

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

## **BOOKLET**

# **VICTIMS BEFORE THE INTERNATIONAL CRIMINAL COURT**

## **A GUIDE FOR THE PARTICIPATION OF VICTIMS IN THE PROCEEDINGS OF THE COURT**



**This booklet is intended to help victims or those assisting them when applying to participate in proceedings before the International Criminal Court (ICC).**

**The booklet explains how the Court works and the rights that victims have at the ICC.**

**This booklet and the process of applying are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.**

## Contents

<b>Introduction</b>	<b>1</b>
<b>I. Information about the ICC</b>	<b>2</b>
What is the International Criminal Court?	2
What crimes does the ICC investigate and prosecute?	3
When can the ICC investigate and prosecute?	6
Who can be prosecuted by the ICC?	6
What are the stages of ICC proceedings?	6
Where are ICC proceedings likely to take place?	7
<b>II. The different roles of victims in the ICC</b>	<b>8</b>
<b>II. The different roles of victims in the ICC</b>	<b>9</b>
What is the role of victims in the ICC?	9
What are the differences between participating as a victim and testifying as a witness?	10
Which parts of the ICC deal with victims?	10
<b>III. About Victims' participation in ICC proceedings</b>	<b>12</b>
What is participation?	12
What are the rights of victims in ICC proceedings as participants?	12
In what way does a victim participate in ICC proceedings?	13
What do victims have to do to participate in ICC proceedings?	13
Who will decide on applications to participate?	13
How will the ICC judges decide who can participate?	13
What is the difference between a victim of the situation and a victim of the case?	15
When can a victim participate?	15
What might a victim expect from participating in proceedings?	16
<b>IV. What a Victim needs to know before applying for participation</b>	<b>16</b>
<b>Security and confidentiality</b>	<b>16</b>
What if a victim feels at risk as a result of applying to participate?	16
<b>Legal representation</b>	<b>17</b>
Do victims need a legal representative?	17
Is each victim entitled to be represented by a separate lawyer?	18
What if the victim cannot afford a legal representative?	18
<b>The application process</b>	<b>19</b>
What is the purpose of the application form?	19
Where to obtain an application form?	19
Where should a victim submit a completed application form?	19
How can the ICC Field Offices help?	19
What will happen to applications that are sent to the ICC?	19
Does a victim have to pay to apply to participate in proceedings?	20
Who should use the application form?	20
What is the role of a person acting on behalf of a victim?	21
What is the role of the person assisting a victim?	21

In what languages can the application form be completed?	21
How can a victim find out what has happened to an application?	21
What should a victim do in order to withdraw an application?	22
What happens if the application to participate is rejected?	22
What happens if false or fraudulent applications are submitted to the ICC?	22
<b>After a victim becomes accepted as a participant in the proceedings of the ICC</b>	<b>22</b>
What happens once a victim has been accepted as a participant?	22
Do victims have to travel to the ICC in The Hague, The Netherlands?	22
Are there time limits for participating in the various stages of proceedings?	23
<b>V. Instructions on how to complete the application form for participation</b>	<b>23</b>
<b>VI. Contacting the ICC</b>	<b>25</b>
ICC Headquarters	25
ICC Field Offices	25
<b>VII. Explanation of terms used in this booklet</b>	<b>26</b>

## **Introduction**

This booklet is for victims who believe they have suffered harm as a result of one of the crimes dealt with by the International Criminal Court (“ICC”) and wish to participate in ICC proceedings. The booklet contains explanations regarding what the ICC is, the role of victims and how they can participate in its proceedings. This booklet is intended to help victims and those people assisting them when applying to participate in proceedings before the ICC. For any questions related to information provided in this booklet, please contact the Victims Participation and Reparations Section (VPRS) at the ICC. Contact details are given on page 25 of this booklet.

Not all questions about the ICC can be answered in this booklet. The ICC's Public Information and Documentation Section (PIDS) produces a range of information materials concerning the Court:

- The ICC basic legal texts, including the Rome Statute, the Rules of Procedure and Evidence, the Elements of Crimes, the Regulations of the Court and the Regulations of the Registry
- Fact sheets on the following subjects: The ICC at a Glance, Office of the Prosecutor, Presidency and Chambers, Victims before the Court, Registry, and The Judges of the Court
- The information booklet Understanding the ICC

All documents are available in English and French and a number of the local languages spoken in those countries where the Court is working. They can be requested via: [pio@icc-cpi.int](mailto:pio@icc-cpi.int)

## **I. Information about the ICC**

### **What is the International Criminal Court?**

On 17 July 1998, during an international conference in Rome, Italy, 120 States decided to establish a permanent International Criminal Court. The purpose of the ICC is to bring to account individuals responsible for the worst crimes known to humankind, and so to help prevent these kinds of crimes from being committed in the future. Victims have a number of important roles to play before the Court, including the role of independent participant that is dealt with in this booklet.

The ICC was established through a treaty that is known as the "Rome Statute" which sets out the mandate of the Court and how it works.

As of April 2010, one hundred and eleven states from around the world have accepted the jurisdiction of the Court by becoming State Parties to the Rome Statute.

The international community had been debating the establishment of a permanent international criminal court since the 1950's after the atrocities committed during World War II shocked the world. Since the 1990's, several international criminal tribunals have been set up, but all of these are temporary and established to deal with crimes committed in specific situations. These include the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone.

The ICC is an independent international organisation, and it is not part of the United Nations System. It is located in The Hague in The Netherlands, and it has set up field offices in places where the ICC Prosecutor is conducting investigations.

### **What crimes does the ICC investigate and prosecute?**

The ICC has been established to try and punish individuals accused of committing crimes so serious that they are considered to affect the entire world. These crimes are:

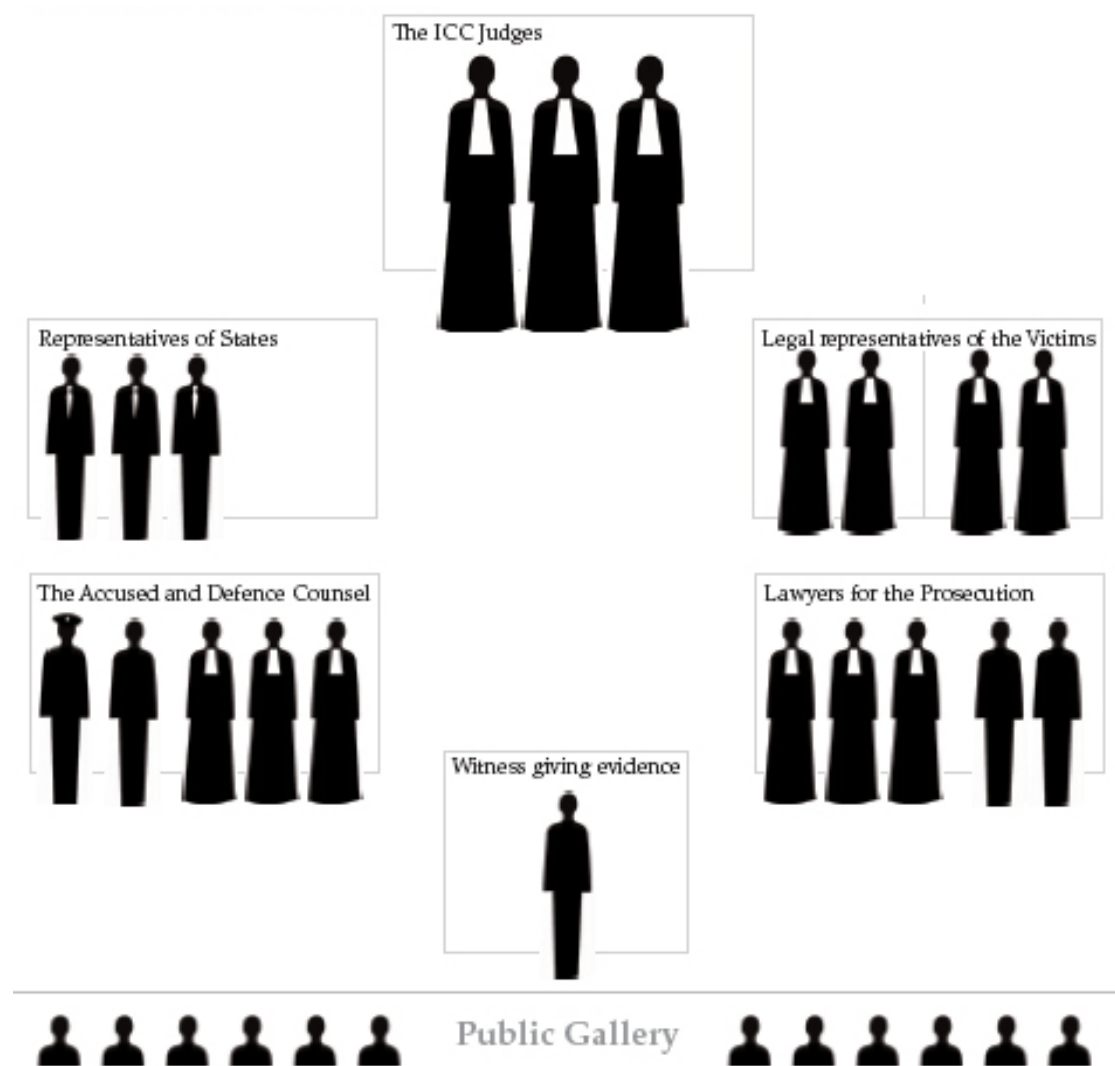
- Genocide: killing or causing serious mental or physical harm with the intention of destroying all or part of a national, ethnic, racial or religious group
- Crimes against humanity: crimes such as killing, torture, enslavement, rape and other inhumane acts, committed as part of an attack on civilians that is widespread or systematic and carried out pursuant to a state or organizational policy
- War crimes: prohibited acts committed in war or internal armed conflict, particularly when committed on a large scale or as a result of a plan or policy, such as attacks on civilian targets, pillaging, conscripting, enlisting and using children in hostilities, and destruction of educational and religious institutions

More details regarding these crimes, as defined in the Rome Statute, are given in Box 2 on page 5.

It is important to mention that the ICC can investigate and prosecute rape and other crimes of sexual violence such as sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and enslavement, including trafficking of women and girls.



## Box 1: The ICC Courtroom



## **Box 2: The ICC Crimes, as defined in the Rome Statute**

### **Genocide**

Certain acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such. These acts are:

- killing members of the group
- causing serious bodily or mental harm to members of the group
- deliberately inflicting on a group conditions of life calculated to bring about its physical destruction in whole or in part
- imposing measures intended to prevent births within the group
- forcibly transferring children of the group to another group.

### **Crimes against humanity**

Certain acts committed as part of a widespread or systematic attack directed against a civilian population, with knowledge of the attack. The prohibited acts are:

- murder
- extermination
- enslavement
- deportation or forcible transfer of population
- imprisonment
- torture
- rape and other forms of grave sexual violence
- persecution against an identifiable group
- enforced disappearance of persons
- the crime of apartheid
- other inhumane acts of a similar character intentionally causing great suffering or serious bodily or mental injury.

### **War crimes**

Acts that breach the internationally recognized laws of war and other acts that are prohibited in armed conflict or in internal conflicts such as civil wars. Acts that are prohibited in internal armed conflict include the following acts committed against persons who are taking no active role in hostilities:

- murder
- mutilation, cruel treatment and torture
- taking hostages
- intentionally directing attacks against the civilian population
- intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments, hospitals
- pillaging
- rape or other forms of sexual violence
- conscripting or enlisting children under the age of 15 to fight into an army or armed group or using them in hostilities.

### **When can the ICC investigate and prosecute?**

The ICC can investigate and prosecute these crimes when committed:

- After the 1st of July 2002  
and
- By a national of a State Party, or in the territory of a State Party, or
- When the United Nations Security Council has referred a situation to the Court, or
- When a non-State Party accepts the jurisdiction of the Court on an ad hoc basis

The ICC is intended to be a court of last resort and not to replace national criminal justice systems, which have the primary duty to deal with these crimes. Therefore the Court will only step in if a state is not willing to deal with crimes when they occur, or is not able to do so.

### **Who can be prosecuted by the ICC?**

The ICC tries individuals. The ICC does not prosecute persons who were under the age of 18 at the time a crime was allegedly committed.

The ICC will not try everybody that commits these crimes. It is the policy of the Prosecutor to focus on those individuals who are the most responsible for crimes committed in any situation where he is investigating.

Nobody has immunity before the ICC because of his or her status, so Presidents, Members of Parliament, government officials and leaders of rebel movements can all be tried. Under certain circumstances, a person in authority may be held responsible for the crimes committed by those who work under his or her command or order.

### **What are the stages of ICC proceedings?**

The purpose of proceedings is to ensure that allegations of serious crimes are investigated, prosecuted, and, if the accused is proved guilty, punished in accordance with the Rome Statute. ICC proceedings include several stages:

- **Preliminary Examination Stage:** This stage is focussed on deciding whether the ICC Prosecutor will investigate a particular situation in which crimes within the jurisdiction of the Court may have been committed, and then carrying out the investigation of the situation in order to find out what crimes have been committed and who is responsible.
- **Pre-Trial Stage:** This stage is the period in which the Court decides whether or not to issue an order of arrest against one or several individuals, and, once a person has been arrested and brought before the judges of Pre-

Trial Chamber, whether or not to confirm the charges put forward by the Prosecutor.

- **Trial Stage:** This stage comprises the trial of individuals accused of having committed crimes within the jurisdiction of the Court, at the end of which the Accused is either determined to be guilty or acquitted of the crime(s) and, if found guilty, sentenced.
- **Appeal Stage:** If a challenge of a conviction in the Trial Stage is issued, this is the stage in which the final judgment is given. It is also possible that a conviction or sentence could be revised by the Appeals Chamber, for instance if new evidence comes to light or it is discovered that decisive evidence was false.

It is important to consider that criminal proceedings take time before reaching the final stage.

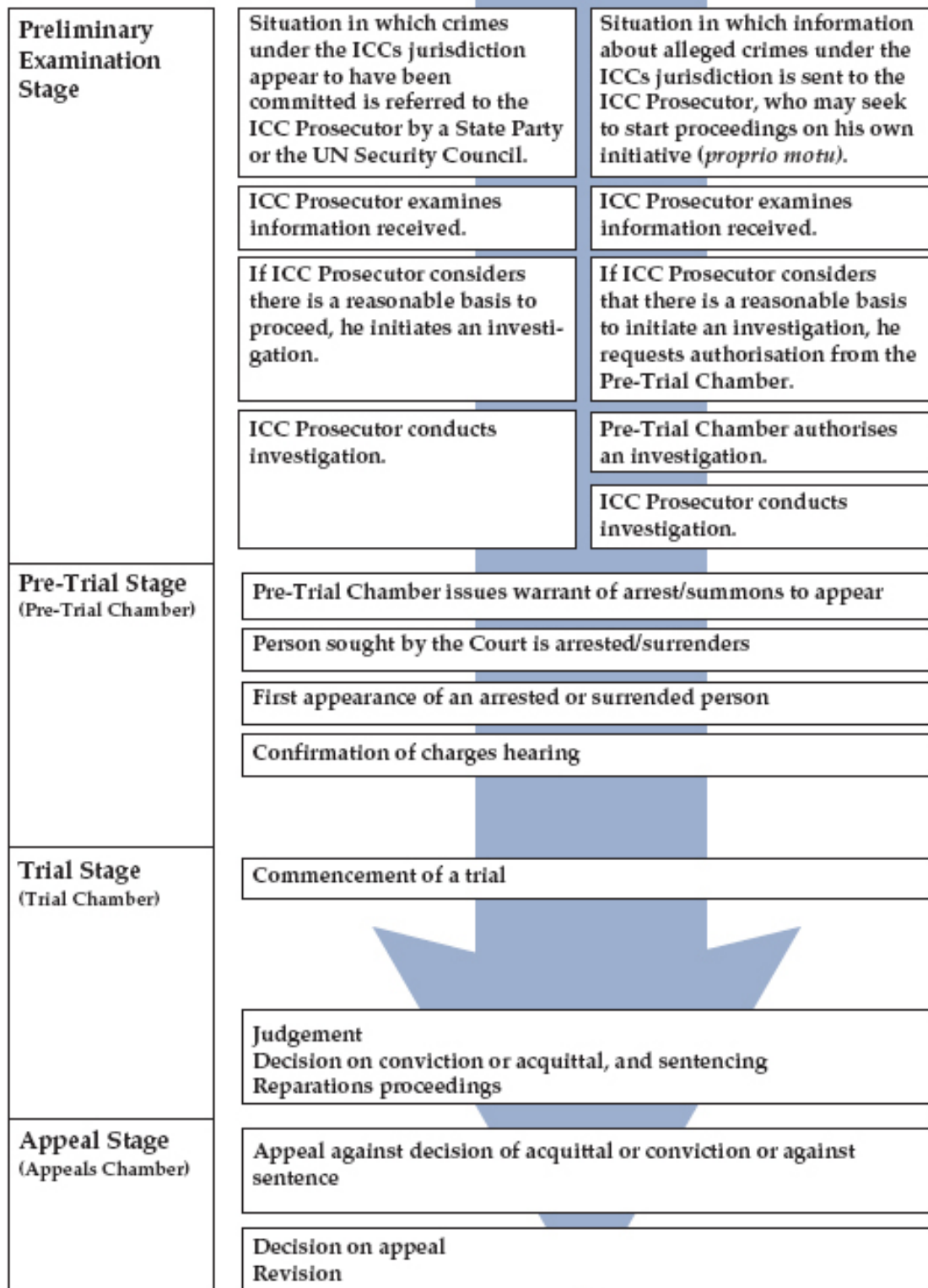
(See Box 3 'Stages of proceedings flowchart - page 8)

### **Where are ICC proceedings likely to take place?**

ICC proceedings take place in The Hague, The Netherlands, where the Court is located. The ICC may hold hearings elsewhere if the judges so decide.

When the ICC was founded, The Hague was chosen because it is already considered to be a centre of international justice, since it hosts other international courts such as the International Court of Justice and the International Criminal Tribunal for the Former Yugoslavia.

### Box 3: Stages of proceedings



## II. The different roles of victims in the ICC

### What is the role of victims in the ICC?

This booklet explains how victims can be participants in ICC proceedings. Victims participate by putting their views and concerns to the ICC judges when their interests are affected.

Victims may also play a part in ICC proceedings in other ways. This part of the booklet explains what those are and how they are different from participation. Victims may want to send information to the Prosecutor informing him about crimes they believe have been committed. During a trial, a victim may testify before the ICC if called as a witness for the Defence or the Prosecution or other victims participating in the proceedings. If a case proceeds to trial and an accused person is convicted by the ICC, victims may ask the Court to make an order of reparations.

#### **Box 4: Who is a victim for the ICC?**

The ICC recognises two types of victims, for the purposes of participation in ICC proceedings:

- Individual people who have suffered harm as a result of one of the ICC crimes.  
These crimes are described in Part 1 of this booklet.  
Individual victims should apply by completing the **Application Form for Individuals**.
- Organisations or institutions, when their property dedicated to certain purposes (religion, education, art, science or charitable and humanitarian purposes, or historic monuments or hospitals) is harmed as a result of one of the ICC crimes.  
Organisations and institutions should apply for participation by using a separate form, namely the **Application Form for Organisations**. Only at duly authorised representatives of an organisation or institution may complete the application form.

Victims may include victims of sexual violence, children, persons with disabilities, or elderly persons. A victim can also be a person who suffers harm as a result of a crime targeted at another person, such as a family member of someone who has been killed.

**What are the differences between participating as a victim and testifying as a witness?**

Victims' participation in proceedings is entirely different from a victim's possible role as a witness called to testify before the Court for the Prosecution or the Defence.

**Box 5: Main differences between being a participant and appearing as a witness**

<b>Victim as a participant</b>	<b>Victim as a witness</b>
Participation is voluntary	Called by the defence, the prosecution, other victims participating in the proceedings or the Chamber
Communicating to the Court their own interests and concerns	Serve the interests of the Court and the party that calls them
It is up to the victims to decide what they want to say	Give evidence in testifying and answering related questions
Participation is possible at all stages of proceedings when considered appropriate by the Judges	Called to testify at a specific time
Always entitled to be represented before the ICC by a legal representative	Does not normally have a legal Representative
Normally participates via a legal representative, and need not appear in person	Always testify in person

**Which parts of the ICC deal with victims?**

The Court has established within the Registry the Victims Participation and Reparations Section (VPRS), the Victims and Witnesses Unit (VWU) and an independent office, the Office of Public Counsel for Victims (OPCV).

The VPRS informs victims of their rights relating to participation and reparations in the ICC, and enables them to submit applications to the Court if they wish to do so. It also assists victims to obtain legal advice and to organise their legal representation.

The VWU has been established to provide support and protection to witnesses and to victims who appear before the Court. They may also assist others, such as family members, who are in danger as a result of a witness's

testimony. When victims testify as witnesses the VWU provides administrative and logistical support to enable them to appear before the Court. The Unit also provides psycho-social care and other appropriate assistance as required.

When conducting their activities, these specialised sections pay special attention to the particular needs of children, women, the elderly, persons with disabilities and victims of sexual violence. These groups have particular needs due to their individual situations within their specific social and cultural contexts.

The role of the OPCV is explained in Box 7 on page 18.

**Box 6: Reparations and the Trust Fund for Victims**

At the end of a trial, if a person accused before the ICC is found guilty, ICC judges may decide to order that person to make reparations to the victims for the harm they have suffered as the result of the crimes committed. Victims can use the standard application forms to make their request to the ICC judges. It is important to note that the judges of the Court will decide whether an applicant is entitled to reparation or not after careful review of the application, and such a process can take a long time. The type of reparations will also be decided by the judges. Measures ordered as reparations can be individual or collective (provided to groups of victims). They may include monetary compensation, the return of property, and symbolic measures such as public apology or commemoration or memorial.

To complement the Court's work on reparation, an independent Trust Fund for Victims was established. The ICC judges may ask the Trust Fund to help to carry out its orders of reparations against a convicted person. In addition, the Fund can use the contributions it receives to finance projects for the benefit of victims.

For more information on reparations at the ICC, please contact the Victims Participation and Reparations Section (VPRS). See page 25 of this booklet for contact details.



### **III. About Victims' participation in ICC proceedings**

#### **What is participation?**

During proceedings, victims have the right to put their views and concerns directly to the judges. This is called participation in proceedings and normally happens through a legal representative.

#### **What are the rights of victims in ICC proceedings as participants?**

- Victims can present their views and concerns to the Court, at stages of proceedings considered appropriate by the judges, where their personal interests are affected.
- Once a victim has been accepted by the judges as entitled to participate during a particular stage of ICC proceedings, the Court must keep him/her informed about developments in the proceedings.
- Victims have the right to have a legal representative. See Legal Representation in Part IV of this booklet.
- Victims have the right to ask the Court to take all possible measures to respect their safety, well-being, dignity and privacy in the course of their participation in the proceedings. For example, victims can request the judges to order that some of the information they provide in the application form not be communicated to the Prosecution or the Defence. To date it has been the practice of the Court that the identity of victims is not made public unless the victim requests this to happen.

In order to ensure that the voices of victims are heard and their interests taken into account during proceedings, victims at the ICC enjoy rights that have never before been incorporated in the mandate of an international criminal court. The ICC judges decide when and how victims will be able to exercise these rights, while making sure that the participation of victims will not interfere with the rights of the accused or a fair and impartial trial.

Victims who participate in proceedings will not receive any compensation or other form of reparations for their participation.

However it is also possible for a victim to apply for reparations and this can be done together with an application for participation. If a victim wishes to apply for reparations, the victim can complete Part E of the application form. Reparations will only be ordered by the Court at the end of a trial and only in relation to crimes for which an accused is convicted. This means that many victims will not receive reparations from the Court and the process could take a long time.

### **In what way does a victim participate in ICC proceedings?**

The following are some examples among others, of ways in which a legal representative of victims might participate, if permitted by the judges:

- Attend and participate in hearings before the Court;
- Make statements at the beginning and end of a stage of proceedings before the Court (opening and closing statements);
- Give observations to the judges while the Court is still deciding whether or not to proceed with an investigation or case;
- Present their views to the judges when the Court is considering what charges will be brought against the accused person;
- Ask questions to a witnesses or expert who is giving evidence before the Court, or the accused.

### **What do victims have to do to participate in ICC proceedings?**

In order to participate in ICC proceedings, victims have to apply in writing. To facilitate this process, the Court has developed application forms.

Victims should complete an application form and send it to the VPRS at the Court. For more information see Part IV of this booklet.

It is strongly suggested that anyone wanting to apply to participate first asks for help from someone who has already received some training or explanations from the Court in relation to the application forms. This might be a non-governmental organisation (NGO), a religious or community representative, a lawyer, or other person. Victims can contact field offices of the ICC for more information. See page 25 of this booklet for contact information.

### **Who will decide on applications to participate?**

It is the judges of the ICC who will examine each application and decide whether or not the applicant is entitled to participate in ICC proceedings and at what stages.

### **How will the ICC judges decide who can participate?**

In order to make their decision, the ICC judges will go through two steps:

#### **STEP 1: Is the applicant a victim, according to the ICC's rules?**

In order to decide whether a person is a victim of a situation or a case according to the ICC's definition, the judges will consider the following criteria:

- Does it appear that the person has suffered harm? It will be up to the judges of the ICC to establish what types of harm will qualify, but they are likely to include not only physical harm to a person's body, but also emotional suffering and material loss.
- Does it appear that the harm resulted from the commission of one of the crimes that the ICC has the power to deal with? This means that they have suffered from at least one act that amounts to genocide, crimes against humanity or war crimes that was committed after the 1st of July, 2002.
- Is there a clear causal link between the alleged crime and the harm suffered? This means that it must be clear that the harm was caused by the crime in question.

**STEP 2: If yes, is the victim entitled to participate at the particular stage of proceedings?**

If ICC judges have decided that the applicant does fulfil the conditions under Step 1, then they will consider whether the victim is entitled to participate at the particular stage of proceedings in question. Applicants are asked to indicate in their application at which stage or stages of proceedings they would like to participate. At each stage of proceedings, the judges of the Chamber that is dealing with a situation or case will consider which victims that have requested to participate at that stage are entitled to do so. This includes deciding whether victims that have already been found to qualify as victims at an earlier stage before the ICC according to Step 1 are entitled to participate at the new stage. The judges will also consider any new applications that arrive during that stage of proceedings.

The following are the criteria the judges will consider when deciding whether a victim can participate at a particular stage in ICC proceedings:

- Is the person a victim of the situation or case that is being dealt with by the Chamber?
- Do the judges consider that the victim's personal interests are affected at that point in the proceedings?
- Do the judges consider that it is appropriate for the victim to present his or her views and concerns at that particular point in the proceedings?

**What is the difference between a victim of the situation and a victim of the case?**

The judges' decision as to who may be considered a victim entitled to participate may vary considerably depending on the stage of the proceedings. During the Preliminary Examination Stage there are not yet any arrest warrants or charges for trial against specific individuals. This is also known as the situation phase, where the Court is still deciding whether or not to launch an investigation, and is then actually carrying out the investigation in order to find out what crimes might have been committed and who is responsible. This is because the Court does not begin by launching proceedings against particular individuals. First it looks at a situation, which might be defined by a particular conflict involving certain actors and behaviour that may amount to crimes within the ICC's jurisdiction. The limits of the situation will be established by the Court itself. In other words, the ICC's first involvement anywhere is to decide for itself which crimes might have been committed and who might be responsible, and it will not rely on anyone else's opinions or decisions on these matters.

During the situation phase, it is the victims who are affected by the situation whose interests may be concerned by what the Court is doing, and the judges will therefore decide which of these victims will be entitled to participate during this stage. However it is also important to note that at the situation phase there are fewer judicial proceedings which take place. This means there are fewer moments when the judges might consider it appropriate for victims to express their views and concerns.

Once warrants of arrest have been issued naming an individual or individuals, specific cases will proceed in relation to those individuals. These may include a pre-trial phase (in which the Court will decide which specific charges will proceed to trial), a trial and possibly an appeal and/or revision. Once specific cases start, it will be possible to identify victims of those cases. The victims of a particular case are the victims who suffered as a result of the particular crimes with which the suspect or accused is charged.

**When can a victim participate?**

The judges of the Court will decide at what stage(s) the applicant is entitled to participate in proceedings, starting from the Preliminary Examination Stage. The information provided in the application form will help the judges to make their decision.

### **What might a victim expect from participating in proceedings?**

By presenting their own views and concerns to the judges, victims are given a voice in the proceedings that is independent of the Prosecutor. This will help the judges to obtain a clear picture of what happened to them or how they suffered, which they may decide to take into account at certain stages in the proceedings. This may lead to having an impact on the way proceedings are conducted and in the outcomes.

It is important to be aware, however, that putting forward views and concerns will not always result in the Court following the wishes of the victims. In taking its decisions, the ICC judges will be balancing different interests and concerns, including the rights of the defence and the interests of a fair trial.

The possibility to have their legal representatives participate in trials and to be kept informed of developments in the situation or case presents an opportunity for victims to play an active part in proceedings. This can be an empowering experience for victims who would otherwise be left aside in the proceedings as passive observers, even though they are the ones who are most deeply affected by the crimes.

Victims who participate in proceedings are given the opportunity to present their views and concerns to the Court, but will not receive any form of compensation or payment for this participation.

## **IV. What a Victim needs to know before applying for participation**

### **Security and confidentiality**

#### **What if a victim feels at risk as a result of applying to participate?**

Participating in criminal proceedings by its very nature involves an element of risk. It is important that the applicant is aware of risks that could arise as a result of filling in this application form. For instance, is it possible that communication to the Defence of the identity of the applicant, or of other information such as relating to crimes alleged by the applicant, would result in reprisals from persons associated with a person accused before the ICC? Or if details of an attack involving sexual violence were to be included in the public record of ICC proceedings, would this create problems for the victim within her or his own community?

Therefore, before filling in the application form, a victim should think carefully about any risks that may arise and inform her or his representative or the VPRS about her or his concerns. In addition, victims are advised to take

careful measures to avoid anything that could expose them and put them or other people at risk.

The Court itself will manage its contact with victims in a manner aimed at limiting any risk to victims or others, and will handle information received from victims with strict confidentiality. This means, for example, that the VPRS registers the information provided by victims in the application form in a secure database to which only authorised staff of the Court has access.

It is important that the applicant is made aware of what happens to information she or he provides to the Court in the application forms, and that she or he considers any possible consequences that might follow. For instance, according to the rules of the Court, applications for participation must be shown to the Prosecutor and the Defence. However in most cases information which could reveal the identity of the victim is first blacked-out (“redacted”). Usually the victim’s identity will not be made public unless the victim agrees to have that happen.

If applicants are concerned about the implications for their security or well-being of others and they do not wish for part or all of the information in the form to be communicated or made public, they can mention these concerns in their application.

The judges will decide what steps to take in response to such security concerns, and may order measures to protect a victim. For example, the judges may order that victims must not be contacted directly by the Prosecutor or defence, but only through their legal representatives.

## **Legal representation**

### **Do victims need a legal representative?**

Victims are entitled to be assisted by a legal representative in relation to participation or reparation before the ICC. Criminal proceedings are complex and it is in the best interest of a victim to get appropriate legal advice and representation.

Victims are free to choose their legal representative, who must be a person with at least ten years' experience as a criminal lawyer, judge or prosecutor, and be fluent in one of the Court's working languages (English or French). The ICC Registry will help victims to find a legal representative by providing a list of qualified lawyers. There is also an Office of Public Counsel for Victims within the Court that will be available to provide legal assistance to victims. The functions of this office are explained below.

**Is each victim entitled to be represented by a separate lawyer?**

Where there are many victims, the judges may contact a victim and ask him or her to join with other victims to become part of a group of victims that will be represented by the same legal representative or team of representatives. This is called common legal representation, and the purpose is to help to make the proceedings more efficient. Their own interests will always be protected even through common legal representation.

If for any reason the victims are unable to organise themselves in this way and to choose a common legal representative, the judges may ask the Registrar of the ICC to do so. If the victims are not happy with the Registrar's choice, they may ask the judges to review it. Victims who prefer not to be joined with other victims in the same groups, for instance because they believe that their interests need to be represented separately due to a conflict of interest, can also ask the judges to review this decision.

**What if the victim cannot afford a legal representative?**

Although the Court's resources for legal aid are limited, the Court may be able to provide some partial or full financial assistance.

The legal assistance provided by the Office of Public Counsel for Victims to victims is without charge.

**Box 7: What is the role of the Office of Public Counsel for Victims (OPCV)?**

The OPCV provides support and assistance to victims and to legal representatives of victims, including, where appropriate, legal research and advice; and appearing before a Chamber in respect of specific issues. It may also represent a victim or a group of victims in ICC proceedings. The OPCV functions as an independent office. Members of the Office do not receive instructions from anybody in relation to the conduct of the representation of victims. This independence is a prerequisite for carrying out its mandate of assisting legal representatives of victims and/or assisting and representing victims. Such independence allows the Office to work without being subjected to pressure of any kind and preserves the privileged relationship between victims and their legal representatives.

The Office can be contacted at the following address:

Office of Public Counsel for Victims (OPCV)

P.O. Box 19519, 2500 CM

The Hague, The Netherlands

Tel.: +31 (0)70 5158515 / +31 (0)70 5158108

Fax.: +31 (0)70 5158855

E-mail: OPCV@icc-cpi.int

## **The application process**

### **What is the purpose of the application form?**

The purpose of the application form is to collect sufficient information to enable the Chamber of judges decide whether an applicant is entitled to participate in proceedings. The completion of the application form does not automatically lead to the applicant being permitted to participate in proceedings.

### **Where to obtain an application form?**

Application forms can be requested from the VPRS at the addresses indicated in this booklet. Application forms are also available on the web site of the ICC, at [www.icc-cpi.int](http://www.icc-cpi.int). To ask questions about the forms or how to complete them, to obtain other forms, or to ask about the best way to deliver completed forms to the Court, a person should contact the VPRS using the contact details given in this booklet by phone, email or fax. Please note that the forms, and this booklet, are free of charge.

### **Where should a victim submit a completed application form?**

Completed application forms and all accompanying documents, for example a photocopy of an identity card or other form of identification, should be sent to the VPRS at the ICC or at the Field Offices by one of the means indicated in this booklet. If sent by fax or email, an original signed copy of the completed application form needs to be hand delivered or sent by mail as well.

### **How can the ICC Field Offices help?**

ICC Field Offices can provide copies of the application forms, make arrangements for distribution and collection of application forms, and give advice on where to find help in completing application forms.

### **What will happen to applications that are sent to the ICC?**

Once the ICC receives an application, it will provide an acknowledgement indicating that the application has been received. This acknowledgement will provide a registration number that the applicant should use when communicating with the Court. If the applicant sends additional information to the Court, she or he should use this reference number to ensure their application is properly updated.

Once an application for participation is received at the Court, it is passed immediately to a Chamber of judges that is dealing with the situation or case that the application relates to, for their consideration. The Chamber will decide whether the applicant is a victim of a crime under the jurisdiction of



the ICC, and whether the applicant will be entitled to participate in the proceedings.

The decision of the judges will be notified immediately to the victims or to their legal representative, if they have one. The application process take time and it may be a while before the Chamber of judges make a decision on a victim's application.

**Box 8: ICC-Victims' application process**

1. Victims are informed about their rights and how to apply to participate in ICC proceedings
2. Victims obtain and complete application forms with the assistance of individuals or organisations trained by the ICC
3. Victims submit their applications to the VPRS at the Headquarters or a Field Office
4. VPRS receives an application and provides the applicant with a reference number to the contact address provided or to the legal representative, if the applicant has appointed one
5. VPRS files the application with the Chamber of Judges.
6. Judges review and decide if the application is successful or rejected and the applicant is notified
7. If successful, applicant receives information, including about legal representation. If rejected applicant is allowed to apply again later in the proceedings

**Does a victim have to pay to apply to participate in proceedings?**

No, the application forms and the process of applying to participate in proceedings are free of charge. The ICC, as a matter of practice, does not charge any fee at any stage of the application process.

**Who should use the application form?**

Any individual who has suffered harm as a result of one of the ICC crimes and wishes to participate in ICC proceedings should use the application form. It is important to note that the application process is individual. If different members of a family wish to apply to participate in proceedings, each member of the family needs to individually complete and sign an application form.

This application form can be used by:

- A victim who is seeking to participate in proceedings before the ICC;
- A person acting on behalf of a victim, where a victim is a child, or has a disability that prevents the victim from acting on her or his own behalf.
- A person may make the application with the consent of the victim.

### **What is the role of a person acting on behalf of a victim?**

Where a person presents an application to the Court on behalf of an applicant in one of the above circumstances, the Court will consider the application to have been validly presented so long as:

- The relevant details have been provided in questions 14 to 21 of the application form
- The person acting on behalf of the victim has signed in Part H of the application form
- If the victim is an adult and able to understand this process, he or she has signed Part H of the form.
- Proof of identity has been provided by both the victim and the person acting on behalf of the victim.
- Proof of the relationship between the victim and the person acting on behalf has been provided,

### **What is the role of the person assisting a victim?**

Where a victim (or a person acting on behalf of a victim) is completing this application form, they maybe assisted by another person. This would be the case, for example, if either the victim or the person acting on behalf of a victim is unable to read or to write. In the application form questions 23 and 24 refer to the person assisting a victim.

It should be noted that a person assisting a victim to fill in an application form has no legal status in the proceedings, and is not considered to be a representative of the applicant or entitled to act on the applicant's behalf in presenting the Application to the Court.

### **In what languages can the application form be completed?**

The ICC uses the two working languages of the Court: English and French. Applicants are requested to use one of these two languages if at all possible. If an applicant is unable to submit a form in English or French, and would like to submit the application form in another language, it is recommended to first contact the Court or its Field Offices, since the Court does not have translators who can work in all languages and has limited funds for this purpose.

### **How can a victim find out what has happened to an application?**

To find out about the status of an application, a victim or the legal representative can contact the VPRS in The Hague or at a Field Office. The registration number that has been provided when applying will be requested at this point.

**What should a victim do in order to withdraw an application?**

A victim who wishes to withdraw an application at any point should inform the Court immediately by contacting the VPRS in The Hague or at a Field Office by one of the means indicated in this booklet. The registration number provided when first applying will be requested as well as the reasons for such a request.

**What happens if the application to participate is rejected?**

If an application for participation is rejected by the Chamber for any reason, the applicant is notified. This does not prevent the applicant from applying again to participate at a later date. If a person does apply again, the registration number provided when first applying will be requested.

**What happens if false or fraudulent applications are submitted to the ICC?**

Many safeguards are in place to prevent false or fraudulent application from being submitted. In order to avoid false applications the ICC requires from the applicant a certain form of proof of identity, signatures and other information on the basis of which the judges, after a detailed examination, decide if the applicant is considered a victim entitled to participate in ICC proceedings.

**After a victim becomes accepted as a participant in the proceedings of the ICC****What happens once a victim has been accepted as a participant?**

Once a victim has been accepted as a participant in a particular stage of a situation or case, she or he is kept informed of developments in the situation or case. The victim is notified of each stage of proceedings, including the dates of hearings, the final decision of the Court and any appeals. These notifications are sent to the legal representatives; when there is no legal representative the Court contacts the victim directly.

Once the proceedings move on to a new stage, the victim does not have to make a new application, as the Court will automatically consider whether they are entitled to participate also in the new stage, if the victim has indicated in the original application the desire to participate also in later stages. Victims are notified of this decision, through their legal representatives.

**Do victims have to travel to the ICC in The Hague, The Netherlands?**

Generally, victims do not have to travel to the Court if they do not wish to do so. Participation of victims in the proceedings takes place in most cases

through a legal representative, who presents the views and concerns of the victims to the Court.

For victims who are participating in proceedings and do wish to come to The Hague, the Court is not generally able to cover their costs, but may be able to cover some travel costs or provide other forms of support in exceptional circumstances.

### **Are there time limits for participating in the various stages of proceedings?**

Applications to participate are closely linked to proceedings before the ICC. Therefore, victims who want to apply at a particular stage of proceedings must submit their applications in sufficient time for the judges to consider whether they may participate at that particular stage. Applicants should bear in mind that the ICC needs enough time to process the application. If an applicant is too late to be considered to participate at one stage, his or her application will be considered at the next stage, if the applicant indicates in the application that he or she wishes to participate at the later stage or stages also.

## **V. Instructions on how to complete the application form for participation**

When filling in the application form, please note the following:

- Every person applying to participate in ICC proceedings must fill in a separate application form.
- Please fill in the application form as completely as possible. If some questions are not answered, or are not answered fully, the application will still be considered, but the Court may need to come back to the applicant for further information, thus slowing down the processing.
- It may be that the space provided in the form for writing the answers to some of the questions is not enough. If more space is needed, please continue on a separate sheet of paper and attach it to the application form and put the applicant's name or initials on each extra page. If possible, please staple the extra pages to the application form, as this will help to prevent them from getting lost.
- If the application form for participation is sent to the VPRS by fax or email, the applicant also needs to send an original signed copy.
- Please either type or write the answers very clearly, so that the Court can understand everything that is included in the application. If the

application form is filled in by hand, please use a pen / biro, rather than a pencil, since pencil can more easily be erased and is difficult to read.

- The application should be signed by the victim, and also by the person acting on behalf of the victim if there is one. If a victim or a person making the application on behalf of a victim cannot write, they may make a personal mark in another way. If an inkpad is available, they may place their thumbprint in the box. Otherwise, they may make another mark that is personal to them, such as drawing a cross or other mark with a pen.
- Please check the Reminder box at the end of the form, as this helps to make sure all the parts of the application stay together.

#### **Documents sent with an application**

At certain points in the application forms, applicants are requested to provide photocopies of certain documents, such as a proof of identity or proof of a certain relationship with a victim. It will greatly assist the Court in considering the application to see photocopies of such documents, if they are available.

If the applicant has any other document that is not specifically requested but that the applicant thinks might be relevant for the application, such as forensic, medical, police or court records, photographs, films, etc., please attach a photocopy to the application.

The application will still be considered even if it does not include such documents.

Applicants should not send original documents at this time, only photocopies.

## **VI. Contacting the ICC**

### **ICC Headquarters**

#### **International Criminal Court**

Victims Participation and Reparation Section (VPRS)

P.O. Box 19519, 2500 CM

The Hague, The Netherlands

Fax: +31 (0)70 515 91 00

Email: [vprsapplications@icc-cpi.int](mailto:vprsapplications@icc-cpi.int)

### **ICC Field Offices**

#### **ICC Field Office in Kampala, Uganda**

Victims Participation and Reparation Section (VPRS)

P.O. Box 72735 - Kampala

Tel.: + 256 (0)77 2 706062

#### **ICC Field Office in Kinshasa, Democratic Republic of the Congo**

Victims Participation and Reparation Section (VPRS)

Tel.: + 243 (0)998011426 or +243 (0)998011433

#### **ICC Field Office in Bangui, Central African Republic**

Victims Participation and Reparation Section (VPRS)

Tel.: +236 (0)75 10 93 19

Other forms and materials relating to victims participation or reparation can be obtained from the VPRS

These forms and accompanying documents can be obtained from the ICC via the VPRS in The Hague or an ICC Field Office.

Please note that all these forms and booklets are provided by the ICC free of charge.

## VII. Explanation of terms used in this booklet

**Accused:** An individual person accused before the ICC; a person against whom one or more charges have been confirmed by ICC judges.

**Applicant:** An individual who is applying to the ICC asking to be permitted to participate in ICC proceedings.

**Case:** Proceedings before the ICC in which an arrest warrant has been issued in relation to specific individual or individuals.

**Chamber:** A Chamber is a composition or group of judges of the ICC assigned to a certain situation or case. For instance, the situations of the Democratic Republic of the Congo and Darfur have been assigned to Pre-Trial Chamber I and the situation of Uganda has been assigned to Pre-Trial Chamber II.

**Chambers:** The offices of the judges and their staff. The Chambers of the ICC are composed of three divisions. The Appeals Division, the Trial Division, and the Pre-Trial Division.

**Common legal representative:** Where there are many victims, a Chamber may ask victims to choose a lawyer to represent them collectively, in order to make the proceedings more efficient. This person is referred to as a common legal representative.

**Counsel:** Lawyer who represents a victim or an accused person before the Court. Counsel must have at least 10 years of relevant experience as a criminal lawyer, a judge or prosecutor and be fluent in English or French.

**The Defence:** The defence is made up of the defendant and her or his legal advisors.

**Hearing:** A session before judges, held for the purpose of deciding issues of fact or of law, sometimes with witnesses testifying, and usually involving a specific question.

**Jurisdiction:** The Court's authority to hear a case and declare a judgment. See Part I of this booklet for a description of the ICC's jurisdiction.

**Legal representative of victims:** A counsel appointed to act on behalf of a victim or group of victims. This could be a member of the OPCV.

**OPCV:** Office of Public Counsel for Victims. See box 7 on page 18.

**OTP:** Office of the Prosecutor. The mandate of the office is to receive and analyze referrals and communications in order to determine whether there is a reasonable basis to investigate, to conduct investigations into genocide, crimes against humanity and war crimes and to prosecute persons responsible for such crimes. The OTP is an independent organ of the Court.

**Person acting on behalf of a victim:** An individual who presents an application for participation and/or reparations to the ICC for a victim. This might occur in the case of victims who are unable to present the application themselves (for instance children or those with disabilities affecting their ability to present an application) or victims who prefer to ask someone else to present an application on their behalf and have given their consent to someone else to do so.

**Proprio Motu:** As provided in the Rome Statute, the Prosecutor can decide on his own initiative to start an investigation in a country that has accepted the authority of the Court, after analysing information received from reliable sources. This information may be provided by individuals or by non-governmental organisations or others. The judges of the Pre-Trial Chamber must, however, give their permission for the Prosecutor to start an investigation in this way.

**Referral:** One of the ways in which situations are brought before the Court for consideration. State parties and the Security Council may make referrals to the Prosecutor of the ICC. See box 3 on page 8.

**Registry:** The organ of the Court responsible for providing administrative and operational support to the President, Chambers of the judges and to the Office of the Prosecutor. It also provides support for the defence and victims, and is responsible for public information and outreach of the Court.

**Situation:** A situation under the consideration of the Court. A situation might be defined by a particular conflict involving certain actors and behaviour that may amount to crimes within the ICC's jurisdiction. The limits of the situation may be established by the referral from the State Party or the UN Security Council that first requested the Court to act. Or they may be established by the Court itself, where the initiative to investigate crimes comes from the Court itself.



**State Parties:** States that have ratified or acceded to the Rome Statute of the International Criminal Court. As of April 2009, one hundred and eleven countries had become States Parties to the Rome Statute.

**Victim:** For the purposes of the ICC, a victim is a person who has suffered harm as a result of the commission of a crime within the jurisdiction of the Court.

**VPRS:** Victims Participation and Reparations Section. The Section assists victims in relation to their applications for participation in proceedings or for reparations, or both. It also assists victims in obtaining legal advice and organising their legal representation.

**VWU:** Victims and Witnesses Unit. The Unit provides protection and psychological support to witnesses, victims who appear before the Court and others who are at risk on account of the testimony they have given. It is also responsible for witness protection programmes.

**Witness:** A person who gives evidence before the Court by testimony. A witness is normally called by the Prosecutor, who is trying to prove the criminal case against an accused, or the defence, who is defending the accused against the accusation. A witness may also be called by a victim or by a Chamber.