



**PERMANENT MISSION  
OF THE PRINCIPALITY OF LIECHTENSTEIN  
TO THE UNITED NATIONS  
NEW YORK**

---

NEW YORK, 30 OCTOBER 2014

AS DELIVERED

GENERAL ASSEMBLY

**REPORT OF THE INTERNATIONAL CRIMINAL COURT**

**STATEMENT BY H.E. AMBASSADOR CHRISTIAN WENAWESER**

PERMANENT REPRESENTATIVE OF THE PRINCIPALITY OF LIECHTENSTEIN TO THE UNITED NATIONS

Mr. President,

The report of the International Criminal Court<sup>1</sup> (ICC) shows a vibrant international judicial institution continuing to make great strides. During the reporting period, a further milestone was reached when the first verdict became final. The consensus to fight impunity for the most serious crimes under international law extends far beyond the 122 States that have chosen to ratify the Rome Statute, and the work of the Court has had a tremendous positive impact in this respect. Whenever there are reports of crimes that shock our collective conscience, there are calls for involvement of the Court – be that in the Democratic Republic of Korea, in Syria, Iraq, Palestine or South Sudan: The Court is the place where people turn when there is a glaring impunity gap – and the ICC is confronted with the huge expectation of bringing justice around the globe. The vision of the Court is thus firmly imprinted in the minds of people in all regions of the world – we as States are challenged to make this vision a full reality, in cooperation with the

---

<sup>1</sup> A/69/321.

Court. We have come a very long way in the last fifteen years. And we have much to do to turn this vision into practice.

Mr. President,

It is true, there are aspects of the daily workings of the Court that leave us dissatisfied. We concur with those who believe that the Court is past its infancy now. And we expect it to apply the lessons learned from the first ten years of judicial activity. Expediting the judicial proceedings, with full respect for the rights of the accused, will be key to securing the central place of the ICC in the future. We are gratified to see that the Court is beginning to live up to this challenge. And we are confident that the next generation of judges will further advance this work. But in pronouncing these expectations, we must always look at our role at the same time and think about what we can do to make the institution stronger. And we must understand that international criminal justice is often not as fast as we would like: It will be twenty years after Srebrenica that the trials against the two main accused will be concluded.

Mr. President,

The Rome Statute system is strongly consent-based: the Court is primarily designed to prosecute crimes committed on the territory of States Parties or by their nationals. And indeed, the Court has closely followed this concept, by focusing its activities on States who had themselves requested the Court to investigate on their territories or who had pledged their full cooperation. But of course the Rome Statute also allows the Security Council to refer situations to the Prosecutor for investigation. This provision was designed to allow the Security Council to use the ICC as a tool for bringing justice beyond the family of States Parties, and thus to obviate the need for new, expensive *ad hoc* tribunals. It was introduced in order to prevent impunity in places where the most serious crimes are committed on a massive scale.

It is clear now that this aspect of the Rome Statute does not work as well as we would have liked. The Council has only referred two situations, in Darfur, Sudan and in Libya, to the ICC. Both of these situations manifestly deserved to be referred to the ICC, but so do others. Liechtenstein was among the 74 States that co-sponsored a draft Security Council resolution that would have referred the situation in Syria to the ICC. Despite the very strong support inside and outside the Council, the double veto cast on the proposal ensured that impunity continues to be the order of the day in Syria. The harsh reality is that the ability of the ICC to provide justice for victims in over 70 countries is subject to the political will of the Security Council to see justice served – and thus to the political considerations of its permanent members in particular. The most important way to expand the reach of the Court is thus to broaden its acceptance and to have more States join the Rome Statute. We therefore echo your call, Mr. President, to make the Statute universal and look forward to welcoming new members in the ICC family.

Mr. President,

Even in the two instances where the Security Council has made use of its referral power, its lack of follow-up has limited the effectiveness of the Court's involvement. Most notably the wholesale lack of cooperation by Sudan – in spite of its clear obligation under Chapter VII of the UN Charter – is a blot on the effectiveness of the Security Council in general, and its commitment to justice in particular. Security Council referrals will usually take place with respect to States who have not joined the Rome Statute. They can thus only be effective if the Council is willing to follow-up with resolve in order to ensure cooperation by a State that has an obligation to do so under the Rome Statute. Security Council referrals have thus been a mixed blessing for the Court: On the one hand, they have illustrated its central importance in the fight against impunity. But on the other, they have led States to question the benefit of such

referrals, in particular in the absence of the willingness on the part of the UN membership to take up the costs arising from referrals.

Mr. President,

The effectiveness of the Court, to a large extent, depends on the cooperation extended to it by States Parties. The most visible area of cooperation is the execution of ICC warrants of arrest. It is disturbing that of the 30 arrest warrants that have been issued, almost half remain outstanding. This is despite the location of many of these indictees being public knowledge, with at least two currently incarcerated in their state of nationality. Full cooperation with the ICC is not merely commendable; it is an obligation which all of us have voluntarily undertaken in ratifying the Rome Statute. We cannot expect or demand the Court to be effective without what we have ourselves designed to be a centerpiece of the Rome Statute system

Full cooperation extends beyond arrest and surrender, however. The ICC Prosecutor and indeed the defense as well rely on cooperation to conduct investigations, to facilitate the appearance of witnesses and to ensure that the assets of indicted persons are frozen. This cooperation is crucial and must be timely in order to be effective.

The Court's positive assessment of its cooperation with the UN Secretariat is reassuring. We are pleased that United Nations officials continue to implement the policy of "essential contacts"<sup>2</sup> but stress again that this policy must be implemented consistently, especially by high-level officials of the United Nations, especially those tasked with mediation work.

---

<sup>2</sup> A/67/828-S/2013/210.

Mr. President,

As the United Nations was created to “save succeeding generations from the scourge of war,” I cannot fail to mention the Kampala Amendments on the Crime of Aggression. Adopted in 2010, these amendments complement the prohibition of the illegal use of force enshrined in the UN Charter. The most serious forms of the illegal use of force by one State against another will become a punishable offence before the ICC. The ICC will thereby help enforce the core principle of the UN Charter.

Seven additional States have ratified the amendments,<sup>3</sup> bringing the total to 18. We are confident of reaching the 30 necessary ratifications well in time to allow for their activation in 2017, the earliest moment to do so. Liechtenstein continues to offer assistance to States that are interested in ratifying and implementing the Kampala amendments ([www.crimeofaggression.info](http://www.crimeofaggression.info)). We also encourage States that are interested in joining the ICC to ratify the Rome Statute in its 2010 version.

I thank you.

---

<sup>3</sup> Austria, Belgium, Croatia, Latvia, Poland, Slovakia and Spain.