



# QUESTIONS AND ANSWERS ON THE INTERNATIONAL CRIMINAL COURT

*“The International Criminal Court promises, at last, to supply what has for so long been the missing link in the international legal system: a permanent court to judge the crimes of gravest concern to the international community as a whole — genocide, crimes against humanity and war crimes.”*  
- Kofi Annan, former United Nations Secretary-General

## 1. What is the International Criminal Court?

The International Criminal Court (ICC) is the first permanent, independent court capable of investigating and bringing to justice individuals who commit the most serious violations of international humanitarian law, namely war crimes, crimes against humanity, genocide and, once defined, aggression. The Court is seated in The Hague, The Netherlands and was established in accordance with the Rome Statute, the ICC’s founding treaty, on 1 July 2002. To date, the ICC treaty has been ratified by 111 States, with representation from every region of the world.

The legal framework of the Court was established at a United Nations-sponsored conference in Rome involving representatives of 160 countries. Following five weeks of the intense deliberations, the Rome Statute of the International Criminal Court was adopted by an overwhelming majority on 17 July 1998. By the established deadline of 31 December 2000, 139 countries had signed the Rome Statute. The treaty entered into force and became law on 1 July 2002.

## 2. How does the ICC differ from the International Court of Justice and the ad hoc tribunals for former Yugoslavia and Rwanda?

The International Court of Justice (ICJ), the principal judicial organ of the United Nations, was designed to deal primarily with disputes between States. It has no jurisdiction over matters involving individual criminal responsibility. The two ad hoc tribunals for the former Yugoslavia and Rwanda differ from the International Criminal Court in geographic jurisdiction and temporal scope. Created by the UN Security Council, the ad hoc tribunals are mandated to deal only with crimes committed in those regions during specific periods of time. In contrast, the International Criminal Court is a permanent and independent institution capable of addressing the crimes identified in the Rome Statute which have been committed by individuals since 1 July 2002.

## 3. What crimes does the ICC address?

The Court has jurisdiction over the most serious crimes committed by individuals: genocide, crimes against humanity, war crimes and once defined, aggression. The first three crimes are carefully defined in the Statute to avoid ambiguity or vagueness. The Rome Statute does not identify any new categories of crimes, but rather reflects existing conventional and customary international law.

## 4. When does the ICC have jurisdiction over crimes?

Since the entry into force of the Rome Statute on 1 July 2002, the ICC has jurisdiction over crimes committed by nationals of States that have ratified the ICC statute, as well as over crimes committed on the territory of States that have ratified the treaty. The ICC is designed to *complement* existing national judicial systems, however, the Court can exercise its jurisdiction if national courts are unwilling or unable to investigate or prosecute such crimes. Therefore, the Court also serves as a catalyst to States’ investigating and prosecuting such crimes committed either within their territories or by their nationals. The ICC’s jurisdiction is not retroactive, but its very existence serves as a deterrent to future architects of genocide, war crimes and crimes against humanity by sending a strong signal that never again will such acts be met with impunity.

**The Coalition for the International Criminal Court is a global network of over 2,000 civil society organizations supporting a fair, effective and independent International Criminal Court.**

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Matters can be referred to the Court by a State Party to the Rome Statute, by the Prosecutor, and by the UN Security Council. The Court may then exercise its jurisdiction over the matter if either the State in whose territory the crime was committed, or the State of the nationality of the accused, is a party to the Statute. Non- States Parties may accept the Court's jurisdiction on an ad hoc basis. When a matter is referred by the Security Council, the Court will have jurisdiction regardless of whether the State concerned is a party to the ICC treaty.

**7. Can a citizen from a country that is not party to the Rome Statute be prosecuted?**

Yes, citizens of any country fall within the jurisdiction of the Court under one of the following conditions:

- 1) the country where the alleged crimes occurred is a State Party to the ICC treaty;
- 2) that country accepted the ICC's jurisdiction on an ad hoc basis; or
- 3) the UN Security Council referred the situation to the Court.

*However, under the principle of complementarity, the Court will act only if the national court of the accused does not initiate investigations and prosecution, if appropriate.*

**8. Can high-level government officials or military commanders be prosecuted by the ICC?**

Yes. Criminal responsibility will be applied equally to all persons without distinction as to whether he or she is a Head of State or government, a member of a government or parliament, an elected representative or a government official. It will also not be possible for such official capacity to constitute a ground for reduction of sentence.

**9. Does the International Criminal Court infringe on the jurisdiction of national courts?**

No. The International Criminal Court will *complement*, not supercede, the jurisdiction of national courts. National courts will continue to have priority in investigating and prosecuting crimes within their jurisdiction. Under the principle of complementarity, the ICC will act only when national courts are unable or unwilling to exercise jurisdiction. If a national court is willing and able to exercise its jurisdiction, the ICC cannot intervene and no nationals of that State can be brought before it. The grounds for admitting a case to the Court are specified in the Statute and the circumstances that govern inability and unwillingness are carefully defined so as to avoid arbitrary decisions. In addition, the accused and interested States, whether they are parties to the Statute or not, may challenge the jurisdiction of the Court or admissibility of the case. They also have a right to appeal any related decision.

**10. What role does the UN Security Council have in the Court's work?**

The work of the Security Council and the International Criminal Court will continue to complement each other.

The Rome Statute recognizes the role of the Security Council in the maintenance of international peace and security. Specifically, the treaty notes that under Chapter VII of the UN Charter, the Security Council may refer a "situation" to the Court when one or more of the crimes covered by the Statute appear to have been committed. This would provide a basis for the Prosecutor to initiate an investigation.

For more information on the ICC, visit: [www.coalitionfortheicc.org](http://www.coalitionfortheicc.org)