



# General Assembly

Distr.: General  
24 August 2020

Original: English

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## Seventy-fifth session

Item 75 of the provisional agenda\*

### 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 2019/20 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 Assembly resolution [74/6](#).

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\* [A/75/150](#).



## Report of the International Criminal Court on its activities in 2019/20

### *Summary*

The International Criminal Court made important progress in its activities during the reporting period despite practical challenges caused by the coronavirus disease (COVID-19) pandemic, as it was seized of more than 10 cases at different stages of proceedings. Among notable developments, one accused was sentenced; the hearings in one trial were brought to conclusion; one trial commenced; charges were confirmed against two accused; one suspect, whose first arrest warrant had been outstanding for more than 13 years, was transferred to the Court; two new investigations were authorized; and the Prosecutor received a referral of one situation.

In total, since its establishment, the Court has opened 27 cases, involving 45 suspects or accused. Investigations have been opened in 13 situations: Afghanistan, Bangladesh/Myanmar, Burundi, Central African Republic I and II, Côte d'Ivoire, Darfur (Sudan), Democratic Republic of the Congo, Georgia, Kenya, Libya, Mali and Uganda.

Bosco Ntaganda was sentenced to 30 years of imprisonment following his earlier conviction on 5 counts of crimes against humanity and 13 counts of war crimes, committed in Ituri, Democratic Republic of the Congo, in 2002 and 2003. The conviction and sentence have been appealed.

Trial Chamber IX heard the closing statements in the trial of Dominic Ongwen on 70 counts of crimes against humanity and war crimes allegedly committed in northern Uganda from 2002 to 2005. The Chamber is deliberating and will deliver its judgment in due course.

With regard to Central African Republic II, Pre-Trial Chamber II confirmed charges of crimes against humanity and war crimes against Alfred Yekatom and Patrice-Edouard Ngaïssona for acts allegedly committed in 2013 and 2014. Their trial is scheduled to commence on 9 February 2021.

With regard to the situation in Darfur, Ali Muhammad Ali Abd-Al-Rahman, who allegedly was one of the top commanders of the Janjaweed militias, was transferred to the custody of the Court after surrendering himself. The confirmation of charges hearing, regarding crimes against humanity and war crimes allegedly committed in 2003 and 2004, is scheduled to begin on 7 December 2020.

The trial of Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, charged with crimes against humanity and war crimes allegedly committed in 2012 and 2013 in Timbuktu, began with the opening statement of the Prosecutor. The presentation of evidence is scheduled to begin on 8 September 2020.

With regard to the situation in Afghanistan, the Appeals Chamber found that the decision of Pre-Trial Chamber II to deny authorization to investigate was affected by error, and granted the Prosecutor's request for authorization of an investigation. The Government of Afghanistan has subsequently, pursuant to article 18 of the Rome Statute of the International Criminal Court, requested the Prosecutor to defer to its investigation of its nationals or others within its jurisdiction. The Prosecution is currently considering whether the information provided by the Government of Afghanistan has an impact on its own intended investigation.

Pre-Trial Chamber III authorized the Prosecutor to begin an investigation into the situation in Bangladesh/Myanmar, finding that the Court may exercise territorial jurisdiction when at least one element of a crime within the jurisdiction of the Court or part of such a crime is committed on the territory of a State party to the Statute.

The Court continued to receive highly valuable and appreciated cooperation from the United Nations on a wide range of issues on a cost-reimbursable basis, notably including operational assistance in the field. The cooperation, assistance and support of States parties and other States remained equally essential to the Court's operations, in particular in view of the unprecedented threats and attacks made against the Court and its independence during the reporting period.

Court-issued requests for arrest and surrender remain outstanding against 14 individuals:

- (a) Democratic Republic of the Congo: Sylvestre Mudacumura, since 2012;<sup>a</sup>
- (b) Uganda: Joseph Kony and Vincent Otti, since 2005;
- (c) Darfur: Ahmad Harun, since 2007; Omar Al-Bashir, since 2009 and 2010; Abdel Raheem Muhammad Hussein, since 2012; and Abdallah Banda, since 2014;
- (d) Kenya: Walter Barasa, since 2013; and Paul Gicheru and Philip Kipkoech Bett, since 2015;
- (e) Libya: Saif Al-Islam Gaddafi, since 2011; Al-Tuhamy Mohamed Khaled, since 2013; and Mahmoud Mustafa Busayf Al-Werfalli, since 2017;
- (f) Côte d'Ivoire: Simone Gbagbo, since 2012.

The Court calls upon States parties and others to provide the necessary cooperation and assistance for their arrest and surrender to the Court.

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<sup>a</sup> The Court is in the process of verifying Mr. Mudacumura's reported death in 2019, pending further steps concerning his status.

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## I. Introduction

1. The present report, covering the period from 1 August 2019 to 31 July 2020, is submitted in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (see [A/58/874](#), annex, and [A/58/874/Add.1](#)). Detailed information on the Court's activities is available on its website.<sup>1</sup>

## II. Update on judicial and prosecutorial activities

### A. Situations and cases

2. More than 11,000 victims participated in cases before the Court during the reporting period. The Court received more than 2,000 new victim application forms, including 882 in the *Al Hassan* case and more than 1,200 in the *Yekatom and Ngaïssona* case. Altogether, 609 application forms for reparations were received in the reparation proceedings in the *Al Mahdi* and *Lubanga* cases. The Court also received follow-up information for 587 existing applications. In proceedings on the Prosecutor's request to open an investigation in the Bangladesh/Myanmar situation, over 700 representation forms, on behalf of several thousand individuals, were received in which victims expressed their views and concerns regarding the potential opening of an investigation.

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

##### (a) Judicial proceedings

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

3. Having served his sentence in full, Mr. Lubanga was released on 15 March 2020.

4. Trial Chamber II remained seized of the implementation plans for symbolic collective reparations and collective service-based reparations, approved on 21 October 2016 and 6 April 2017, respectively.

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

5. Trial Chamber II remained seized of the implementation of its reparations order issued on 24 March 2017.

###### *The Prosecutor v. Bosco Ntaganda*

6. Following Mr. Ntaganda's conviction on 5 counts of crimes against humanity and 13 counts of war crimes on 8 July 2019, Trial Chamber VI received submissions from the parties and the participants, heard witnesses and admitted evidence in relation to the possible sentence, and held a hearing on the matter from 17 to 20 September 2019. On 7 November, the Chamber sentenced Mr. Ntaganda to a total of 30 years of imprisonment. Reparations proceedings are ongoing.

7. Mr. Ntaganda appealed the judgment of Trial Chamber VI convicting him of crimes against humanity and war crimes, as well as the decision on sentence, and the Prosecutor appealed against a limited part of the conviction judgment. These appeals are pending.

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<sup>1</sup> [www.icc-cpi.int](http://www.icc-cpi.int).

*(b) Investigations*

8. The Office of the Prosecutor undertook three investigative missions to two countries, and continued to engage with the national authorities and various stakeholders, including to secure cooperation in the context of the ongoing proceedings and to encourage national proceedings.

**2. Situation in Uganda***(a) Judicial proceedings**The Prosecutor v. Dominic Ongwen*

9. Trial Chamber IX concluded hearing the testimony of all witnesses called by the defence and announced the closure of the evidence in December 2019. The Chamber heard the closing statements of the Prosecution, the legal representatives of the victims and the defence from 10 to 12 March 2020. The Chamber is deliberating.

*(b) Investigations*

10. The Office of the Prosecutor continued to encourage national proceedings in relation to both parties to the conflict.

11. From 17 to 25 October 2019, the Office of the Prosecutor and the Registry conducted a joint outreach mission to Uganda and met with affected communities in the northern region, including local officials, cultural and religious leaders, civil society representatives and media organizations.

**3. Situation in the Central African Republic I and II***(a) Judicial proceedings**The Prosecutor v. Jean-Pierre Bemba Gombo*

12. On 18 May 2020, Pre-Trial Chamber II rejected Mr. Bemba's claim for compensation and damages in the amount of not less than €68.6 million or, in the alternative, not less than €42.4 million, as a result of the Appeals Chamber overturning his conviction. On 25 May 2020, Mr. Bemba requested leave to appeal the decision by Pre-Trial Chamber II.

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

13. On 27 November 2019, the Appeals Chamber issued its judgment on Mr. Bemba's appeal against the resentencing decision of Trial Chamber VII, having heard oral arguments from the parties on 4 September 2019. The Chamber confirmed the decision to sentence Mr. Bemba to one year in prison and impose a fine on him of €300,000.

*The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*

14. From 19 September to 11 October 2019, Pre-Trial Chamber II held the confirmation of charges hearing in the case against Messrs. Yekatom and Ngaïssona. On 11 December 2019, the Chamber confirmed the charges against Mr. Yekatom in full (21 counts) and against Mr. Ngaïssona in part (33 counts) and committed them to trial. The Chamber found that there were substantial grounds to believe that Messrs. Yekatom and Ngaïssona are each responsible for a number of war crimes and crimes against humanity that had been allegedly perpetrated in various locations in the Central African Republic in 2013 and 2014.

15. On 11 March 2020, Pre-Trial Chamber II rejected the Prosecutor's request for reconsideration or, in the alternative, leave to appeal the decision on the confirmation of charges. On 14 May and 1 June, the Chamber rejected requests of the Prosecutor to amend the decision confirming the charges and, on 19 June, rejected the Prosecutor's requests for leave to appeal the two decisions.

16. The trial is scheduled to commence on 9 February 2021 before Trial Chamber V. An appeal against the Chamber's decision finding the case admissible is pending.

(b) *Investigations*

17. While preparing for the trial against Mr. Yekatom and Mr. Ngaïssona, the Office of the Prosecutor conducted 58 missions to nine countries in relation to its ongoing investigations into both sides of the conflict in the Central African Republic, focusing on crimes committed since 1 August 2012. Maintaining and further strengthening cooperation with the State authorities, and enhancing and sustaining cooperation from key stakeholders, including the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic and several United Nations entities and agencies, as well as neighbouring countries, remained a priority.

18. The Office of the Prosecutor continued to monitor and encourage national criminal proceedings as well as cooperate and share expertise with national judicial actors, including the Special Criminal Court.

**4. Situation in Darfur**

(a) *Judicial proceedings*

*The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman*

19. Mr. Abd-Al-Rahman (formerly referred to in International Criminal Court documents as "Ali Kushayb"), who was allegedly a tribal leader, a member of the Popular Defence Forces and one of the top commanders of the Janjaweed militias, was transferred to the custody of the Court on 9 June 2020 after having surrendered himself in the Central African Republic. The first warrant of arrest against him was issued on 27 April 2007 on the basis that there were reasonable grounds to believe that he is responsible for 51 counts of war crimes and crimes against humanity perpetrated in Kodoom, Bindisi, Mukjar, Arawala and surrounding areas from August 2003 to March 2004. On 11 June 2020, Pre-Trial Chamber II issued the public redacted version of a second warrant of arrest against Mr. Abd-Al-Rahman on the basis that there were reasonable grounds to believe that he is responsible for another three counts of war crimes and crimes against humanity perpetrated in Dulayq and surrounding areas on or about 5 to 7 March 2004.

20. On 12 June 2020, Pre-Trial Chamber II severed the case of Mr. Abd-Al-Rahman from the case of Ahmad Muhammad Harun, since the arrest warrant against the latter has not been executed. On 15 June, Mr. Abd-Al-Rahman made his initial appearance before the Single Judge of Pre-Trial Chamber II. The confirmation of charges hearing is scheduled to begin on 7 December 2020.

*The Prosecutor v. Abdallah Banda Abakaer Nourain*

21. On 30 October 2019, Trial Chamber IV held an ex parte status conference with the defence, the Prosecution and the Registry on the status of the case and the way forward. Following the status conference, the Chamber ordered the filing of additional submissions by the parties, including, by majority, on the question of trials in absentia. The Chamber subsequently received such submissions from the defence and the Prosecution and authorized, by majority, the victims participating in the

proceedings to file submissions on the same issue, which were received on 10 June 2020.

(b) *Investigations*

22. The Office of the Prosecutor conducted eight missions to seven countries to collect evidence as well as to conduct witness interviews. As highlighted in the Prosecutor's most recent report on the situation in Darfur to the Security Council, dated 10 June 2020, the Office has continued to make important progress in the collection of evidence to strengthen the existing cases, albeit with challenges related to resources and cooperation. Given the recent transfer of Mr. Abd-Al-Rahman to the custody of the Court, timely and effective cooperation from the Sudan with respect to the execution of the remaining outstanding warrants of arrest, as well as enabling the resumption of access to its territory, is crucial in order for the Office to conduct independent and impartial investigations and prosecutions.

**5. Situation in Kenya**

*Investigations*

23. The Office of the Prosecutor continued to encourage the surrender of individuals subject to warrants of arrest relating to offenses against the administration of justice under article 70 of the Rome Statute of the International Criminal Court. The Office also continued to receive information on the alleged commission of crimes against humanity during the post-election violence of 2007–2008.

**6. Situation in Libya**

(a) *Judicial proceedings*

*The Prosecutor v. Saif Al-Islam Gaddafi*

24. On 11 and 12 October 2019, the Appeals Chamber held a hearing on Mr. Gaddafi's appeal against the decision of Pre-Trial Chamber I to dismiss his challenge to the admissibility of the case against him, which he had raised on the grounds that he had already been convicted and sentenced by a Libyan court and subsequently granted amnesty. On 9 March 2020, the Appeals Chamber confirmed the dismissal by Pre-Trial Chamber I of the admissibility challenge.

(b) *Investigations*

25. The Office of the Prosecutor conducted 21 missions to nine countries to collect evidence and conduct witness interviews regarding crimes allegedly committed by all parties to the conflict. As highlighted in its reports on Libya to the Security Council, the most recent of which was 5 May 2020, the Office continued its efforts to advance investigations relating to both existing and potential new cases and to call for support from States and stakeholders to secure execution of the outstanding arrest warrants. In its investigative activities, the Office received close cooperation from States, as well as the United Nations Support Mission in Libya and other international organizations.

**7. Situation in Côte d'Ivoire**

(a) *Judicial proceedings*

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

26. On 15 October 2019, the Prosecutor filed an appeal against the decision of Trial Chamber I to acquit Mr. Gbagbo and Mr. Blé Goudé of the crimes against humanity with which they were charged. A hearing on the matter was held from 22 to 24 June

2020, in part by videoconference due to restrictions related to the coronavirus disease (COVID-19). The appeal is pending.

27. Further to requests filed by the defence and a related hearing held on 6 February 2020, the Appeals Chamber on 28 May 2020 decided to lift a number of the conditions attached to the release of Mr. Gbagbo and Mr. Blé Goudé.

(b) *Investigations*

28. The Office of the Prosecutor conducted 14 missions to five countries. Having completed the presentation of the Prosecution's evidence in February 2018 in relation to the *Laurent Gbagbo and Charles Blé Goudé* case, the Office continued the collection of evidence in relation to alleged crimes committed by the other parties involved.

## 8. Situation in Mali

(a) *Judicial proceedings*

*The Prosecutor v. Ahmad Al Faqi Al Mahdi*

29. After Mr. Al Mahdi was found guilty of the war crime of attacking historic monuments and buildings dedicated to religion in Timbuktu, Trial Chamber VIII issued its reparations order in August 2017, determining that the damage to the protected buildings, as well as the economic and moral harm, resulted in €2.7 million in liability. In March 2019, the Chamber approved the updated reparations implementation plan of the Trust Fund for Victims, and implementation continued during the reporting period.

*The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*

30. On 27 September 2019, Pre-Trial Chamber I rejected Mr. Al Hassan's challenge to the admissibility of the case, finding that the case against him was sufficiently grave to justify further action by the Court. Further to an appeal by Mr. Al Hassan against this decision, the Appeals Chamber issued its judgment on 19 February 2020, upholding the determination by Pre-Trial Chamber I that the case was admissible.

31. On 30 September 2019, Pre-Trial Chamber I confirmed the charges against Mr. Al Hassan and committed him to trial, finding that there were substantial grounds to believe that Mr. Al Hassan was responsible for a number of war crimes and crimes against humanity perpetrated in Timbuktu between 1 April 2012 and 28 January 2013. On 18 November 2019, the Chamber rejected Mr. Al Hassan's request for leave to appeal this decision.

32. On 21 February 2020, Pre-Trial Chamber I rejected two parts of the Prosecutor's request to correct and amend the decision confirming the charges. On 23 April, the Chamber partially granted the Prosecutor's request and, as a result, modified certain charges against Mr. Al Hassan. On 22 June, the Chamber rejected Mr. Al Hassan's request for leave to appeal the latter decision.

33. The trial commenced on 14 July 2020 before Trial Chamber X with the opening statement of the Prosecutor. The presentation of evidence by the Prosecution is scheduled to begin on 8 September 2020.

(b) *Investigations*

34. The Office of the Prosecutor conducted 23 missions to four countries to investigate alleged crimes regarding the situation. It continued to receive cooperation from the national authorities and others, including United Nations entities – in

particular, the United Nations Multidimensional Integrated Stabilization Mission in Mali and the United Nations Educational, Scientific and Cultural Organization.

## **9. Situation in Georgia**

### *Investigations*

35. The Office of the Prosecutor conducted 19 investigative missions to eight countries. The Office continues to call upon all parties to cooperate with its investigations, including the Russian Federation and the de facto authorities of South Ossetia, in the interest of seeking justice for victims on all sides of the conflict.

## **10. Situation in Burundi**

### *Investigations*

36. The Office of the Prosecutor conducted 16 missions to six countries in connection with investigations into the alleged crimes committed as part of the situation in Burundi, as well as to strengthen cooperation networks.

## **11. Situation in Afghanistan**

### *(a) Judicial proceedings*

37. The Appeals Chamber held a hearing from 4 to 6 December 2019 with regard to the appeals of the Prosecutor and the victims against the decision of Pre-Trial Chamber II to deny authorization for an investigation. On 5 December 2019, the Appeals Chamber dismissed the victims' appeals as inadmissible. On 5 March 2020, the Chamber delivered its judgment on the Prosecutor's appeal and, finding that the decision of Pre-Trial Chamber II was affected by error, granted the Prosecutor's request for authorization of an investigation.

38. On 15 April 2020, the Prosecutor informed Pre-Trial Chamber II that Afghanistan had, pursuant to article 18 of the Rome Statute, requested her to defer to its investigation of its nationals or others within its jurisdiction with respect to criminal acts allegedly committed within the parameters of the situation, and had sought additional time to provide all the necessary information and supporting materials for its deferral request. This supplementary information was subsequently provided to the Office of the Prosecutor by the Afghan authorities on 12 June 2020.

### *(b) Investigations*

39. Following authorization of the investigation on 5 March 2020, the Office of the Prosecutor has engaged with a range of stakeholders to build relevant cooperation networks. This preparatory work has included the identification, analysis and management of risks, the assessment of security and logistical issues and, where appropriate, the preservation of evidence.

40. The Office is currently analysing the information provided by the Government of Afghanistan in support of its deferral request pursuant to article 18 of the Rome Statute and considering whether it has an impact on its own intended investigation. In view of the ongoing assessment, in addition to practical restrictions owing to the global health crisis, the Office is not currently taking active investigative steps while respecting its duties under the Statute.

## 12. Situation on registered vessels of the Comoros, Greece and Cambodia

### *Judicial proceedings*

41. On 2 September 2019, the Appeals Chamber, seized by an appeal of the Prosecutor, confirmed the decision of Pre-Trial Chamber I to request the Prosecutor to reconsider her decision not to investigate for a second time, and to do so in accordance with the Pre-Trial Chamber's first decision requesting reconsideration. On 2 December 2019, the Prosecutor notified Pre-Trial Chamber I that, in accordance with its decision of 15 November 2018, upheld by the Appeals Chamber, she had again reviewed her decision not to initiate an investigation and again concluded that there was no reasonable basis to proceed with an investigation.

42. On 2 March 2020, the Comoros requested Pre-Trial Chamber I to direct the Prosecutor to reconsider her decision not to open an investigation into the situation once more. The matter is pending.

## 13. Situation in Bangladesh/Myanmar

### (a) *Judicial proceedings*

43. On 14 November 2019, Pre-Trial Chamber III authorized the Prosecutor to commence an investigation into the situation in Bangladesh/Myanmar. Endorsing the findings previously made by Pre-Trial Chamber I regarding a question of jurisdiction submitted by the Prosecutor, the Chamber found that the Court may exercise territorial jurisdiction when at least one element of a crime within the jurisdiction of the Court or part of such a crime is committed on the territory of a State party to the Statute. According to the Chamber, there is a reasonable basis to believe that, since at least 9 October 2016, members of the armed forces of Myanmar, jointly with other security forces and with the participation of some local civilians, may have perpetrated the crimes against humanity of deportation and persecution against the Rohingya civilian population, which took place, in part, on the territory of Bangladesh. The Chamber authorized the commencement of the investigation in relation to any crime falling within the jurisdiction of the Court, including any future crimes, provided that the prerequisites set forth in the decision have been met.

44. On 20 January 2020, Pre-Trial Chamber III ordered the Registry to establish, as soon as practical, a system of public information and outreach activities with the affected communities and with, in particular, the victims in the situation.

### (b) *Investigations*

45. In January and February 2020, the Office of the Prosecutor conducted its first mission to Bangladesh following the opening of the investigation. During the mission the Office engaged with relevant government ministries, United Nations entities, civil society partners and the diplomatic community; conducted outreach activities to provide information about the investigation to the affected communities; and advanced operational and logistical issues to allow for the start of investigative activities in the Rohingya camps in Bangladesh.

46. The Office continues efforts to enlarge its cooperation network in the region, and calls upon all parties to cooperate with its investigations, including Myanmar.

## B. Preliminary examinations

47. The Office of the Prosecutor conducted preliminary examinations into 12 situations. The Office closed or finalized its analysis in relation to four preliminary examinations: it opened investigations into the situations in Afghanistan and

Bangladesh/Myanmar and maintained its view that the preliminary examination of the situation referred by the Government of the Comoros must be closed. With regard to the situation in Afghanistan, reference is made to paragraphs 37 to 40; in Bangladesh/Myanmar, paragraphs 43 to 46; and in the Comoros, paragraphs 41 and 42. In addition, the Office announced its conclusion that there was a reasonable basis to proceed with an investigation into the situation in the State of Palestine, while seeking a ruling on jurisdiction pursuant to article 19 (3) of the Rome Statute in order to confirm the territory over which the Court may exercise its jurisdiction. The Office published a report on its preliminary examination activities on 5 December 2019, in which further details regarding this key activity of the Office can be found.<sup>2</sup>

48. The Office of the Prosecutor continued to analyse information received alleging the commission of crimes potentially falling within the Court's jurisdiction. From 1 August 2019 to 31 May 2020, the Office registered 661 communications submitted under article 15 of the Rome Statute, of which 491 were manifestly outside the Court's jurisdiction, 24 were unrelated to current situations and warranted further analysis, 91 were linked to a situation already under analysis and 55 were linked to an investigation or prosecution.

### **1. Colombia**

49. The Office of the Prosecutor continued to assess the progress of relevant national proceedings carried out by the Colombian authorities under the ordinary justice system, under the Justice and Peace Law, and by the Special Jurisdiction for Peace. The Office engaged in discussions, including in the context of one mission to Colombia, with national authorities, representatives of international organizations and members of civil society, in relation to the status of relevant national proceedings and legislative and other developments that could have an impact on such proceedings, as well as the development of indicators and benchmarks to assess national efforts to provide accountability for Rome Statute crimes.

### **2. Guinea**

50. The Office of the Prosecutor continued to closely follow and examine the work undertaken by the authorities of Guinea and the national steering committee to organize the trial concerning the events that occurred in the national stadium of Conakry on 28 September 2009. The Office continued, including in the context of one mission to Conakry, to liaise and coordinate with the authorities, civil society organizations, victims associations, the Team of Experts on the Rule of Law and Sexual Violence in Conflict and the diplomatic community to further support and encourage the commencement of a fair trial without undue delay. The Office also received and reviewed information related to more recent episodes of violence occurring primarily in the context of demonstrations, and called upon all political actors to refrain from violence.

### **3. Iraq/United Kingdom of Great Britain and Northern Ireland**

51. The Office of the Prosecutor worked towards finalizing its admissibility assessment, including by remaining in regular contact and constructively engaging with the authorities of the United Kingdom of Great Britain and Northern Ireland and other relevant stakeholders. The Office followed and assessed relevant developments, including certain proposed domestic legislation which, if adopted, could potentially have an impact on the ability of the United Kingdom authorities to investigate and/or prosecute crimes allegedly committed by members of the British armed forces in Iraq.

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<sup>2</sup> See <https://www.icc-cpi.int/Pages/item.aspx?name=191205-rep-otp-PE>.

The Office also assessed recent allegations of a lack of genuineness of relevant national proceedings.

#### **4. Nigeria**

52. The Office of the Prosecutor worked towards finalizing its assessments of subject-matter jurisdiction and the admissibility of potential cases identified, with a view to reaching a determination on whether the statutory criteria for the opening of an investigation are met. The Office took steps to obtain further information on any relevant national proceedings in relation to the alleged conduct of members of Boko Haram and the Nigerian security forces, respectively, and to urge Nigerian authorities to tangibly demonstrate that they are fulfilling their primary responsibility to investigate and prosecute Rome Statute crimes.

53. In October 2019, the Prosecutor conducted a two-day mission to Abuja, during which she met with the Vice-President of Nigeria, Yemi Osinbajo, to discuss the Nigerian Government's support for and cooperation with the preliminary examination.

#### **5. State of Palestine**

54. On 20 December 2019, the Prosecutor announced her conclusion that, on the basis of a thorough, independent and objective assessment of all reliable information available, there was a reasonable basis to proceed with an investigation into the situation, pursuant to article 53 (1) of the Rome Statute. However, given the unique and contested legal and factual issues attaching to the situation, before opening an investigation, the Prosecutor requested, pursuant to article 19 (3) of the Statute, a jurisdictional ruling from Pre-Trial Chamber I seeking confirmation that the territory over which the Court may exercise its jurisdiction comprises the West Bank, including East Jerusalem, and Gaza.

55. On 28 January 2020, Pre-Trial Chamber I invited the State of Palestine, Israel and victims of the situation to submit written observations on the Prosecutor's request and invited other States, organizations and persons to submit applications for leave to file observations as *amicus curiae*. The Chamber subsequently received observations on behalf of the State of Palestine, 11 observations by groups of victims and 43 observations by *amici curiae*, as well as a consolidated response by the Prosecutor. The matter is pending.

#### **6. Philippines**

56. The Office of the Prosecutor advanced its analysis of crimes against humanity allegedly committed by Philippine State actors and/or other individuals in the context of the so-called "war on drugs" campaign, and its assessment of the admissibility of related potential cases that would likely be the focus of any investigation into the situation. The Office collected and assessed open source information on any relevant national proceedings and took steps to obtain further information pertinent to the complementarity assessment.

#### **7. Ukraine**

57. The Office of the Prosecutor continued to collect, review and evaluate information from a variety of sources on national investigations and proceedings relevant to the assessment of the admissibility of potential cases identified as likely to be the focus of any investigation into the situation, in relation to both Crimea and eastern Ukraine, with a view to finalizing the admissibility assessment during 2020. The Office continued to engage with and gather additional information from Ukrainian authorities, civil society and other relevant stakeholders, including during its ninth mission to Ukraine from 17 to 21 February 2020. The Office also continued

to review and consider any new information on alleged crimes relevant to the Court's subject-matter jurisdiction.

#### **8. Venezuela (Bolivarian Republic of) I**

58. The Office of the Prosecutor further progressed in its assessment of subject-matter jurisdiction, engaging with a range of stakeholders to collect relevant additional information, and evaluating and analysing available information with a view to reaching a conclusion on whether there is a reasonable basis to believe that alleged crimes against actual or perceived opponents of the Government of the Bolivarian Republic of Venezuela in the context of the anti-government protests and related political unrest dating from at least April 2017 amount to crimes against humanity under the Rome Statute.

#### **9. Venezuela (Bolivarian Republic of) II**

59. On 13 February 2020, the Prosecutor received a referral, under article 14 of the Rome Statute, from the Government of the Bolivarian Republic of Venezuela, requesting that the Prosecutor initiate an investigation into crimes against humanity allegedly committed on the territory of the Bolivarian Republic of Venezuela. In its referral, the Government states that crimes against humanity have been committed "as a result of the application of unlawful coercive measures adopted unilaterally by the government of the United States of America against Venezuela, at least since the year 2014".<sup>3</sup> This is the second referral received by the Office of the Prosecutor concerning the situation in that country. While the two referrals appear to overlap geographically and temporally, the Office is treating them separately while it considers the alleged conduct. This approach could change at a later stage if it is determined that the scope of the two situations is sufficiently linked.

### **III. International cooperation**

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

##### **1. General cooperation with United Nations Headquarters and entities present in the field**

60. As stipulated in the Relationship Agreement between the United Nations and the International Criminal Court concluded in 2004, relations between the United Nations and the Court are based on respect for each other's status and mandates, and are aimed at promoting the discharge of the organizations' respective responsibilities in a mutually beneficial manner. The Agreement establishes the framework for many forms of cooperation, including the exchange of information, the provision of services and facilities, judicial assistance, the appearance of United Nations staff in court to provide testimony, and field support. Specific forms of cooperation are negotiated and provided through supplementary agreements.

61. The Court continued to receive crucial support and cooperation from United Nations senior leadership. The Court is, in particular, grateful for the Secretary-General's continued commitment, and recognizes the critical role of the Under-Secretary-General for Legal Affairs as the interface between the Court and the United Nations, in particular for the transmission and coordination of requests for judicial cooperation. The Court continued to provide funding to the United Nations to retain a post at the P-3 level at the Office of Legal Affairs to handle requests for assistance and cooperation from the Court in the most efficient manner possible, while ensuring

<sup>3</sup> See [www.icc-cpi.int/Pages/item.aspx?name=200217-otp-statement-venezuela](http://www.icc-cpi.int/Pages/item.aspx?name=200217-otp-statement-venezuela).

full respect for the independent mandates of the Court and the United Nations. In addition, the Court agreed to a further request from the United Nations to reimburse the staffing costs associated with a post at the P-2 level in order to support the long-standing significantly increased workload arising from the Court's requests, linked to the growing number of preliminary examinations, investigations and cases during recent years.

62. The Court is represented at the United Nations by a liaison office in New York, which continued to promote cooperation between the two organizations, represent the Court in various meetings, follow developments of relevance for the Court and assist in organizing relevant events and visits of senior Court officials.

63. As in previous years, various United Nations entities, departments, offices and special advisers and representatives of the Secretary-General provided important and much-valued operational support to the Court.

64. The Court continued to benefit from cooperation from United Nations entities present in the field, in accordance with their mandate and with the agreement of host States. The Court highly appreciates such cooperation, which is essential for its operations. The offices of the Court in the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Georgia, Mali and Uganda played an important role by liaising with United Nations entities in this respect.

65. The Court's Registry continued to receive, with appreciation, support from the United Nations to counsel for defence and victims. This continued assistance and the inclusion of related provisions in agreements between the Court and the United Nations are of particular importance in the light of the principle of equality of arms. When a legal framework does not apply to the specific situation of counsel, who are not staff members of the Court, the Registry and the United Nations strive to find ad hoc solutions reflected in exchanges of letters.

66. The Court continued to cooperate with United Nations common system organizations by participating in inter-agency meetings on facilities management, travel and security. As a participant in the United Nations security management system, the Court relied on United Nations missions for services such as transportation, radio and video communication, medical assistance, security briefings, security training, information-sharing and risk-management resources, on a reimbursable basis.

67. The Court became a signatory in 2019 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. During the reporting period, 11 of the Court's staff members were on loan or secondment to other tribunals or international organizations. In addition, five staff members were transferred to the Court from other tribunals or international organizations and two of the Court's staff members were transferred to other tribunals or international organizations. No staff members were on loan or secondment to the Court under the Agreement.

## **2. Mainstreaming the International Criminal Court in the United Nations system**

68. The Court greatly appreciates the acknowledgements of support for its activities contained in resolutions, declarations and other documents adopted by the General Assembly, the Security Council and other United Nations organs, committees and commissions. The Court also values the opportunities given to its senior officials to participate in relevant United Nations meetings, such as those related to the rule of law, international criminal and humanitarian law, transitional justice, sexual violence in conflict, children and armed conflict, peacebuilding, sustainable development and the responsibility to protect.

69. In September 2019, the President and the Prosecutor participated in the high-level segment of the seventy-fourth session of the General Assembly. Each held bilateral meetings with Heads of State and other high-level representatives of States and of the United Nations to strengthen political and diplomatic support for the Court's operations and further mainstream its mandate. During the high-level week, the President and the Prosecutor also addressed the meeting of the informal ministerial network for the Court.

70. Considering the primary responsibility of national jurisdictions to investigate and prosecute crimes provided for in the Rome Statute, the Court encourages the inclusion of related capacity-building elements in legal and judicial reform programmes supported by the United Nations in the context of rule of law development assistance. This may include incorporating into national law the crimes and principles of the Statute, establishing or enhancing national processes for cooperation with the Court and training legal professionals on the investigation and prosecution of international crimes, in particular in the context of mandates to support justice and corrections institutions in post-conflict settings. The United Nations is encouraged to consider, where appropriate, drawing on the Court's expertise for such activities.

71. On 17 July 2020, the Day of International Criminal Justice, the Court launched a new segment of its web-based Sustainable Development Goal 16 "Humanity against crimes" campaign, on the theme "Resilience in crisis and conflict", complementing the themes of the UN75 campaign and reflecting that people across the globe are coping not only with grave human rights violations but also with the COVID-19 pandemic. Content of the new campaign segment includes a story series, entitled "Life after conflict", focused on the resilience of survivors, and messages on peace and justice on the social media platforms of the Court and the United Nations.

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

72. The Court and the Security Council have different yet complementary roles in addressing the gravest crimes of concern to the international community, which have the potential to destabilize international peace and security. The Council's prerogative to refer a situation to the Court can promote accountability in situations where grave crimes may have been committed but the Court lacks jurisdiction. Where the Council has made such a referral, active follow-up is necessary to ensure cooperation with the Court, especially with regard to the arrest and surrender of individuals subject to the Court's arrest warrants. Following the referrals of the situations in Darfur and Libya, the Court communicated to the Council 16 findings of non-cooperation by States; however, the Council has not responded to those communications in any substantive form.

73. The Prosecutor's biannual briefings to the Security Council related to the situations in Darfur and Libya provided opportunities to inform the Council and the United Nations membership of progress and challenges, especially the failure to execute outstanding arrest warrants. The Court welcomed the joint statement of 10 June 2020 by the 10 States parties to the Court on the Council reaffirming their unwavering support for the Court as an independent and impartial judicial institution.

74. The Court believes that a structured dialogue between the Court and the Security Council on matters of mutual interest, both thematic and situation-specific, could improve the implementation of Council referral resolutions and enhance the fight against impunity.

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

75. During the reporting period, the Registry transmitted 393 requests for visas to States. The Registry also transmitted 178 primary requests for cooperation to States parties, other States and international and regional organizations, in addition to following up on pending requests. This figure does not reflect secondary requests sent by the Registry as a follow-up to primary requests.

76. The Office of the Prosecutor transmitted 484 requests for assistance to more than 95 different partners, including States parties, non-States parties, international and regional organizations and other public or private entities, in addition to following up on the execution of pending requests. While the number of diverse addressees is higher than during the previous reporting period, the overall number of requests was reduced by 16.6 per cent, owing mainly to the effects of the COVID-19 pandemic, which inhibited the Office's ability to dispatch investigative missions or conduct other field work. The Office also received 30 incoming requests for cooperation under article 93 (10) of the Rome Statute.

77. States continued to provide highly valuable assistance in relation to investigations and prosecutions, including with regard to arrests, the identification and freezing of assets, the provision of documents and the facilitation of missions of the Court to their territory. In addition to issuing its own requests, and requests transmitted on behalf of the Court's Chambers, the Registry requested States to assist the investigative activities of defence teams, including by giving them access to documents or potential witnesses. The Registry also facilitated visits by the families of detainees to the Court's detention centre by coordinating with the relevant authorities to ensure visas for family members. States were also requested to provide assistance for reparations proceedings, including by identifying the whereabouts of victims and by supporting the activities of the Trust Fund for Victims. All these forms of assistance are appreciated, as they contribute to the efficiency and fairness of the Court's proceedings.

78. As demonstrated by the list of outstanding arrest warrants in the summary of the present report, the arrest and surrender of individuals subject to the Court's warrants remains a critical challenge.

79. The Court continued to encourage States to conclude cooperation agreements with it regarding witness relocation, the enforcement of sentences and the interim and final release of suspects or accused. Regrettably, no new agreements were concluded during the reporting period.

80. The Registry and the Office of the Prosecutor continued efforts to further enhance cooperation with national, regional and international law enforcement networks in support of the Court's needs, and to assist with national proceedings, where appropriate, in accordance with the principle of complementarity. The Registry and the Office also continued to work closely together to develop a network of partners to foster the exchange of information and cooperation in the identification, freezing and seizure of assets.

81. With the financial support of the European Commission, the Court organized a regional seminar on cooperation with regard to witness security management in Pretoria in November 2019, which provided a forum to engage national focal points and develop cooperation networks. The Court is grateful to the host authorities, partner organizations and participating experts for their valuable support and contributions. Several planned events aimed at promoting cooperation had to be postponed due to travel restrictions related to the COVID-19 pandemic.

82. The Court continued to develop its interaction and cooperation with international and regional organizations as key partners for promoting the universality of the Rome Statute, raising awareness of the Court's work, adopting national implementing legislation, enhancing cooperation and promoting wider geographical representation within staff. The Commonwealth Secretary-General delivered a keynote speech at the ceremony for the opening of the Court's judicial year on 23 January 2020, marking the long-standing cooperative relationship between the two organizations.

83. On the same day, the Court held its third annual judicial seminar, bringing together judges from national, regional and international jurisdictions and the Court to exchange views on topical issues, including guidelines on time limits for the issuance of key judicial decisions adopted by the Court's judges in October 2019 to enhance the efficiency of proceedings.

84. The Court greatly values the activities that civil society partners undertake to raise awareness about the Court, to promote the universality of the Rome Statute and to encourage the Statute's full implementation, and continued to participate in those activities. From 12 to 14 May 2020, the Court held, by videoconference, its twenty-fourth annual round table with non-governmental organizations to discuss issues of common interest.

85. A development of grave concern during the reporting period was the issuance by the President of the United States, on 11 June 2020, of Executive Order 13928, entitled "Blocking Property of Certain Persons Associated with the International Criminal Court", representing an escalation of threats and coercive actions, including potential financial measures, against the Court and its personnel. As indicated in the Court's statement of the same date, such unprecedented measures taken against the Court with the declared aim of influencing the actions of its officials in the context of investigations and judicial proceedings constitute an unacceptable attempt to interfere with the rule of law and the Court's activities. The Court stands firmly by its personnel and remains unwavering in its commitment to discharging, independently and impartially, the mandate bestowed upon it by the Rome Statute and the States that are party to it. The Court is highly appreciative of the numerous expressions of strong support in the wake of the issuance of the executive order from the Assembly of States Parties, individual States parties, States parties jointly across regional groups, international and regional organizations, professional associations and civil society. The Court continues to rely on the firm support of its stakeholders and recalls that undermining the work of the Court undermines the interests of victims of crimes of atrocity, and that for many of these victims the Court represents the last hope of justice.

## **IV. Institutional developments**

### **A. Treaty matters**

86. Kiribati acceded to the Rome Statute on 26 November 2019, increasing the number of States parties to 123. One State party ratified the amendments on the crime of aggression and one State party ratified the amendment to article 124 of the Statute, bringing the total number of States parties that have ratified these amendments to 39 and 14, respectively. Four States parties ratified the amendments to article 8 of the Statute concerning weapons that use microbial or other biological agents, or toxins; weapons whose primary effect is to injure by fragments undetectable by X-rays in the human body; and blinding laser weapons, bringing the number of States parties that have ratified these amendments to six.

87. One State acceded to the Agreement on the Privileges and Immunities of the International Criminal Court, becoming the seventy-eighth party to it.

## **B. Trust Fund for Victims**

88. Despite the palpable effect of the COVID-19 pandemic on field operations, the Trust Fund for Victims continued to bring support and relief to the thousands of victim survivors under its mandate. Together with its partner organizations, the Fund coordinates and consults closely within the Court, with national and local government authorities and with United Nations peacekeeping missions.

89. The legal and operational workload of the Trust Fund for Victims grew during the reporting period. Despite a variety of challenges, several field missions were conducted to further the implementation of the reparation orders in the *Lubanga*, *Katanga* and *Al Mahdi* cases, which involve different crimes that have harmed the victims, their families and the affected communities in diverse ways. In respect of victims' eligibility with regard to *Lubanga* and *Al Mahdi*, an administrative screening mechanism was designed and the identification of beneficiaries continued. Procurement processes for collective reparations in these cases were completed in the second quarter of 2020. The implementation of collective reparations with regard to *Katanga* continued. The Fund also engaged in reparations proceedings in the *Ntaganda* case.

90. Through its assistance mandate programme, the Trust Fund offers livelihood activities, provides medical support to victims of sexual violence and to those who have suffered mutilation, amputation or burns, and offers psychological rehabilitation services to address trauma. Following delays caused by COVID-19, the Trust Fund, with its partner organizations, conducted online activities in Uganda during 2020. The process of selecting partner organizations for assistance programmes in the Central African Republic, Côte d'Ivoire and the Democratic Republic of the Congo was finalized and programmes in these countries are scheduled to be launched towards the end of 2020. The Fund has also completed needs assessments for possible assistance programmes in Georgia, Kenya and Mali.

91. The sudden passing in April 2020 of the Chair of the Board of Directors of the Trust Fund for Victims, Felipe Michellini, shook his family and loved ones, reverberated deeply in his home country of Uruguay and throughout the Rome Statute community, and greatly affected the members of the Board as well as staff and partners of the Fund. On 29 April 2020, the Board elected Mama Koité Doumbia to succeed Mr. Michellini as Chair. The Assembly of States Parties elected Minou Tavárez Mirabal to fill the vacancy on the Board left by Mr. Michellini.

92. The Trust Fund for Victims calls upon all States and entities to make voluntary contributions for the benefit of victims and their families.

## **C. Effect of the coronavirus disease pandemic on operations**

93. The Court has undertaken a multilayered response to mitigate the effects of the COVID-19 pandemic on its operations. In order to protect the health and safety of personnel, the Court temporarily closed its headquarters building in The Hague in March 2020, following the advice of the authorities of the Netherlands and in line with measures taken by other international organizations. The Court also implemented similar measures across its country offices and at its liaison office at the United Nations in New York.

94. The Court successfully implemented in a short time frame new remote working arrangements to ensure the continuity of operations. The Court benefited in this

context from the close interaction with United Nations common system organizations and contributed to sharing best practices to mitigate the impact of COVID-19 on staff and operations. The Court has actively sought ways to address the negative effect of travel restrictions on field operations related to COVID-19 by finding alternatives to travel as well as by working with other international organizations to ensure that essential travel can be undertaken despite the restrictions.

95. The Court began the gradual reopening of its headquarters building in June 2020. With regard to the reopening of offices outside the Netherlands, the Court has closely followed advice from the competent host State authorities and the United Nations.

## V. Conclusion

96. Despite the challenges caused by restrictions on travel and physical meetings related to COVID-19, the Court made important progress during the reporting period in its pretrial, trial and appeals proceedings and reparations, as well as the investigations and preliminary examinations conducted by the Office of the Prosecutor. Among notable developments, one accused was sentenced, the presentation of evidence in one trial was brought to conclusion, another trial commenced, charges were confirmed against two accused, one suspect was transferred to the Court and two new investigations were authorized.

97. As a permanent court of last resort, the Court plays a key role in the Rome Statute system of international criminal justice aimed at ending impunity for the most serious crimes of concern to the international community and contributing to their prevention. To succeed in these aspirations, the Court needs the strong and consistent backing of the international community for the conduct of its mandate, and to safeguard its independence. This is all the more important in the light of increasing threats and attacks against the Court.

98. The Court recognizes with gratitude the many forms of important assistance provided by the United Nations system during the reporting period and is equally appreciative of the cooperation of States for its ongoing investigative, prosecutorial and judicial activities, as well as the numerous, vocal statements of unwavering support expressed in high-level forums such as the General Assembly.

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