



Parliamentarians *for Global Action*  
Parlamentarios para la Acción Global  
Action Mondiale des Parlementaires  
برلمانيون من أجل التحرك العالمي



# Parliamentary Kit on the International Criminal Court



The vision of Parliamentarians for Global Action is to contribute to the creation of a Rules-Based International Order for a more equitable, safe and democratic world.

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**PHOTO ABOVE:** UKRAINIAN MPS WITH JUDGE PIOTR HOFMAŃSKI (POLAND),  
PRESIDENT OF THE INTERNATIONAL CRIMINAL COURT (CENTER).  
CREDIT: FREDERIKA SCHWEIGHOFEROVA



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# WHAT IS THE INTERNATIONAL CRIMINAL COURT?



Created by the Rome Statute, the International Criminal Court (ICC) is the first permanent and independent international court capable of investigating and bringing to justice individuals who commit the most serious violations of international criminal law, international humanitarian law, and human rights. The Rome Statute defines the crimes under the Court's jurisdiction and provides the general principles and procedures for the operation of the Court. It also outlines the cooperation obligations of its State Parties. Its key features include the following:

- **Jurisdiction** over:
  - individuals (not States or legal persons) who commit the most serious crimes recognized under customary international law, i.e., genocide, war crimes, crimes against humanity, and the crime of aggression, with two separate jurisdictional regimes:
  - when *genocide*, *crimes against humanity*, or *war crimes* are committed: (i) by a national of a State Party or a State that accepted ad hoc the ICC jurisdiction, regardless of the geographic location of their criminal conduct, or (ii) on the territory of a State Party or a State that accepted ad hoc the ICC jurisdiction regardless of the nationality of the perpetrator or (iii) by nationals and/or on a territory of a non-party State in case of referral by the UN Security Council;
  - *crime of aggression*: unlike the other three crimes, the crime of aggression is subject to the ICC jurisdiction only if the act is committed by (i) when both the State of nationality of the alleged perpetrator and the territorial State where the crime has been committed consent to the Court's jurisdiction by ratifying the Kampala Amendments on the crime of aggression and (ii) by a national and/or on a territory of a non-party State in case of referral by the UN Security Council.
- **Permanence** (not created for a specific conflict).
- **Non-retroactivity** (with jurisdiction only over acts committed after the Rome Statute entered into force for the pertinent State<sup>1</sup> or in any case after 1 July 2002), except for crimes of aggression for which the Court will have jurisdiction only over acts committed after 17 July 2018).
- **Complementarity to domestic jurisdictions**: The Court can act only when domestic jurisdictions are unwilling or unable to genuinely exercise their criminal jurisdiction.
- **Respect for internationally recognized human rights**, of the accused (fair trial standards) and the victims (participation, protection, and reparations).






## Can Corporations be Investigated or Prosecuted for the Commission of International Crimes under the Rome Statute System?

The ICC does not have jurisdiction over legal persons. Although legal persons and entities were criminalized in the Nuremberg Trials of 1945-1946, the French proposal to criminalize them did not find any support at the Rome Conference of 1998. Individuals in charge of corporations that finance, arm or otherwise aid or abet the perpetration of international crimes can be deemed responsible for such crimes under Article 25(3)(c) of the Rome Statute, provided that these individuals have the required *mens rea* (mental element) for the crimes in question and a causal connection between the *actus reus* (objective element) of the aider and abettor and the principal perpetrator is proven.

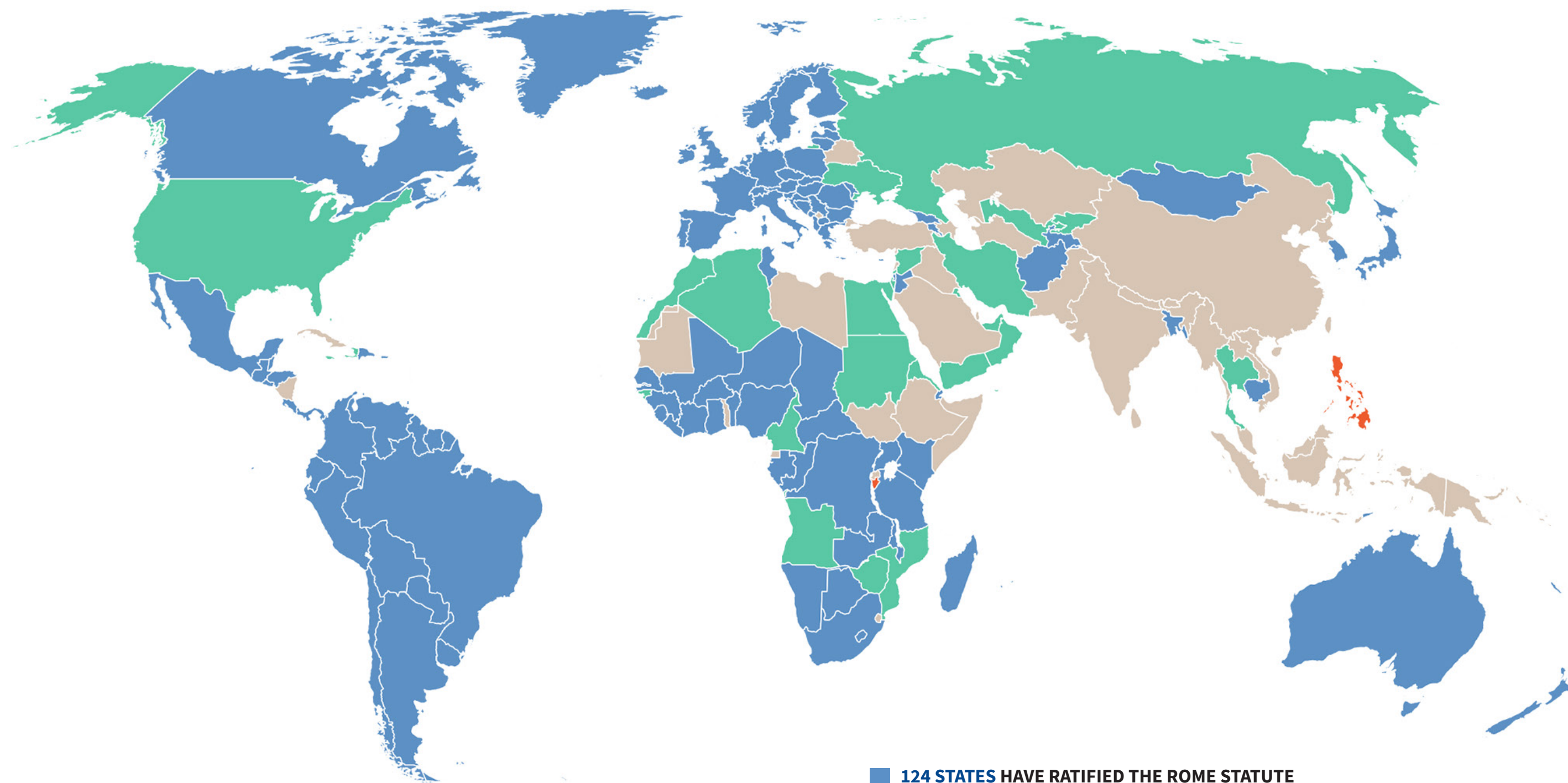
States, however, can choose to give their domestic courts jurisdiction over legal persons - such as corporations - for the commission of international crimes.

## WHAT DOES THE ICC NEED TO BE EFFECTIVE?

There are five essential conditions to ensure that the ICC is effective:

-  **The full and effective cooperation of State Parties:** the Court depends heavily on state cooperation, as it does not have its own police force or any law enforcement structure at its disposal.
-  **The complementarity of the ICC to domestic jurisdictions:** to this end, States must criminalize the Rome Statute's crimes in their domestic legal orders and incorporate the relevant general principles of international criminal law into their penal codes.
-  **The ICC's financial resources:** the Court requires significant means to operate in the challenging context of widespread crimes in ongoing conflicts.
-  **The independence of the ICC as an institution:** the Court must operate solely based on evidence and objective criteria for the application of the law, not in response to popular demand or political aspirations of states.
-  **The universality of the Rome Statute:** all States must ratify this treaty to ensure that no individual is above the law.

# WHICH COUNTRIES SUPPORT THE ICC?



- 124 STATES HAVE RATIFIED THE ROME STATUTE**
- 30 STATES HAVE SIGNED BUT NOT RATIFIED THE ROME STATUTE**
- STATE NON-PARTIES THAT HAVE NOT SIGNED NOR RATIFIED THE ROME STATUTE**
- 2 STATES HAVE WITHDRAWN: [BURUNDI](#) & [THE PHILIPPINES](#)**



## WHAT CAN PARLIAMENTARIANS DO?

*It is imperative that the Rome Statute be ratified universally for the successful functioning of the Court.*  
**Parliamentarians should ensure that the ICC is truly universal:**

- Parliamentarians from **States that are not yet parties to the Rome Statute** can remove legal and political obstacles to the ratification/accession process.
- Parliamentarians from **States that are not yet parties to the Rome Statute** can draft legislation and undertake any legislative or political initiative that may contribute to the ratification or accession.
- Parliamentarians from **States Parties to the Rome Statute** can work with other parliaments and governments to promote the ratification and accession of the Rome Statute within the framework of the overall promotion of human rights, the rule of law, justice, peace, democracy, sustainable development, and multilateral cooperation.
- Parliamentarians from **States Parties to the Rome Statute** can request that their government promote the ratification of the Rome Statute in other countries through bilateral contacts and multilateral venues.
- **All parliamentarians** should use all available avenues to help ensure that universal representation in the ICC system is understood as a true priority by international, regional, and national communities.
- **All parliamentarians** should provide updated information on the ICC to relevant stakeholders and institutions
- **All parliamentarians** can increase transparency and accountability, and should ensure that governments do not negotiate agreements or other measures that would allow impunity to continue.



# WHERE AND WHEN DOES THE ICC HAVE JURISDICTION?

**The ICC does not have retroactive jurisdiction and does not apply to crimes committed before 1 July 2002.**

States can accept ICC jurisdiction for crimes against humanity, war crimes, and genocide committed after 1 July 2002, even if they have not yet ratified the Rome Statute. The Court's jurisdiction on the crime of aggression has been active since 17 July 2018, as decided by the 2017 Assembly of States Parties to the Rome Statute.

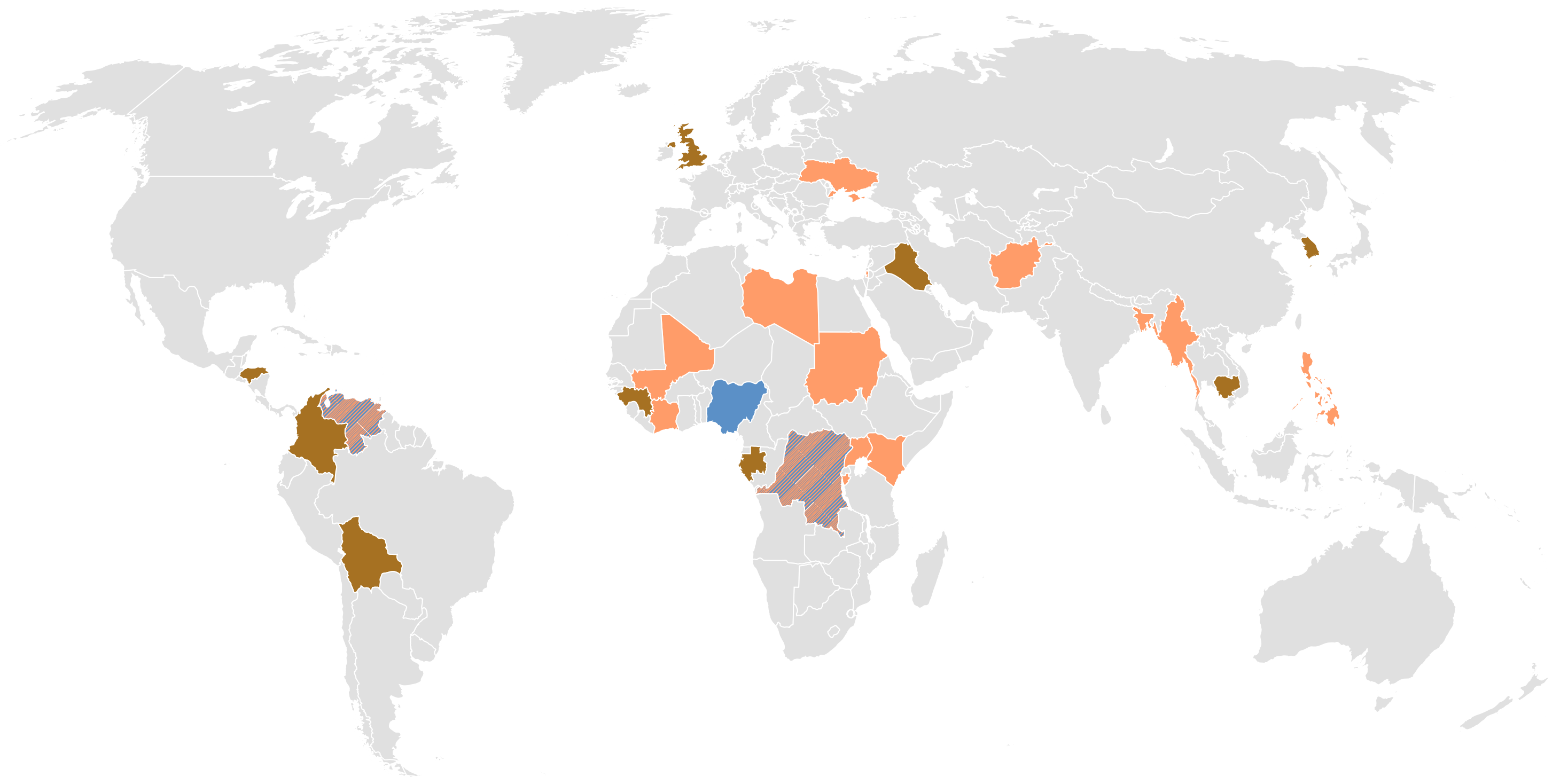
Since States retain primary jurisdiction to adjudicate these crimes, the ICC can only act when States are unwilling or unable to genuinely investigate or prosecute the specific case the Prosecutor has built. **Thus, the Court is complementary to national jurisdictions.**

The Rome Statute contains strict procedural safeguards that prevent the irresponsible use of the Court for political purposes. The Independent Oversight Mechanism (IOM), which became operational in 2017, provides meaningful oversight of the Court through its mandate to conduct internal court inspections, evaluations, and investigations. In addition, any decision of the independent Prosecutor to proceed with an investigation or prosecution is subject to strict judicial scrutiny/review. The Prosecutor and the judges are further accountable to the Assembly of States Parties to the Rome Statute, which may take disciplinary measures against them. Moreover, States can challenge the jurisdiction of the Court before the commencement of a trial if they perceive prosecutions as “politically motivated” or “frivolous.”





## WHERE IS THE ICC CURRENTLY ACTIVE?



# PRELIMINARY EXAMINATION PROCESS

An individual or group with eyewitnesses or documentary evidence of a crime they believe should be investigated by the ICC can send their evidence and request the Court to open an investigation via “communication.”

The assessment consists of four phases, consisting of:

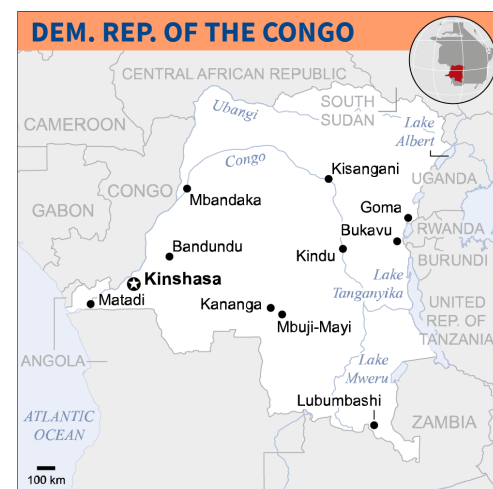
- (i)** preliminary jurisdictional compliance (territorial, personal and temporal);
- (ii)** subject-matter assessment (whether the alleged crimes fall under one of the four Rome Statute crimes);
- (iii)** admissibility assessment consisting of two parts:
  - (a)** complementarity: does the States concerned conduct its own investigation and
  - (b)** gravity: Is the case of sufficient gravity to justify further action by the ICC and
- (iv)** assessment of the interests of justice.

The process can take up to several years.



# INVESTIGATIONS

READ MORE BY CLICKING ANY COUNTRY MAP

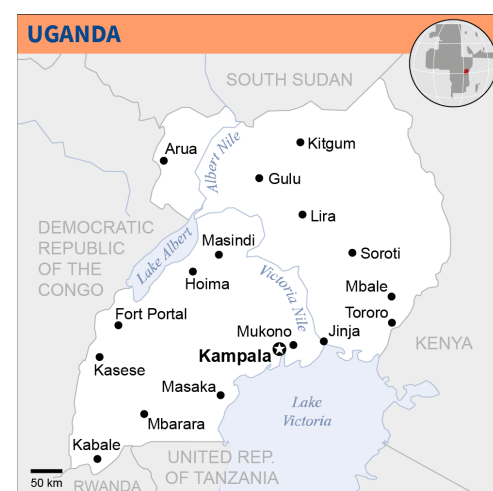


**Situation referred to the ICC by the DRC Government:** April 2004.

**ICC investigations opened:** June 2004.

**Current focus:** Alleged war crimes and crimes against humanity committed in the context of armed conflict in the DRC since 1 July 2002 (when the Rome Statute entered into force).

**Current regional focus:** Eastern DRC, in the Ituri region and the North and South Kivu Provinces.



**Situation referred to the ICC by the Government of Uganda:** January 2004.

**ICC investigations opened:** July 2004.

**Current focus:** Alleged war crimes and crimes against humanity committed in the context of a conflict between the Lord's Resistance Army (LRA) and the national authorities in Uganda since 1 July 2002 (when the Rome Statute entered into force).

**Current regional focus:** Northern Uganda.



**Situation referred to the ICC by the United Nations Security Council:** March 2005.

**ICC investigations opened:** June 2005.

**Current focus:** Alleged genocide, war crimes and crimes against humanity committed in Darfur, Sudan, since 1 July 2002 (when the Rome Statute entered into force).

**Current regional focus:** Darfur (Sudan), with Outreach to refugees in Eastern Chad and those in exile throughout Europe.



**Situation referred to the ICC by the CAR Government:** December 2004.

**ICC investigations opened:** May 2007.

**Current focus:** Alleged war crimes and crimes against humanity committed in the context of a conflict in CAR since 1 July 2002, with the peak of violence in 2002 and 2003. ([See CAR II for the situation in CAR from 2012 onward.](#))

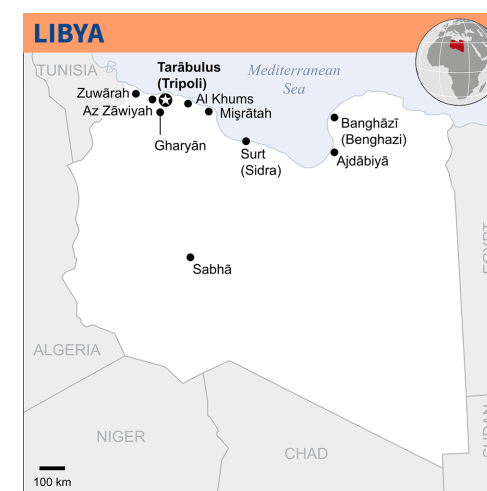
**Current regional focus:** Throughout CAR.



**ICC Prosecutor opens *proprio motu* investigation:** March 2010.

**Current focus:** Alleged crimes against humanity committed in the context of post-election violence in Kenya in 2007/2008.

**Current regional focus:** Six of the eight Kenyan Provinces: Nairobi, North Rift Valley, Central Rift Valley, South Rift Valley, Nyanza Province and Western Province.



**Situation referred to the ICC by the United Nations Security Council:** February 2011.

**ICC investigations opened:** March 2011.

**Current focus:** Alleged crimes against humanity and war crimes committed in the context of the situation in Libya since 15 February 2011.

**Current regional focus:** Throughout Libya in, *inter alia*, Tripoli, Benghazi, and Misrata.



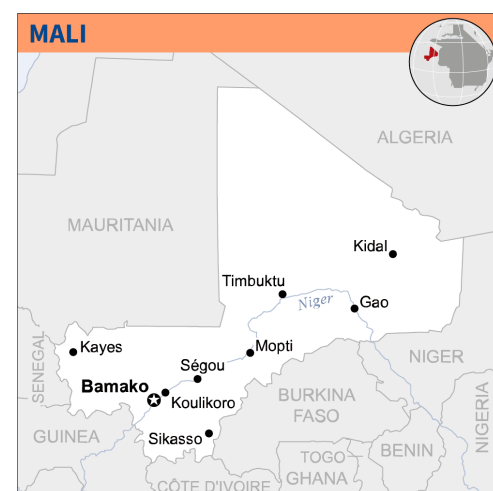


**Côte d'Ivoire accepts ICC's jurisdiction:** April 2003.  
**Rome Statute ratification:** 15 February 2013.

**ICC Prosecutor opens *proprio motu* investigations after authorization of Pre-trial Chamber:** 3 October 2011.

**Current focus:** Alleged crimes within the jurisdiction of the Court committed in the context of post-election violence in Côte d'Ivoire in 2010/2011, but also since 19 September 2002 to the present.

**Current regional focus:** Throughout Côte d'Ivoire, including, the capital of Abidjan and western Côte d'Ivoire.



**Situation referred to the ICC by the Government of Mali:** July 2012.

**ICC investigations opened:** January 2013.

**Current focus:** Alleged war crimes committed in Mali since January 2012.

**Current regional focus:** Mainly in three northern regions, Gao, Kidal and Timbuktu, with certain incidents in Bamako and Sévaré, in the south.



**Situation referred to the ICC by the CAR Government:** May 2014.

**ICC investigations opened:** September 2014.

**Current focus:** Alleged war crimes and crimes against humanity committed in the context of renewed violence starting in 2012 in CAR. ([See CAR I regarding the 2002/2003 conflict in CAR.](#))

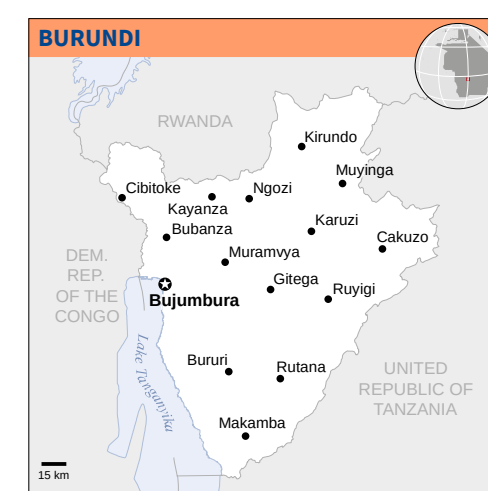
**Current regional focus:** Throughout CAR.



**ICC Prosecutor authorized to open *proprio motu* investigation:** 27 January 2016.

**Current focus:** Alleged crimes against humanity and war crimes committed in the context of an international armed conflict between 1 July and 10 October 2008.

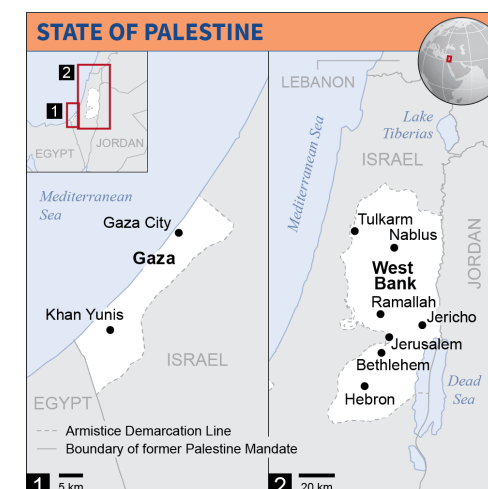
**Current regional focus:** According to the Prosecution's request for authorization to investigate: in and around South Ossetia.



**ICC Prosecutor authorized to open *proprio motu* investigation:** 25 October 2017.

**Current focus:** Alleged crimes against humanity committed in Burundi or by nationals of Burundi outside Burundi since 26 April 2015 until 26 October 2017.

**Current regional focus:** Both in and outside of Burundi.



**The ICC Prosecutor announced the opening of the investigation:** 3 March 2021. This followed Pre-Trial Chamber I's decision on 5 February 2021 that the Court could exercise its criminal jurisdiction in the Situation and, by majority, that the territorial scope of this jurisdiction extends to Gaza and the West Bank, including East Jerusalem.

**Focus:** Crimes within the jurisdiction of the Court that are alleged to have been committed in the Situation since 13 June 2014, the date to which reference is made in the Referral of the Situation to the Office of the Prosecutor.



**The Court has authorized the investigation of crimes:** 14 November 2019.

This authorization followed the request to open an investigation submitted on 4 July 2019 by the Prosecutor. The Chamber also received the views on this request by or on behalf of hundreds of thousands of alleged victims.

**Focus:** Any alleged crimes within the Court's jurisdiction – including but not limited to crimes against humanity, such as deportation and persecution, allegedly committed against the Rohingya population - committed at least in part on the territory of Bangladesh, or on the territory of any other State Party, insofar as such crimes are sufficiently linked to the situation.

The situation encompasses the 2016 and 2017 waves of violence which allegedly took place in Rakhine State, on the territory of Myanmar, but the jurisdiction could cover also acts committed on or after 1 June 2010 (the date of entry into force of the Rome Statute for Bangladesh) and, in relation to crimes allegedly committed, at least in part, on the territory of other State parties - after the date of entry in force of the Statute for those States Parties.



**Commencement of the investigation:** 5 March 2020 when the ICC Appeals Chamber decided unanimously to authorize the Prosecutor to commence an investigation into alleged crimes under the jurisdiction of the Court in relation to the situation in the Islamic Republic of Afghanistan. The Appeals Chamber's judgment amended the decision of Pre-Trial Chamber II of 12 April 2019, which had rejected the [Prosecutor's request for authorization of an investigation of 20 November 2017](#), finding that the commencement of an investigation would not be in the interests of justice.

**Focus:** Alleged crimes against humanity and war crimes committed in Afghanistan since 1 May 2003 as well as other alleged crimes that have a nexus to the armed conflict in Afghanistan and are sufficiently linked to the situation in Afghanistan and were committed on the territory of other States Parties since 1 July 2002.



**The authorization by Pre-Trial Chamber to commence an investigation:** 15 September 2021.

**Focus:** Any alleged crime within the jurisdiction of the Court, including but not limited to the crime against humanity of murder, committed in the Philippines between 1 November 2011 and 16 March 2019 in the context of the so-called 'war on drugs' campaign. The Philippines, which became a State party to the Rome Statute on 1 November 2011, deposited a written notification of withdrawal from the Statute on 17 March 2018. While the Philippines' withdrawal from the Statute took effect on 17 March 2019, the Court retains jurisdiction with respect to alleged crimes that occurred on the territory of the Philippines while it was a State Party, from 1 November 2011 up to and including 16 March 2019.



**Situation referred to ICC by a group of States Parties (Argentina, Canada, the Republic of Colombia, Chile, Paraguay and Peru):** 27 September 2018.

**The conclusion of the preliminary examination with a decision to proceed with investigations:** 3 November 2021.

**Deferral of the investigation:** 16 April 2022, following a request from Venezuela to defer the investigations in favor of the actions carried out by the national authorities of Venezuela (as per art. 18 of the Rome Statute).

**The authorization of the Pre-Trial Chamber I to resume investigation:** 27 June 2023.



**Situation referred to the ICC by 43 States Parties:** March - April 2022.

**ICC investigations opened:** 2 March 2022.

**Focus:** Alleged crimes committed in the context of situation in Ukraine since 21 November 2013.

**Comment:** Ukraine is not a State Party to the Rome Statute, but it has twice exercised its prerogatives to accept the Court's jurisdiction over alleged crimes under the Rome Statute occurring on its territory, pursuant to article 12(3) of the Statute. The [first declaration](#) lodged by the Government of Ukraine accepted ICC jurisdiction with respect to alleged crimes committed on Ukrainian territory from 21 November 2013 to 22 February 2014. The [second declaration](#) extended this time period on an open-ended basis to encompass ongoing alleged crimes committed throughout the territory of Ukraine from 20 February 2014 onwards.

# WHAT IS THE PRINCIPLE OF COMPLEMENTARITY?

The ICC is governed by the principle of complementarity, which means that States have the primary responsibility to investigate and prosecute international crimes. The ICC can only intervene when States are unwilling and/or unable to do so.

When a situation is referred to the ICC, any State can inform the Court that it is or has investigated the crimes that the Office of the Prosecutor is planning on prosecuting. The Prosecutor should then defer to the national authorities, except if the Pre-Trial Chamber authorizes the ICC's investigation to continue. In all situations, regardless of how the ICC jurisdiction was triggered, whenever a case is commenced (i.e., through an arrest warrant or a summons to appear), States and the accused can challenge the admissibility of the case by claiming that domestic authorities are or have been investigating or prosecuting. If the Court is satisfied that this is genuinely the case, it will find the case inadmissible; otherwise, the case can proceed before the ICC.

## Why Must States Fully Implement the Rome Statute into their Domestic Legal Frameworks?

- **States must have in their domestic system the legal tools necessary to investigate and prosecute international crimes.**

Incorporating the crimes of the Rome Statute into domestic law is the first step to ensuring that the legal framework will give the State the ability to exercise jurisdiction over crimes against humanity, war crimes, genocides and crimes of aggression.

- **States must apply all the relevant general principles of law**, in order for their domestic courts to be able to fully exercise their jurisdiction over the crimes prescribed by the Rome Statute. These principles include, notably, the irrelevance of official capacity (i.e. immunities do not apply), the absence of statute of limitations, or the applicability of command responsibility. The national framework should also respect the core principles of criminal law applicable at all times, such as the presumption of innocence and procedural guarantees of a fair trial.
- **States must have a defined legal framework for cooperation with the ICC**, since it cannot fulfill its mandate without their cooperation. Delays from States in responding to cooperation requests reduce the Court's efficiency and increase its costs. Even in monist systems, where the Rome Statute might be potentially assessed as a self-executing treaty, there is still a need to adapt their procedural laws to allow national authorities to recognize and enforce requests emanated by the ICC.



## WHAT CAN PARLIAMENTARIANS DO?

### **To promote domestic prosecutions, Parliamentarians should:**

- Ensure the preparation and adoption of legislation incorporating the definitions of crimes and the general principles of the Rome Statute.
- Promote the acceptance of bilateral agreements with the Court, to ensure that any State prosecuting the Rome Statute crimes receives the support necessary for fair and effective prosecutions.
- Launch motions or resolutions that promote national investigations and prosecutions and adopt legislation and policies that reinforce the police, investigative, and prosecutorial capacities of the State.
- Appeal all national authorities to prosecute businesspersons and financiers who knowingly and willingly finance criminal organizations and militias operating in conflict.
- Refrain from interfering in the judicial process against international crimes and take actions that uphold and protect the independence of the judiciary.

### **To promote cooperation with the ICC, Parliamentarians should:**

- Urge their government to draft legislation to implement the Rome Statute effectively and transmit it to Parliament, or when applicable, initiate the drafting process themselves.
- Instruct their government to promote the domestic implementation of the Rome Statute in other countries.
- Create political will to respect and enforce the decisions of the Court by continuously calling for the implementation of the decisions and orders of the ICC.
- Call upon their governments to adopt positions at the United Nations to bring coherence to the Security Council's actions about crimes under the jurisdiction of the Court and to ensure adequate follow-up to implement resolutions referring situations to the jurisdiction of the Court.

### **To ensure that the independence of the Court is preserved, Parliamentarians should:**

- Monitor their governments and use both their legislative and political prerogatives to protect and ensure the judicial independence of the ICC.
- Develop multi-party and inclusive approaches in support of justice.

### **To ensure that the integrity of the Court is preserved, Parliamentarians should:**

- Encourage their national parliaments to support the adoption of a declaration against immunities of heads of state and government for the most heinous crimes for the international community as a whole.

# WHAT IS THE CRIME OF AGGRESSION?

From 31 May until 11 June 2010, the States Parties met in Kampala, Uganda, for the first Review Conference of the Rome Statute. The Review Conference adopted two resolutions that amended the Court's jurisdiction. Resolution 5 expanded the definition of war crimes to include crimes committed during times of non-international armed conflict, thus promoting a central objective of international humanitarian law on the protection of civilians. Resolution 6 amended the Rome Statute to include a definition of the crime of aggression and provisions on the conditions for exercising jurisdiction.

Both amendments have been adopted in the Statute; however, their application for nationals and territories of States Parties requires ratification under domestic procedures equal to those of international treaties.

As of September 2023, [45 States have ratified the Kampala Amendments](#) on the crime of aggression.

**ALL STATES SHOULD RATIFY THE KAMPALA AMENDMENTS ON THE CRIME OF AGGRESSION, '[THE SUPREME INTERNATIONAL CRIME](#)' TO ENSURE INTERNATIONAL CRIMINAL ACCOUNTABILITY FOR BREACHING THE MOST FUNDAMENTAL RULE FOR GOVERNING THE PEACEFUL COEXISTENCE OF NATIONS: THE PROHIBITION OF THE USE OF FORCE.**

On 14 December 2017, the 16th Assembly of State Parties adopted by consensus a resolution that activates the Court's jurisdiction over the crime of aggression as of 17 July 2018.

17 Jul. 1998	The Rome Statute is Adopted
1 Jul. 2002	The Rome Statute Enters into Force
11 Jun. 2010	The Review Conference Adopts the Kampala Amendments
26 Jun. 2016	Palestine is the 30th State to Ratify the Kampala Amendments
14 Dec. 2017	ASP Adopts Resolution Activating the ICC's Jurisdiction Over the Crime of Aggression
17 Jul. 2018	ICC's Jurisdiction Over the Crime of Aggression Becomes Effective

The **definition** of the crime of aggression in Article 8 *bis* contains two parts:

- A **general clause and definition**:
  - The “*crime of aggression means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.*”
  - Such a manifest violation must entail “*the use of armed force by a state against the sovereignty, territorial integrity or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations.*” The use of force in lawful self-defense, as well as the use of force authorized by the Security Council cannot qualify as an act of aggression.
- A **list of acts of aggression**, such as the invasion, military occupation, and/or bombardment by the armed forces of one state against another.

## PGA Proposal to Amend the Jurisdictional Limitations over the Crime of Aggression

According to Art. 15 *bis* (4) and (5) of the Rome Statute, the ICC may not exercise jurisdiction over non-party States to the Rome Statute. Unlike for other three core crimes, the **Court may exercise jurisdiction** on the crime of aggression only in situations in which the **territorial State and the State of nationality of the alleged perpetrator have ratified the amendments**; however, this exclusion will not apply to cases referred by the UN Security Council. Since March 2022, after consulting a group of prominent academics and experts, PGA elaborated a [non-paper containing specific amendments to Article 15 \*bis\* of the Rome Statute](#) that would partially align the ICC

jurisdictional regime on the crime of aggression to the one that already exists for the other three core crimes.

The jurisdiction for the crime of aggression is triggered in the same way as for the other three crimes: a state referral, a referral by the UN Security Council, and *proprio motu* (on his own impulse) of the Prosecutor based on information submitted to him / her. The ICC may only exercise jurisdiction for crimes committed after the date of the activation of the jurisdiction of the Court.

In addition, domestic legislation must ensure that States Parties are ready to cooperate with the Court in any investigation or prosecution related to the crime of aggression in their or other states.

## The Importance of the Domestic Implementation of the Crime of Aggression

The Kampala Amendments on the crime of aggression preserve all the features of the Rome Statute, including the ICC’s complementary nature and its function as an “extension” of States Parties’ domestic legal systems. For this reason, States are required to incorporate the definition of the crime of aggression into their domestic legislation to protect their territories against aggression from other states and to ensure that their own leaders do not engage in the crime of aggression. In addition, domestic legislation must ensure that States Parties are ready to cooperate with the Court in any investigation or prosecution related to the crime of aggression in their or other states.



## The Role of the UN Security Council

While there is an option for the UN Security Council to decide as to whether a threat or a breach to the peace or an act of aggression has occurred, the latter determination may not infringe upon the independent decision of the Office of the Prosecutor or the Judges, which can decide not to proceed with a given investigation or prosecution. In this respect, it is essential to stress that the ICC has the same degree of independence from the UN Security Council regarding the crime of aggression as it does in other crimes under its jurisdiction.

### Can Cyber-Attacks Amount to Crime of Aggression?

If a cyber-attack results in an act of aggression or the use of armed forces that meets the high threshold of Art. 8 bis, para. 1 - meaning that by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations -, and it is planned, prepared, initiated or executed by a person in a position effectively to exercise control over or to direct the political or military action of a State, then it may amount to crime of aggression.

## WHAT CAN PARLIAMENTARIANS DO?

### To promote the criminalization of crime of aggression, Parliamentarians should:

- Organize parliamentary hearings to discuss the importance of the Kampala Amendments on the crime of aggression.
- Question their government on the status of the preparation and submission to parliament (or to the Cabinet) of the Kampala ratification and implementation bills.
- Prepare and submit a private members' bill on the domestic implementation of the Kampala Amendments for consideration by your parliament.
- Question their government on their participation in initiatives that promote the ratification of the Kampala Amendments by as many states as possible.
- Use their political prerogatives to mobilize support to prevent the illegal use of force and establish the widest protection of civilians and armed forces during an armed conflict.
- Ensure that government and parliamentary discussions on ratification or accession to the Rome Statute are based on the 2010 version of the Statute as adopted by the Review Conference.
- Prepare and submit a private members' bill including the Kampala amendments, for consideration by their parliament.

# WHAT ARE THE OTHER SPECIALIZED COOPERATION AGREEMENTS?

In addition to the adoption of implementing legislation, there are several additional agreements to the Rome Statute necessary to expand the existing framework of cooperation with the Court.

## Agreement on Privileges and Immunities of the Court (APIC)

The APIC is designed to protect Court officials to conduct investigations efficiently, safeguard victims, witnesses, and defense counsels, and ensure the confidentiality and safety of the documents, materials, and information handled by the ICC in the territory of its States Parties.

The APIC requires the same ratification process as an ordinary international treaty. Any state can join the APIC, not only States Parties to the Rome Statute. As of September 2023, there are [79 States Parties to the APIC](#), one of which is not a State Party to the Rome Statute (Ukraine).

## Ad hoc Cooperation Agreements

In addition to APIC, States can also sign ad hoc cooperation agreements with the Court. Cooperation agreements concluded between the Court and States Parties are critical to **facilitate important forms of cooperation**, including enforcement of sentences, relocation of witnesses and victims under threat, hosting suspects or accused during interim release, or accepting persons released due to acquittal, non-confirmation of charges or other reasons (final release).

These agreements are essential to the functioning of the Court. In all these bilateral agreements, the final decision on whether to cooperate on the concerned issues always remains with the State. Thus, they are relatively low-commitment agreements.

## Enforcement of Sentences

The Rome Statute provides that, upon conclusion of the trial, sentences of imprisonment are to be served in a State designated by the ICC, which is selected from a list of States that have indicated their willingness to enforce the sentences by signing a bilateral agreement with the Court. It is important that States share the responsibility among themselves, especially given that the more States that sign these agreements, the broader the scope of choices the Chambers have when deciding on a host State.

Under these agreements, the State has the power to determine the procedure for the person's transfer to the prison and to terminate the enforcement in their own State. The State also decides the specific rules of implementation and develops a partnership with the International Committee of the Red Cross (ICRC).

As of September 2023, only 14 States Parties have concluded enforcement of sentences agreements with the Court. This small number of States is problematic as the ICC may need help to place a convict in a familiar cultural setting or near their family.

### ***Relocation of witnesses and victims***

Under Article 68 of the Rome Statute, the ICC has an obligation to protect its witnesses, participating victims, and any other individual “at risk” because of ICC proceedings, including relocation if necessary. The Court fully depends on States Parties upholding their agreements to cooperate for international relocations. Implementing these agreements comes at no cost to the State assisting the Court. States can accept witnesses on a case-by-case basis, making the relocation agreements extremely flexible. The Court’s assistance may also contribute to improving the national protection structures of the interested State.

The Court has concluded relocation agreements with 19 States Parties.

### ***Interim and Final release***

Article 60 of the Rome Statute grants the accused the right to request an interim release. However, this is not considered an issue for which states’ cooperation is mandatory, and many national implementing legislations do not have any specific provisions for how to address such requests by the Court.

It is crucial that the accused persons are able to benefit from this right. The defendant’s fundamental rights would be seriously jeopardized if the Chamber could not order their interim release because it could not identify a state willing to cooperate on this issue.

The same problem arises for acquittal cases – the Court has to arrange for the return of the acquitted person. If an acquitted person cannot return to their state, he or she will have to remain in the detention center in The Hague as he or she will have no legal status to stay on Dutch territory. Simply put, an innocent person will be in prison.

So far, only the Kingdom of Belgium and Argentina have entered into an agreement with the ICC on the interim release of detainees.

Regarding final release or acquittal cases, the Court has finalized a draft framework agreement open for discussion and encourages states to contact the Registry if interested. Argentina is, for now, the only State to have entered into such agreement.



# WHAT CAN PARLIAMENTARIANS DO?

**To promote the most effective cooperation with the ICC, parliamentarians should:**

- Underline during parliamentary debates the reliance of the ICC on the cooperation of Member States and the importance of voluntary cooperation agreements in that regard.
- Organize parliamentary hearings to discuss the importance of voluntary cooperation agreements with the ICC and appeal to the Executive branch to sign them.
- Appeal to the Executive branch to transmit the Agreement on Privileges and Immunities (APIC) to Parliament for prompt consideration and approval in accordance with the relevant national procedure for the ratification of treaties.
- Encourage their government to sign cooperation agreements which increases legal certainty both for States Parties and for the Court. The conclusion of cooperation agreements is a concrete demonstration of the States Parties' commitment to the Court and its mandate.



# HOW IS THE ICC FUNDED?

Each State Party to the Rome Statute contributes to the ICC Budget with assessed annual contributions calculated similarly to the United Nations' budget. To protect the Court's integrity and independence, as well as to encourage pursuance of its mandate, the ICC should not be restricted by a lack of resources, especially since it addresses some of the most grievous international crimes.

In addition to the regular budget of the Court, the ICC welcomes voluntary contributions. These may be directed to the *Trust Fund for Victims (TFV)* or other mechanisms created by the Court to respond to specific needs. The Trust Fund is a necessary tool of the Rome Statute to collect means for reparations and compensation for victims of the crimes handled by the Court.

**PGA suggests that each State Party support the budget of the Court from their national budgetary allocations for justice and the rule of law instead of the budget devoted to Inter-Governmental Organizations (IGOs).** Ministries that have experience dealing with prosecutors, judges, and the national judicial system, such as the Ministry of Justice, should adequately fund the Court.

## WHAT CAN PARLIAMENTARIANS DO?

**To ensure that the Court has sufficient financial resources for the fight against impunity, Parliamentarians should:**

- Ensure that the executive branch inserts the yearly contributions to the ICC budget in the State's national budget.
- Ensure that the national budget laws provide sufficient allocations for investigations, prosecutions, and adjudications of international crimes at competent domestic courts.
- Encourage governments to pledge funds for the Trust Fund for Victims, which supports victims before the ICC. The Trust Fund for Victims ensures that the ICC delivers restorative justice.

# HOW CAN PGA ASSIST YOU?

**Parliamentarians play a key role in overcoming legal, political, and logistical challenges to facilitate cooperation with the ICC. Upon request by parliamentarians, the International Law and Human Rights Program of PGA can:**

- (i)** Involve PGA Members and other concerned MPs in peer-to-peer dialogues and cooperation to address concerns and resolve issues relating to the ICC process at the national level.
- (ii)** Provide up-to-date information on the ICC.
- (iii)** Examine the national procedures necessary for ratification and implementation, particularly concerning constitutional issues or other major political and legal obstacles.
- (iv)** Provide technical assistance to legislators in preparing and drafting new legislation incorporating the definitions of the crimes and general principles under the Rome Statute or in drafting relevant amendments to strengthen existing legislation regarding the ICC and international crimes. In doing so, the PGA Secretariat can make available to parliamentarians and relevant officials “reference laws,” “model laws,” or relevant existing laws in various working languages.
- (v)** Assist parliamentarians in launching motions or resolutions that promote the conduct of genuine national investigations and prosecutions by:
  - a.** reinforcing and monitoring the application of legislation; and
  - b.** encouraging policies to reinforce the investigative and prosecutorial capacities of the State (Prosecutors, investigating judges, investigators, police, etc.), including on economic crimes that may be instrumental to the perpetration of Rome Statute crimes;
- (vi)** Disseminate information concerning actions that its members undertake at the national level to international media/key partners.
- (vii)** Facilitate actions its members desire to undertake within their own countries or internationally.
- (viii)** Assist in the domestic implementation of the necessary procedures to cooperate effectively with the ICC, including in the areas of arrest and surrender and of freezing of assets.





# STATUS OF RATIFICATION OF THE ROME STATUTE

## STATE PARTIES

*A 'State party' has ratified or acceded to the treaty, and is therefore legally bound by the provisions in it.*

1. Afghanistan - 10 February 2003
2. Albania - 31 January 2003
3. Andorra - 30 April 2001
4. Antigua & Barbuda - 18 June 2001
5. Argentina - 8 February 2001
6. Armenia - 14 November 2023
7. Australia - 1 July 2002
8. Austria - 28 Dec 2000
9. Bangladesh - 23 March 2010
10. Barbados - 10 Dec 2002
11. Belgium - 28 June 2000
12. Belize - 5 April 2000
13. Benin - 22 January 2002
14. Bolivia - 27 June 2002
15. Bosnia & Herz. - 11 April 2002
16. Botswana - 8 September 2000
17. Brazil - 20 June 2002
18. Bulgaria - 11 April 2002
19. Burkina Faso - 16 April 2004
20. Cambodia - 11 April 2002
21. Canada - 7 July 2000
22. Cape Verde - 10 October 2011
23. CAR - 3 October 2001
24. Chad - 1 November 2006
25. Chile - 29 June 2009
26. Colombia - 5 August 2002
27. Comoros - 18 August 2006
28. Congo - 3 May 2004
29. Cook Islands - 18 July 2008
30. Costa Rica - 7 June 2001
31. Cote d'Ivoire - 15 February 2013
32. Croatia - 21 May 2001
33. Cyprus - 7 March 2002
34. Czech Republic - 21 July 09
35. DRC - 11 April 2002
36. Denmark - 21 June 2001
37. Djibouti - 5 November 2002
38. Dominica - 12 February 2001
39. Dominican Republic - 12 May 2005
40. Ecuador - 5 February 2002
41. El Salvador - 3 March 2016
42. Estonia - 30 January 2002
43. Fiji - 29 November 1999
44. Finland - 29 December 2000
45. France - 9 June 2000
46. Gabon - 20 September 2000
47. Gambia - 28 June 2002
48. Georgia - 5 September 2003
49. Germany - 11 December 2000
50. Ghana - 20 December 1999
51. Greece - 15 May 2002
52. Grenada - 19 May 2011
53. Guatemala - 2 April 2012
54. Guinea - 14 July 2003
55. Guyana - 24 September 2004
56. Honduras - 1 July 2002
57. Hungary - 30 November 2001
58. Iceland - 25 May 2000
59. Ireland - 11 April 2002
60. Italy - 26 July 1999
61. Japan - 17 July 2007
62. Jordan - 11 April 2002
63. Kenya - 15 March 2005
64. Kiribati - 26 November 2019
65. (Rep. of) Korea - 13 Nov. 2002
66. Latvia - 28 June 2002
67. Lesotho - 6 September 2000
68. Liberia - 22 September 2004
69. Liechtenstein - 2 October 2001
70. Lithuania - 12 May 2003
71. Luxembourg - 8 September 2000
72. (Fmr. Yug. Rep. Of) Macedonia - 6 March 2002
73. Madagascar - 14 March 2008
74. Malawi - 19 September 2002
75. Maldives - 21 September 2011
76. Mali - 16 August 2000
77. Malta - 29 November 2002
78. Marshall Isl. - 7 December 2000

79. Mauritius - 5 March 2002
80. Mexico - 28 October 2005
81. (Rep. of) Moldova - 12 Oct. 2010
82. Mongolia - 11 April 2002
83. Montenegro - 23 October 2006
84. Namibia - 25 June 2002
85. Nauru - 12 November 2001
86. Netherlands - 17 July 2001
87. New Zealand - 7 September 2000
88. Niger - 11 April 2002
89. Nigeria - 27 September 2001
90. Norway - 16 February 2000
91. Palestine - 2 January 2015
92. Panama - 21 March 2002
93. Paraguay - 14 May 2001
94. Peru - 10 November 2001
95. Poland - 12 November 2001
96. Portugal - 5 February 2002
97. Romania - 11 April 2002
98. Samoa - 16 September 2002
99. San Marino - 13 May 1999
100. Senegal - 2 February 1999
101. Serbia - 6 September 2001
102. Seychelles - 10 August 2010
103. Sierra Leone - 15 September 2000
104. Slovakia - 11 April 2002
105. Slovenia - 31 December 2001
106. South Africa - 27 Nov. 2000
107. Spain - 24 October 2000
108. St. Kitts & Nevis - 22 Aug. 2006
109. St. Lucia - 18 August 2010
110. St Vincent & the Grenadines - 3 Dec. 2002
111. Suriname - 15 July 2008
112. Sweden - 28 June 2001
113. Switzerland - 12 October 2001
114. Tajikistan - 5 May 2000
115. (United Rep. of) Tanzania - 20 August 2002
116. Timor Leste - 6 September 2002
117. Trinidad & Tobago - 6 April 1999
118. Tunisia - 24 June 2011
119. Uganda - 14 June 2002
120. United Kingdom - 4 Oct. 2001
121. Uruguay - 28 June 2002
122. Vanuatu - 2 December 2011
123. Venezuela - 7 June 2000
124. Zambia - 13 November 2002

## SIGNATORY STATES

*Signing (but not ratifying) does not create a binding legal obligation. Signatory States must, however, refrain from acts that would defeat or undermine the treaty's objective and purpose.*

1. Algeria - 28 December 2000
2. Angola - 7 October 1998
3. Bahamas - 29 December 2000
4. Bahrain - 11 December 2000
5. Cameroon - 17 July 1998
6. Egypt - 26 December 2000
7. Eritrea - 7 October 1998
8. Guinea Bissau - 11 Sept. 2000
9. Haiti - 26 February 1999
10. Iran - 31 December 2000
11. Israel - 31 December 2000
12. Jamaica - 8 September 2000
13. Kuwait - 8 September 2000
14. Kyrgyzstan - 8 December 1998
15. Monaco - 18 July 1998
16. Morocco - 8 September 2000
17. Mozambique - 28 Dec. 2000
18. Oman - 20 December 2000
19. Russian Fed. - 13 Sept. 2000
20. Sao Tomé & Príncipe - 28 December 2000
21. Solomon Isl. - 3 December 1998
22. Sudan - 8 September 2000
23. Syrian Arab Rep. - 29 Nov. 2000
24. Thailand - 2 October 2000
25. Ukraine - 20 January 2000
26. UAE - 27 November 2000
27. U.S.A. - 31 December 2000
28. Uzbekistan - 29 December 2000
29. Yemen - 28 December 2000
30. Zimbabwe - 17 July 1998

## FORMER STATES PARTIES

1. Burundi  
(21 September 2004 to 27 October 2017)
2. Philippines  
(30 August 2011 to 17 March 2019)

## USEFUL LINKS

[The International Criminal Court \(ICC\)](#)

[Parliamentarians for Global Action \(PGA\)](#)

[Coalition for the International Criminal Court \(CICC\)](#)

[International Federation for Human Rights \(FIDH\)](#)

[Amnesty International \(AI\)](#)

[Human Rights Watch \(HRW\)](#)

[Trust Fund for Victims \(TFV\)](#)

## PICTURE CREDITS

- p1 ICC-CPI/Aleksandra Milic, 2015; ICC Permanent Premises.
- p2 ICC-CPI, 2023;
- p4 ICC-CPI; International Criminal Court Marks Opening of the Judicial Year 2023;
- p8 Schmidt Hammer Lassen Architects, 2013; ICC Permanent Premises.
- p27 Meeting with the ICC President Judge Piotr Hofmański, Oct. 2021;

## ENDNOTES

1. With the exception of the jurisdiction over crimes committed in a State not Party to the Statute that makes a declaration to accept the jurisdiction of the Court.





**Parliamentarians for Global Action**  
**Parlamentarios para la Acción Global**  
**Action Mondiale des Parlementaires**  
**برلمانيون من أجل التحرك العالمي**

**Parliamentarians for Global Action (PGA) is a network of more than 1200 parliamentarians from 145 parliaments worldwide, who, in their individual capacity and in the framework of their mandate, support international justice, the Rule of Law, democracy, and human rights.**

Since 1989, under the umbrella of the International Law and Human Rights Program, PGA has worked for the establishment and effective operation of an International Criminal Court (ICC), and as a result of the mobilization of our members, the PGA Parliamentary Campaign for the Universality and Effectiveness of the System of the Rome Statute of the International Criminal Court has contributed to 78 ratifications and its implementation in 38 States.

On account of this Campaign, PGA is widely recognized as the parliamentary network working on international justice and the ICC. PGA's biannual Consultative Assembly of Parliamentarians on the International Criminal Court and the Rule of Law (CAP-ICC) is the largest gathering of parliamentarians on this issue.

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