

INTERNATIONAL CRIMINAL COURT

Rules and procedure

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“The most serious crimes of concern to the international community as a whole must not go unpunished.”

- Preamble to the Rome Statute of the International Criminal Court

I. ABOUT THE COURT

The International Criminal Court (ICC) is a separate court that has jurisdiction over anyone accused of war crimes, crimes against humanity, crimes of aggression and genocide. The Rome Statute of the International Criminal Court - often referred to as "the Rome Statute" - was ratified by 120 States on July 17, 1998, in Rome. For the first time in human history, once the Rome Statute entered into force on July 1, 2002, States chose to accept the jurisdiction of a permanent international criminal court for the prosecution of those responsible for the gravest crimes committed on their territory or by their citizens.

The International Criminal Court does not displace national courts; they continue to exist. The Rome Statute mandates that each State exercise its criminal jurisdiction over those who commit transnational crimes. The International Criminal Court may only intervene in situations when a State is incapable or unwilling to conduct an accurate investigation and bring the criminals to justice.

All UN member states are required to abide by the tribunal's findings, since they are binding on all parties when the Security Council refers a dispute to it. The court will ensure that the ICC's primary goal, employing international cooperation to bring those responsible for crimes against humanity and war crimes to justice, can be accomplished.

II. CRIMES WITHIN THE JURISDICTION OF THE ICC:

The Court's goal is to hold individuals accountable (as opposed to States) for the most heinous crimes that have an impact on the whole international community, such as genocide, war crimes, crimes against humanity, and acts of aggression.

a. Genocide

The term "genocide" refers to any of the following actions carried out with the intention of eradicating a national, ethnic, racial, or religious group, in whole or in part, as defined by the Rome Statute:

- killing group members;
- seriously harming their physical or mental health;
- imposing conditions on their way of life that are intended to cause all or part of the group's physical demise;
- enforcing restrictions on intermarriage within the group;
- forcibly removing group members' children to another group are all examples of group violence.

b. War Crimes

When they are committed as part of a larger plan, policy, or on a large scale, "war crimes" include grave violations of the Geneva Conventions as well as other serious infractions of the laws and customs that apply to international armed conflict and conflicts that are "not of an international character" as defined by the Rome Statute. These unlawful actions consist of:

- murder;
- torture, brutal abuse, and body mutilation;
- hostage taking;
- purposely targeting the civilian population for assault;
- attacking structures used for educational, artistic, scientific, or humanitarian reasons, as well as hospitals, historical sites, or memorials;
- pillaging;
- any type of sexual violence, including rape, sexual slavery, forced pregnancies, etc.;

- utilizing young people to actively participate in hostilities or recruit them into the armed forces.

c. Crimes Against Humanity

Any of the following actions carried out with knowledge of the attack as part of a broad or organized attack against any civilian population are considered "crimes against humanity":

- homicide;
- eradication;
- slavery;
- torture;
- incarceration;
- forced population transfers or deportations;
- rape, forced prostitution, forced sterilization, or any other sexual assault of equivalent seriousness;
- persecution of a certain group on the basis of politics, race, nationality, ethnicity, culture, religion, or gender;
- forcible person disappearance;
- Apartheid's crime;
- other comparable cruel actions that purposefully inflict severe suffering or major physical or mental harm.

III. STRUCTURE OF THE COURT

The four components of the International Criminal Court are the President and Vice President (LIMUN's International Criminal Court chairs), the Judicial Division, the Office of the Prosecutor, and the Registry. Each of these organs has a certain role.

- a. **The President and Vice President:** The President and Vice President are responsible for overseeing the Court's operations, with the exception of the Office of the Prosecutor. They assist in the judges' work organization and act as the Court's public face. The President and Vice President are responsible for a number of other tasks, such as supervising the execution of sentences imposed by a court.

- b. **The Judicial Division:** The Pre-Trial Division, the Trial Division, and the Appeals Division are the three divisions (or Chambers) of the Court in which the 18 judges (prosecutors or defenders), including the two judges of the Presidency, are assigned.
- c. **The Office of the Prosecutor:** The Office of the Prosecutor is an independent division of the Court. Its mandate is to gather and evaluate information on situations or alleged crimes under the jurisdiction of the ICC in order to decide whether there is a reasonable basis to start an investigation into a crime of genocide, crimes against humanity, war crimes, or the crime of aggression, as well as to bring the perpetrators of these crimes before the Court.
- d. **The Registry:** The Registry assists the Court in holding open, fair, and impartial trials. Giving the Judicial Division and the Office of the Prosecutor administrative and operational support is the Registry's primary duty. Moreover, it aids the Registrar's efforts in terms of defense, victims, communication, and security. In order to protect the rights of victims, witnesses, and the defense under the Rome Statute and the Rules of Process and Evidence, it makes sure that the Court is adequately supported and creates efficient procedures for doing so.

IV. OPERATION OF THE COURT (For LIMUN)

a. Presentation of Evidence

After the opening, both the prosecution and defense will present the evidence they believe will support their respective claims in order to assess whether there is enough to support a trial. Each advocate will present their own pieces of supporting evidence, including relevant information such as the evidence's title, author, date, and source. **(Information about how to make your evidence available in LIMUN'S main page)**

Once the evidence has been presented, the opposing party may either make an objection or acknowledge the validity of the evidence. The objection will be taken into account for the following step of the procedure.

b. Pre-Trial Stage:

Wherein the prosecution is required to provide material to the Pre-Trial Chamber. The judges will then confirm the identity of the accused and ensure that they are aware of the charges leveled against them. Nonetheless, the prosecution will go on to another case if the Pre-Trial Chamber determines there is insufficient evidence to prosecute the defendant.

c. Trial Stage:

Before the trial, the prosecution must prove the accused's guilt beyond a reasonable doubt. Prior to the trial's judges, the prosecution must prove the defendant's guilt beyond a reasonable doubt. Judges consider all the available evidence before making a decision and, in the event of a guilty verdict, imposition of penalty. The judges have the power to impose a sentence of up to 30 years in prison or, in the most severe circumstances, a life sentence. Both the Defense and the Prosecution have the option to challenge judgments. Victim compensation may be required by the court.

d. Appeals Division:

Both the Prosecution and the Defense have the right to appeal the verdict (decision about the accused's guilt or innocence) and sentence of a Trial Chamber. Both the offender and the victims have the right to appeal a decision for damages.

An appeal is decided by five judges from the Appeals Chamber; these judges are never the same ones who made the original ruling. The decision that was appealed is either upheld, modified, or reversed by the Appeals Chamber. So, this judgment is final until the Appeals Court orders a fresh trial before the Trial Chamber.

The Court shall apply the following:

1. The Rome Statute
2. Elements of Crimes and its Rules of Procedure and Evidence
3. When appropriate, applicable treaties, and the principles and rules

of international law.

At the hearing, the accused may:

- A. Challenge the evidence.
- B. Present new evidence.
- C. Object the charges.

e. Enforcement of Sentence:

A formal agreement through which a state consents to carry out a sentence issued by the International Criminal Court is known as an Agreement on the Execution of Sentences with the International Criminal Court.

V. VICTIMS ROLE IN PROCEEDINGS

Victims are people who have experienced injury as a result of any crime committed under the Court's jurisdiction. Nearly all phases of the ICC legal procedure are open to victim participation. According to the Rome Statute, victims have the right to protective measures, legal representation, hearing notices, and the opportunity to voice their concerns and opinions. For instance:

- Victims have the opportunity to provide oral and written arguments to the judges during the pretrial phase on any issues affecting their interests.
- Victims have the right to present evidence, cross-examine witnesses throughout the trial, including the accused, and show up in person to testify.
- Victims may challenge a judgment on restitution following a conviction.

VI. PROCEDURE

The trial will proceed in the following manner: Firstly, there will be a motion to commence the session. Once this is done, each judge will be asked by the president to provide a brief background about themselves, including their full name, place of birth, previous cases they have worked on, and the date they became a judge.

Afterwards, the accused will be shown a video that introduces their identity and outlines the charges against them. We will then move on to presenting the evidence and entering the Pre-Trial stage. Each session or case will be conducted in chronological order.

In each session, except for the first and second ones, two witnesses will give their testimonies. The judges will then make requests to summon the prosecutors and the defense. It's important to note that one witness will support the prosecutor's position, while the other will support the defense. Only the defense or the prosecutor can raise objections to the witnesses. Once a witness finishes their testimony, the judges can ask questions, make comments, and seek further clarification.

To reach conclusions and determine the verdict for the accused, a Closed Chamber session will be held. During this session, the prosecution and defense will be required to leave the room, and the judges will discuss the evidence and deliberate.

During the final session, the accused will have an opportunity to provide their last testimony, and the judges are allowed to make comments or ask questions. Ultimately, the Registry, the Office of the Prosecutor (OTP), and the accused will exit the room, allowing the judges to vote on the fate of the subject, deciding whether they are innocent or guilty.

Regarding the sentencing, the judges have the authority to impose a maximum prison term of 30 years on the accused. Only under specific circumstances can a life sentence be considered.

VII. REFERENCES

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