

Cooperation with the ICC

What the UN Security Council and ASP must do



The International Criminal Court (ICC) is charged with ensuring global justice for international crime. But this can only be achieved if states that have ratified the Rome Statute cooperate with the court and enforce its decisions. State cooperation with the ICC in certain situations is fraught with challenges, as the Darfur situation has repeatedly shown. The ICC's judges have issued several decisions on the non-compliance of states. Two institutions can help turn this around. The UN Security Council and the ICC's Assembly of States Parties (ASP) can play a significant role in compelling and assisting states to cooperate with the ICC.

Recommendations for the UNSC and ASP

- ▶ In order to have more structured and better informed discussions of matters relating to the International Criminal Court (ICC), the UN Security Council should extend the mandate of its informal working group on international tribunals to include consideration of the matters relating to the relationship between the Security Council and the ICC.
- ▶ When it refers situations to the ICC, the Security Council should impose obligations of cooperation on all states.
- ▶ The Security Council should use its powers under the UN Charter to respond to findings where states have failed to cooperate with the ICC. Consideration of such matters should be routine for cases referred to the ICC by the Security Council, but should also be considered in other cases.
- ▶ The Security Council should have a process to consider whether to impose targeted sanctions on individuals wanted by the ICC. Where there is a sanctions committee established to deal with a situation under consideration by the ICC, the ICC should be entitled to make recommendations to that sanctions committee.
- ▶ UN peacekeeping forces acting in situations that have been referred to the ICC by the Security Council should be given the mandate to cooperate with the ICC, and to provide support to other relevant bodies acting in cooperation with the ICC.
- ▶ Where the Security Council refers a situation to the ICC it should not restrict or bar UN funding for investigations and prosecutions arising from that referral.
- ▶ In cases of Security Council referrals, the Security Council should not seek to limit the jurisdiction of the ICC over persons relevant to the situation in question.
- ▶ The ICC's Assembly of States Parties (ASP) should as a matter of routine respond to findings of non-cooperation made by the ICC.
- ▶ When states fail to cooperate with the ICC, the ASP should ask the Security Council and the UN General Assembly to take measures, including calling for sanctions, against the states in question.

Join the ISS and the Governments of Ireland and Norway to discuss how to improve states' cooperation with the ICC

The ISS and the Governments of Ireland and Norway are co-hosting a side event at the 16th ICC Assembly of States Parties.

Date: 11 Dec 2017 **Time:** 13:00 – 15:00 **Venue:** Conference Room B, UN Building, New York

Chair: Allan Ngari, Senior Researcher, ISS

Speakers:

- Introductory remarks: Andreas Kravik, Legal Adviser and Representative, Government of Norway
- Dr Max du Plessis, Research Associate, ISS
- Phakiso Mochochoko, Head of Jurisdiction, Complementarity and Cooperation, Office of the Prosecutor, ICC (TBC)
- Prof Dapo Akande, Professor of International Law, Oxford University
- Concluding remarks: James Kingston, Legal Adviser, Department of Foreign Affairs and Trade, Ireland

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