of expertise with UN-Women and is interested in expanding such cooperation towards other United Nations agencies with relevant expertise.

70. The principals of the Court frequently hold high-level consultations with senior United Nations officials to discuss matters of mutual interest, to explain the interests and mandate of the Court and to seek the support of the United Nations. The annual reports of the Court present an opportunity for it to inform the United Nations and the international community at large on a regular basis about its activities.

71. The annual joint round table of the United Nations and the International Criminal Court enables officials from both institutions to meet at a working level to discuss practical cooperation arrangements, lessons learned and challenges ahead.

72. The representation of the Court at the United Nations in the form of a small liaison office provides an important channel of communication between the two organizations, facilitating the maintenance and further development of their relationship and cooperation. The Court is also financing a legal position (P-3) within the Office of Legal Affairs to discharge the Office of the workload incurred as a result of cooperation with the International Criminal Court.

73. Although the Court is not party to the Inter-Organization Agreement concerning Transfer, Secondment or Loan of Staff among the Organizations applying the United Nations Common System of Salaries and Allowances, which replaced the Inter-Agency Mobility Accord, to which the Court was a party, the Court retains an observer position and continues to administer and support the movement of personnel in full accordance with the provisions of the Accord. In the reporting period, 11 staff members were on loan to the International Criminal Court from other tribunals or international organizations, while 4 staff members of the Court were on loan to other tribunals or international organizations.

74. The Court continues to cooperate with United Nations common system organizations in inter-agency meetings on facilities management, travel and security. The Court also follows United Nations guidelines on the issuance of laissez-passez documents to elected officials and staff.

75. A memorandum of understanding was signed between the Ethics Office of the United Nations and the Court to ensure the administration of the financial disclosure programme commenced by the Court in 2015 in accordance with the Court's needs and the standard provisions of the programme as administered in the United Nations common system.

76. The Court has engaged with several United Nations system agencies for the provision of a range of services during the reporting period. The main service provider during the period was the Secretariat, with services amounting to approximately €0.7 million, including the loan of staff members; participation by the Court's library in the United Nations System Electronic Information Acquisition Consortium; inter-satellite, audiovisual and security services; training; and field security assistance.

77. Other services in the amount of approximately €0.2 million were provided by several other United Nations system agencies, including the United Nations Offices in Nairobi and Geneva, UNDP, the International Criminal Tribunal for the Former Yugoslavia, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Operation in Côte d'Ivoire (UNOCI), the Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) and MINUSMA. Services provided included telecommunications; fuel, spare parts and maintenance for vehicles; stationery and supplies; information and communications technology services; field security assistance; medical and transportation services, training; and the loan of staff.

## **2. Cooperation with United Nations peacekeeping missions and other United Nations presence in the field**

78. During the reporting period, cooperation from the United Nations in the field was particularly solicited in many areas, ranging from security and logistical assistance for missions in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Liberia and Mali and security, transportation and special flight assistance for high-level official visits to the Central African Republic and the Democratic Republic of the Congo to negotiating memorandums of understanding and continuing the exchange of information on matters of interest for the Court.

79. The Court continued to benefit from United Nations logistical assistance in carrying out its activities in situation countries, including from such United Nations missions as MINUSCA, MINUSMA, MONUSCO and UNOCI, as well as the United Nations Office in Nairobi. Assistance from the missions included the use of 973 United Nations flights during the reporting period. Excellent cooperation was also extended by the United Nations in connection with the Court's feasibility study concerning the holding of in situ hearings in the case of *The Prosecutor v. Bosco Ntaganda*.

80. Conversely, field offices of the Court provided, upon request, logistical and security support to the United Nations.

81. In cases in which a high volume of requests for cooperation was anticipated, the Court and the Office of the Prosecutor sought to conclude memorandums of understanding to facilitate agreed modalities for specific forms of assistance. That practice allowed the Court to avoid delays in the deployment of its operations and helped to reduce costs. Moreover, the agreements ensured regular exchanges on issues of mutual interest and enabled the efficient provision of responses to concerns and the dissipation of misinformation.

82. On 20 August 2014, the Court concluded a memorandum of understanding with MINUSMA that encompassed cooperation matters relating to the Court's activities in Mali.

83. On 2 June 2015, the Court concluded an exchange of letters with the United Nations enabling MINUSCA to provide immediate assistance to the Court on an ad hoc basis, pending the finalization of a more comprehensive agreement.

84. Finally, the Court benefited from information sharing and the operational support of United Nations missions in several countries that are not situation

countries, but that are relevant to the Office of the Prosecutor's investigations or preliminary examinations.

85. It is of the utmost importance that the United Nations continue to give due regard to requests for support and assistance for the Court's defence teams in accordance with the principle of equality of arms, and thus include relevant provisions in that regard in cooperation agreements with the Court.

86. The extent to which the peacekeeping missions can cooperate with the Court depends largely upon the mandate given to the mission. In particular, it remains important to consistently maintain in mission mandates and mandate renewals the authorization for the mission to support national authorities in securing arrests, or, if possible, an even stronger mandate and the capacity to carry out operations that may lead to arrests prior to the transfer of fugitives to the national authorities. Particular lessons may be drawn from the establishment and first year of activities of the Intervention Brigade within MONUSCO, pursuant to Security Council resolution 2098 (2013).

87. Formulating such mandates will require efforts from States as well as the Department of Peacekeeping Operations, mindful of the positive synergies between the missions and the Court, while taking into account their respective mandates.

88. Over the past few years, the Office of the Prosecutor has remained in contact with numerous commissions of inquiry set up by the Secretary-General, the Security Council or the Human Rights Council, including regarding the situations in Guinea, Libya and Darfur (the Sudan). The Office has also interacted with relevant United Nations groups or panels of experts, which often obtain, very early on, valuable information on situations of interest to the Office.

89. Commissions of inquiry can be valuable sources of information on allegations of the possible commission of crimes within the jurisdiction of the Court. Such information may be particularly beneficial for the Office during preliminary examinations, in which it relies on open-source information to determine if there is a reasonable basis for investigating.

90. Subject to the specific mandate and considered view of each commission of inquiry, further exploration has been made on ways to increase cooperation and coordination in situations that fall within the jurisdiction of the Court, with a view to facilitating the mutual exchange of information in line with the Relationship Agreement. The Office of the Prosecutor and OHCHR, with the assistance of the Office of Legal Affairs, have been considering ways to strengthen possible modalities for cooperation, including through the conclusion of a framework memorandum of understanding.

### **3. Cooperation with the Security Council**

91. The capacity of the Security Council to refer a situation to the Court is crucial to ensure accountability, but without the necessary follow-up, in terms of ensuring cooperation and, in particular, the arrest and surrender of individuals, justice will not be done. A perception of inactivity on the part of the Council in taking further measures to ensure that cases can be brought to the courtroom would risk undermining the credibility of both the Council and the Court.



92. Currently, 11 Court communications to the Council about non-cooperation regarding Darfur and Libya remain unanswered. The Council must ensure that it stands behind its own decisions regarding the Court, especially when lack of cooperation has been identified and notified by the judges.

93. The Court looks forward to engaging with interested parties to discuss how to improve the implementation of obligations created by the Council, including the execution of arrest warrants, and to seek more constructive strategies for attaining the mutual goals of preventing and ending impunity for atrocity crimes.

94. The Court continues to welcome the updated guidelines of the Secretary-General on contacts with persons who are the subject of arrest warrants or summonses issued by the Court. It remains important to carefully document and analyse such contacts to determine which are essential and to assess their impact.

95. United Nations targeted sanctions are an important tool for addressing threats to international peace and security, including atrocity crimes. However, certain factors still prevent their most effective use. The Court has provided suggestions in the past on possible improvements, including harmonizing the designation criteria of sanctions mechanisms for the identification and freezing of assets and the imposition of travel bans. The designation criteria for a number of such sanctions mechanisms already provide for the listing of persons who commit violations of international humanitarian or human rights law or other atrocities.

96. Consideration could be given to enabling the automatic listing of persons sought by the Court once a warrant for their arrest has been issued by a pre-trial chamber for the alleged commission of crimes within the jurisdiction of the Court, particularly when the situation has been referred by the Security Council.

97. Consideration could also be given to streamlining decision-making by the sanctions committees when Court processes intersect with the sanctions programmes (i.e., the transfer of individuals to and from The Hague, advance warning of the possible delisting of persons of interest to the Court and the use of funds for reparations or legal aid purposes. In the case of transfers, for example, an automatic lifting of travel bans could be provided for in relevant resolutions when an individual subject to such a ban must be transferred to or from The Hague.

98. The Court welcomes the recently published Compendium of the High Level Review of United Nations Sanctions and, in particular, its section VII.D on United Nations sanctions and international criminal justice proceedings ([A/69/941-S/2015/432](#), annex). The Compendium identifies a number of key issues and recommendations for improving cooperation, coordination and information-sharing among international criminal justice actors, the Security Council, the Office of Legal Affairs and sanctions committees. Those issues and recommendations merit further discussion and follow-up. The Court is open to engaging in a dialogue on the matter.

#### **4. Mainstreaming the Court in the United Nations system**

99. The United Nations, as the main forum for international cooperation and consultation, presents a unique context for promoting the mainstreaming and understanding of Rome Statute issues and considerations into a wide variety of areas of international activity. Each year, the General Assembly and the Security Council adopt a number of resolutions and decisions in which the mandate of the

Court is recognized and supported, including the annual Assembly resolution on the Court, which provides an excellent opportunity for the international community to discuss the role and importance of the Court in the United Nations context.

100. Such mainstreaming could be further strengthened in the following four key areas:

(a) The only way to achieve full accountability for the gravest international crimes is to ensure that the reach of international criminal justice is universal, as is the United Nations system. High-level meetings at Headquarters, in which all Member States are present, provide a unique opportunity to raise interest and support for more countries to consider joining the Court. Recommendations containing references to the ratification or full implementation of the Rome Statute, made in the context of the universal periodic review conducted under the Human Rights Council in Geneva, are also highly relevant in that respect;

(b) There is much to be gained by increasing the dialogue between key actors who are addressing peace and security issues and grave human rights violations and actors who are addressing international criminal justice. Human rights and individual criminal responsibility issues often intersect. For example, several of the situations under preliminary examination are also being examined in the United Nations context. It is important to recognize the possible synergies that could be achieved in that area, for the benefit of the victims of crimes;

(c) The third specific area of possible increased mainstreaming concerns the strengthening of national jurisdictions. Ending impunity is not the preserve of any one institution. The Court is a court of last resort and can prosecute only a limited number of individuals. Respect for sovereignty and deference to genuine national judicial processes are paramount considerations in the Court's determination of whether or not to proceed with investigations or cases. States must vigorously and effectively carry out their responsibility to investigate and prosecute crimes, and thus contribute to the fight against impunity. When there is willingness to do so, but capacity is lacking, it is important that the international community, including the United Nations, play its role in encouraging and assisting States to address the need for increased capacity in the areas of justice and accountability. In that respect, the Rule of Law Unit of the Secretariat, the Office of the Rule of Law and Security Institutions and the rule of law components of peacekeeping missions have proved useful in mainstreaming international justice, in particular in countries in which the Court has been active. OHCHR, UNDP, the Human Rights Council and several other United Nations offices and agencies are also important actors in this regard. The post-2015 development agenda could also provide an important platform for enhancing such work;

(d) The fourth area concerns policy and thematic priorities. As an example, during the reporting period, the Court was pleased to provide input to the global study conducted by UN-Women on the implementation of Security Council resolution 1325 (2000) on women, peace and security. In particular, the Court welcomed the initiative to include a discussion on justice and accountability in the global study because it recognized the interconnectedness of the United Nations agenda on women, peace and security and the work of the Court. Other areas of common interest could include such topics as children, the protection of cultural heritage, the prevention of atrocity crimes or breaches of international humanitarian law and issues relating to peace and justice. Owing to its limited resources, the

Court calls on States parties' assistance in mapping and highlighting any such areas of convergence.

## **B. Cooperation with and assistance from States, other international organizations and civil society**

### **1. Judicial assistance during the reporting period**

101. The Court continued to request the assistance of States to fulfil its mandate. During the reporting period, the Registry of the Court transmitted 1,042 requests for visas and 251 requests for cooperation.

102. In connection with its investigative and prosecutorial activities, during the reporting period, the Office of the Prosecutor addressed a total of 366 requests for assistance to 58 different partners, including States parties, non-States parties and international and regional organizations, in addition to following up on the execution of pending requests.

103. States continued to provide assistance to defence teams in support of such investigative activities as the provision of visas, logistical support, including for video links, the facilitation of family visits and access to clients and information.

104. During the reporting period, the Office continued to develop an active network of judicial cooperation partners and war crimes unit contacts to foster support for its investigative needs and to answer requests for assistance with national proceedings.

### **2. Court cooperation seminars**

105. Continuing its practice of enhancing cooperation and stimulating discussion via regional events, the Court organized cooperation seminars in Cotonou and San José. The Court thanks the European Commission for financing those seminars and Benin and Costa Rica for hosting them, and also thanks the Netherlands and Norway for their financial support of the Benin seminar.

106. With the financial assistance of Finland, France and the Netherlands, the Court also organized a seminar in The Hague that brought together national focal points from a number of situation countries and other key States responsible for coordinating and channelling communications between national authorities and the Court.

### **3. Cooperation with other international and regional organizations**

107. During the reporting period, the Court continued to develop its interaction and cooperation with international and regional organizations in order to maintain and foster support for its activities, in particular with regard to investigations by the Office of the Prosecutor, financial investigations and the execution of Court decisions. The Court reinforced its involvement and presence in international networks of judicial practitioners and law enforcement actors. Active cooperation was obtained from such partners as Interpol, the European Union (the European Commission, the European External Action Service, Eurojust, Europol), the World Bank, the Inter-American Commission on Human Rights and the Ibero-American Legal Assistance Network.

#### **4. Cooperation with civil society**

108. The Court continued to engage actively with its civil society partners in Geneva, The Hague and New York as well as in the situation countries and countries under preliminary examination. The Court held its annual round table with non-governmental organizations and several smaller meetings to discuss issues of common interest.

109. The Court appreciated, and continued to participate in, activities organized by civil-society partners to promote the universality and full implementation of the Rome Statute, as well as cooperation and increased awareness of the mandate and work of the Court.

### **C. Cooperation between relevant partners in the context of supporting and strengthening the Rome Statute system of international criminal justice: examples of complementarity in action**

#### **1. The preliminary examination in Guinea**

110. The case of Guinea is a striking example of the way in which the positive dynamic created between the Office of the Prosecutor, the United Nations system, civil society and the State concerned has borne tangible results for the progress of a national investigation regarding alleged crimes against humanity committed during the events of 28 September 2009. During the reporting period, in order to identify concrete measures that could be taken by the relevant authorities to complete the national investigation in compliance with the law and within a reasonable time frame, the Office met and stayed in regular contact with the Guinean authorities, representatives of civil society and United Nations representatives, including the Special Representative on Sexual Violence in Conflict and members of the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, as well as the United Nations judicial expert deployed by that team. to assist the panel of Guinean judges.

111. During the reporting period, the quality and pace of national proceedings increased significantly. Significant investigative steps taken by the panel of judges included the indictment of several high-level political and military officials and the hearing of testimony of dozens of victims, including victims of sexual violence and enforced disappearance, and key witnesses, some of whom initially appeared reluctant to appear before the judges.

112. With the support of the United Nations and civil society, the Office will continue to encourage the Guinean authorities to fulfil their primary responsibility to investigate and prosecute Rome Statute crime, as that approach has already proven fruitful. The completion of such a complex investigation, unprecedented in the history of Guinea, and the holding of a trial in the near future would be major achievements and serve as a successful cooperation model for other situations.

#### **2. Witness protection**

113. Within the scope of its mandate, the Victims and Witnesses Section of the Registry has been cooperating closely with relevant United Nations agencies.

114. In particular, in January 2015, the Court concluded a memorandum of understanding with UNODC to increase cooperation concerning the mandate of the Victims and Witnesses Section in accordance with the Rome Statute. The memorandum of understanding is aimed at specifically at increasing the capacity of States receiving witnesses and victims of the Court to protect them, in accordance with international standards and good practices. The memorandum of understanding provides for cooperation by UNODC in training programmes concerning best practices in witness protection.

### **3. Memorandum of understanding between the Court and the United Nations Office on Drugs and Crime on the enforcement of sentences**

115. The Court and UNODC also concluded a memorandum of understanding on building the capacity of States to enforce, in accordance with international standards on the treatment of prisoners, sentences of imprisonment pronounced by the Court. The memorandum of understanding establishes a framework for the Court and UNODC to cooperate in assisting States parties desiring to build their capacity to receive sentenced persons in accordance with international standards. It includes provisions on mutual consultations and the exchange of information, as well as the provision by UNODC to States parties of technical assistance relating to the treatment of prisoners and the management of facilities.

## **IV. Institutional developments**

### **A. Elections and appointments**

116. At its thirteenth session, the Assembly of States Parties to the Rome Statute of the International Criminal Court elected, by acclamation, the Minister of Justice of Senegal, Sidiki Kaba, as President of the Assembly for the thirteenth to sixteenth sessions, replacing Tiina Intelmann of Estonia.

117. The Assembly of States Parties also held a regular election for six judges of the Court and elected Chang-ho Chung (Republic of Korea), Piotr Hofmański (Poland), Péter Kovács (Hungary), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Marc Pierre Perrin de Brichambaut (France) and Bertram Schmitt (Germany) for nine-year mandates beginning on 11 March 2015.

118. At its resumed thirteenth session, the Assembly of States Parties held an election for one judge to fill a vacancy left by the resignation of judge-elect Miriam Defensor Santiago. The Assembly elected Raul Cano Pangalangan (Philippines) to serve for the remainder of Ms. Defensor Santiago's term, which will run until 10 March 2021. Judge Pangalangan was sworn in on 13 July 2015.

119. On 11 March 2015, the judges of the Court, in a plenary session, elected Judge Silvia Fernández de Gurmendi (Argentina) as President of the Court, Judge Joyce Aluoch (Kenya) as First Vice-President and Judge Kuniko Ozaki (Japan) as Second Vice-President for three-year terms with immediate effect.

## **B. Ratifications and accessions**

120. On 2 January 2015, the State of Palestine acceded to the Rome Statute, becoming the 123rd State party.

121. During the reporting period, six States (Costa Rica, the Czech Republic, Latvia, Malta, Poland and Spain) ratified the amendment to article 8 of the Rome Statute of the International Criminal Court (Kampala amendment) and eight States (the above-mentioned six States, as well as Georgia and San Marino) ratified or accepted the amendments to the Statute on the crime of aggression. As at the end of the reporting period, a total of 24 and 23 States, respectively, had ratified or accepted the amendments.

122. Two States became parties to the Agreement on the Privileges and Immunities of the International Criminal Court. Senegal ratified the Agreement on 25 September 2014 and the State of Palestine acceded to it on 2 January 2015. A total of 74 States are now party to the Agreement.

## **V. Conclusion**

123. The Court had another active year in terms of judicial proceedings, investigations, preliminary examinations and institutional developments. The Court enjoys highly valuable cooperation with the United Nations on a wide range of issues and continues to look to the international community for support and cooperation in establishing accountability for the most serious crimes under international law, bringing justice to victims and affected communities, and helping to prevent future atrocities.

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