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IBA International Criminal Court and  
International Criminal Law Programme

# No Arrests, No Trials, No Justice:



A Strategic Framework for Strengthening Efforts  
to Execute International Criminal Court Arrest  
Warrants

July 2025

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# About the programme

## About the International Bar Association

The International Bar Association (IBA) – the global voice of the legal profession – is the foremost organisation for international legal practitioners, bar associations and law societies. Established in 1947, shortly after the creation of the United Nations, it was born out of the conviction that an organisation made up of the world’s bar associations could contribute to global stability and peace through the administration of justice. In the ensuing 70 years since its creation, the organisation has evolved, from an association comprised exclusively of bar associations and law societies, to one that incorporates individual international lawyers and entire law firms. The present membership comprises more than 80,000 individual international lawyers from most of the world’s leading law firms and some 190 bar associations and law societies spanning more than 170 countries.

The IBA has considerable expertise in providing assistance to the global legal community, and through its global membership it influences the development of international law reform and shapes the future of the legal profession throughout the world.

## About the IBA International Criminal Court and International Criminal Law Programme

The IBA International Criminal Court & International Criminal Law (ICC & ICL) Programme, based in The Hague, works to increase cooperation with and support for the ICC and other accountability efforts, with the goal of strengthening the Rome Statute system globally and achieving fair, effective, and accessible justice for victims of genocide, crimes against humanity, war crimes, and aggression.

- We consult and engage with the Office of the Prosecutor, Presidency, and Registry of the ICC, with the Independent Offices of Public Counsel for Defence and Victims, and with the ICC Bar Association. We also consult with State representatives, civil society organisations, academics and international lawyers. The IBA ICC & ICL Programme is the IBA’s representative to official bodies of the ICC, including the Assembly of States Parties, and is the IBA’s representative to the NGO Coalition for the ICC.
- We collaborate with key partners on activities to increase engagement of the global legal community with the ICC and on international criminal law.
- We monitor and analyse emerging issues of particular relevance to lawyers. Our substantive work includes thematic legal analysis of proceedings, ad hoc evaluations of legal, administrative and institutional issues which could potentially affect the development of international justice, and expert legal analysis on issues relevant to our mandate. Programme information is disseminated through reports, expert discussions, workshops and other events.

- We support the development of international criminal lawyers, through the annual IBA ICC Moot Court Competition, and through the ICC & ICL Legal Internship Programme.

Since its establishment in 2005, the IBA ICC & ICL Programme has contributed to the development of international criminal justice through monitoring and analysing issues related to fairness and equality of arms at the ICC, and through conducting outreach to deepen understanding of the place of the ICC within the broader landscape of international justice and in particular contexts. For past programme reports and activities, please see: [www.ibanet.org/ICC-ICL-Programme](http://www.ibanet.org/ICC-ICL-Programme).

# Introduction

The arrest and surrender of suspects to the International Criminal Court (ICC or the ‘Court’) are essential steps towards achieving international justice. The ICC Statute mandates the presence of accused persons at trial as a fair trial guarantee.<sup>1</sup> As the ICC does not have its own law enforcement, cases cannot advance to trial until warrants of arrest have been executed by national authorities and the suspects have been surrendered by states to the custody of the Court. Put simply, without arrests, there can be no trials. And without trials, there can be no justice or reparations for victims.

As of 1 April 2025, the ICC has publicly issued 61 arrest warrants.<sup>2</sup> Additional arrest warrants are likely to have been issued under seal and yet to be made public. However, despite the recent high-profile arrest and surrender of the former Philippines President Rodrigo Roa Duterte to the ICC on 12 March 2025,<sup>3</sup> and ongoing efforts by the Court to promote cooperation, there have been only 21 other arrests since the Court was established in 2002. Mongolia’s failure to arrest Russian President Vladimir Putin when he visited the country in September 2024,<sup>4</sup> Italy’s arrest but subsequent release and return of Osama Elmasry Njeem to Libya in January 2025,<sup>5</sup> and Hungary’s refusal to arrest Israel’s Prime Minister Benjamin Netanyahu during a visit to Budapest in April 2025<sup>6</sup> are recent examples where arrest warrants have not resulted in the surrender of suspects to the ICC. Thirty suspects currently remain at large.<sup>7</sup> Some suspects, such as Joseph Kony, have evaded justice for almost 20 years. The ICC has emphasised that this situation ‘presents a major strategic risk for the effective delivery of its mandate’.<sup>8</sup>

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1 Rome Statute, Art 63(1).

2 A further eight persons were issued summonses to appear before the ICC. Warrants were not issued for their arrest and surrender.

3 See, eg, ‘Arrest and Surrender of former Philippines President Rodrigo Duterte to the ICC is a critical step towards justice’ (IBA, 14 March 2025) [www.ibanet.org/Arrest-and-surrender-former-Philippines-President-Rodrigo-Duterte-to-ICC-critical-step](http://www.ibanet.org/Arrest-and-surrender-former-Philippines-President-Rodrigo-Duterte-to-ICC-critical-step) accessed 5 June 2025.

4 See, eg, ‘Mongolia must uphold its obligations as an ICC State Party – arrest Vladimir Putin or cancel his visit’ (IBA, 2 September 2024) [www.ibanet.org/Mongolia-must-uphold-its-obligations-as-an-ICC-State-Party-arrest-Vladimir-Putin-or-cancel-his-visit](http://www.ibanet.org/Mongolia-must-uphold-its-obligations-as-an-ICC-State-Party-arrest-Vladimir-Putin-or-cancel-his-visit) accessed 5 June 2025.

5 See, eg, Chantal Meloni, ‘Italy, Libya, and the Failure of State Cooperation with the International Criminal Court in the Elmasry Case’ (Just Security, 30 January 2025) [www.justsecurity.org/107175/italy-libya-icc-cooperation-elmasry-arrest/](http://www.justsecurity.org/107175/italy-libya-icc-cooperation-elmasry-arrest/) accessed 5 June 2025.

6 See, eg, ‘Hungary: Withdrawal from ICC does not absolve Hungary of its legal obligation to arrest fugitive Benjamin Netanyahu’ (Amnesty International, 4 April 2025) [www.amnesty.org.au/withdrawal-from-icc-does-not-absolve-hungary-of-its-legal-obligation-to-arrest-fugitive-netanyahu/](http://www.amnesty.org.au/withdrawal-from-icc-does-not-absolve-hungary-of-its-legal-obligation-to-arrest-fugitive-netanyahu/) accessed 5 June 2025.

7 Arrest warrants against nine suspects have been terminated. Seven of those suspects died: Mohammed Diab Ibrahim Al-Masri (Palestine), Mahmoud Mustafa Busayf Al-Werfalli (Libya), Muammar Mohammed Abu Minyar Gaddafi (Libya), Al-Tuhamy Mohamed Khaled (Libya), Raska Lukwiya (Uganda), Okot Odhiambo (Uganda) and Vincent Oti (Uganda). The arrest warrant of Simone Gbagbo (Côte d’Ivoire) was vacated and an arrest warrant for Abdullah Al-Senussi (Libya) was withdrawn following a decision by the ICC that the case was inadmissible.

8 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 27.

<b>Suspects arrested and surrendered</b> Name (situation)	<b>Suspects at large</b> Name (situation)
<ul style="list-style-type: none"> <li>• Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (Mali)</li> <li>• Ahmad Al Faqi Al Mahdi (Mali)</li> <li>• Ali Muhammad Ali Abd-Al-Rahman (Darfur, Sudan) (VS)</li> <li>• Narcisse Arido (Central African Republic)</li> <li>• Fidèle Babala Wandu (Central African Republic)</li> <li>• Jean-Pierre Bemba Gombo (Central African Republic)</li> <li>• Charles Blé Goudé (Côte d'Ivoire)</li> <li>• Rodrigo Roa Duterte (Philippines)</li> <li>• Laurent Gbagbo (Côte d'Ivoire)</li> <li>• Paul Gicheru (Kenya) (VS)</li> <li>• Germain Katanga (Democratic Republic of Congo)</li> <li>• Aimé Kilolo Musamba (Central African Republic)</li> <li>• Thomas Lubanga Dyilo (Democratic Republic of Congo)</li> <li>• Jean-Jacques Mangenda Kabongo (Central African Republic)</li> <li>• Callixte Mbarushimana (Democratic Republic of Congo)</li> <li>• Maxime Jeoffroy Eli Mokom Gawaka (Central African Republic)</li> <li>• Patrice-Edouard Ngaïssona (Central African Republic)</li> <li>• Mathieu Ngudjolo Chui (Democratic Republic of Congo)</li> <li>• Bosco Ntaganda (Democratic Republic of Congo) (VS)</li> <li>• Dominic Ongwen (Uganda) (VS)</li> <li>• Mahamat Said Abdel Kani (Central African Republic)</li> <li>• Alfred Yekatom (Central African Republic)</li> </ul> <p>*VS = voluntary surrender</p>	<ul style="list-style-type: none"> <li>• Iyad Ag Ghaly (Mali)</li> <li>• Omar Hassan Ahmad Al Bashir (Darfur, Sudan)</li> <li>• Abdelbari Ayyad Ramadan Al Shaqaqi (Libya)</li> <li>• Fathi Faraj Mohamed Salim Al Zinkal (Libya)</li> <li>• Maria Alekseyevna Lvova-Belova (Ukraine)</li> <li>• Abdallah Banda Abakaer Nourain (Darfur, Sudan)</li> <li>• Walter Osapiri Barasa (Kenya)</li> <li>• Edmond Beina (Central African Republic)</li> <li>• Philip Kipkoech (Kenya)</li> <li>• Nasser Muhammad Muftah Daou (Libya)</li> <li>• Makhlof Makhlof Arhoumah Doumah (Libya)</li> <li>• Osama Elmasry Njeem (Libya)</li> <li>• Abdurahem Khalefa Abdurahem Elshgagi (Libya)</li> <li>• Saif Al-Islam Gaddafi (Libya)</li> <li>• Yoav Gallant (Palestine)</li> <li>• David Georgiyevich Sanakoev (Georgia)</li> <li>• Hamlet Guchmazov (Georgia)</li> <li>• Ahmad Muhammad Harun (Darfur, Sudan)</li> <li>• Abdel Raheem Muhammad Hussein (Darfur, Sudan)</li> <li>• Sergei Ivanovich Kobylash (Ukraine)</li> <li>• Joseph Kony (Uganda)</li> <li>• Sergei Kuzhugetovich Shoigu (Ukraine)</li> <li>• Mikhail Mayramovich Mindzaev (Georgia)</li> <li>• Sylvestre Mudacumura (Democratic Republic of Congo)</li> <li>• Benjamin Netanyahu (Palestine)</li> <li>• Viktor Nikolayevich Sokolov (Ukraine)</li> <li>• Mahamat Nouradine Adam (Central African Republic)</li> <li>• Vladimir Vladimirovich Putin (Ukraine)</li> <li>• Mohamed Mohamed Al Salheen Salmi (Libya)</li> <li>• Valery Vasilyevich Gerasimov (Ukraine)</li> </ul>

As part of the International Bar Association (IBA) ICC & ICL Programme’s ongoing efforts to increase cooperation with and in support of the ICC, in 2024, the Programme commenced a detailed examination of the challenges facing the Court in obtaining cooperation with arrests. This has included initiating in-depth research on the topic and organising two events: An Expert Roundtable on ‘Cooperation for Arrest

and Surrender: Lessons Learned’ in October 2024<sup>9</sup> and a side event to the 23rd Session of the Assembly of States Parties (the ‘Assembly’) on ‘Strengthening the ICC’s Toolkit for Arrest and Surrender’ in December 2024.<sup>10</sup>

The research and dialogue conducted so far highlights the complex nature of efforts to execute ICC arrest warrants. The Court has been able to secure the arrest and surrender of some suspects quite easily, including when suspects have voluntarily surrendered to the Court<sup>11</sup> or they were already in the custody of a State Party to the ICC Statute that was willing to cooperate with the Court.<sup>12</sup> In the Duterte case, some media reports suggest that the arrest warrant was executed promptly due to domestic political conditions in the Philippines.<sup>13</sup> In some cases, the ICC has even received cooperation from international and regional organisations and the authorities of non-States Parties.<sup>14</sup> However, in other instances, suspects have been able to evade international justice due to apparent political, legal, technical and logistical barriers to cooperation. For example, Mongolia argued that immunities for sitting heads of state precluded it from arresting Vladimir Putin, despite decisions by the ICC that such immunities do not apply before the Court.<sup>15</sup> In deciding to release Osama Elmasry Njeem, it is reported that the Court of Appeal of Rome held that there had been national procedural irregularities in his arrest, and the Italian Minister of the Interior cited security concerns as a justification for expelling him immediately to Libya.<sup>16</sup> Hungary’s invitation to Benjamin Netanyahu, its refusal to arrest him and the government’s announcement of its withdrawal from the ICC Statute during his visit appear to have been an orchestrated political protest against the ICC’s arrest warrant and an attack on the Court’s authority.<sup>17</sup> At the time of writing, some of these situations are being considered by the Court and states have been given the opportunity to provide explanations.

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- 9 The Expert Roundtable, co-organised with the Embassies of France and Senegal at the French Residence in The Hague, provided a platform to discuss challenges and lessons learned on cooperation for arrest and surrender. The Assembly’s co-facilitators for cooperation, Ambassador of France HE François Alabrune and Ambassador of Senegal HE Ramatoulaye Bâ Faye; the ICC Registrar, Osvaldo Zavala Giler; and the IBA Executive Director, Mark Ellis delivered remarks. The ICC Deputy Prosecutor, Mame Mandiaye Niang, delivered a keynote address. Representatives of the ICC Office of the Prosecutor, Registry, Office of Public Counsel for the Defence and the French Central Office for Combating Core International Crimes and Hate Crimes.
- 10 The side event was co-organised with the Coalition for the ICC, Human Rights Watch, Human Rights First and the Southern Africa Litigation Centre, with the support of Belgium, Finland, France, Poland, Senegal and South Africa. The discussions focused on the tools available for the ICC to implement arrest warrants to identify possible strategies and concrete measures to strengthen state cooperation to execute arrests. The President of the Assembly of States Parties, HE Päivi Kaukoranta, and the Assembly’s co-facilitators for cooperation delivered remarks. Representatives of the ICC Office of the Prosecutor, Registry, Human Rights First and Southern Africa Litigation Centre, and a former representative of the South African Ministry of Foreign Affairs shared their perspectives during the discussions.
- 11 Four of the 22 suspects that have been surrendered to the ICC voluntarily surrendered themselves to national authorities. Eg, in June 2020, Ali Muhammad Ali Abd-Al-Rahman, who is accused of war crimes and crimes against humanity in Darfur, voluntarily surrendered to authorities in the Central African Republic.
- 12 Eg, Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud was already in detention in Mali at the time his ICC arrest warrant was issued. Mali cooperated with his prompt surrender to the ICC.
- 13 See, eg, Tom Smith, ‘The ICC had got Duterte, what will the Philippines get?’ (Justiceinfo.net, 13 March 2025).
- 14 Eg, in the Ongwen case, the ICC noted that it had received support and cooperation from the authorities of the United States, the United Nations Mission for the Stabilization of the Central African Republic and the African Union in securing his transfer to the ICC.
- 15 Situation in Ukraine, Finding under Art 87(7) of the Rome Statute on the non-compliance by Mongolia with the request by the Court to cooperate in the arrest and surrender of Vladimir Vladimirovich Putin and referral to the Assembly of States Parties, Pre-Trial Chamber II, ICC-01/22-90, 25 October 2024.
- 16 For further information, see n 5 above.
- 17 See, eg, Ashifa Kassam, ‘Netanyahu visits Hungary as Orbán vows to defy ICC arrest warrant’ The Guardian (London, 3 April 2025).

These and similar failures to execute arrest warrants take place in the context of increased political attacks in response to ICC arrest warrants issued for powerful high-profile suspects. Following the Court's warrant against Vladimir Putin, Russian authorities issued national arrest warrants against the ICC Prosecutor and ICC Judges.<sup>18</sup> After the ICC's announcement of arrest warrants against Benjamin Netanyahu and former Israeli defence minister, Yoav Gallant, officials of a number of governments, including Austria, Hungary, Paraguay, Romania and other States Parties to the ICC Statute, openly criticised the decision.<sup>19</sup> In February 2025, United States President Donald Trump signed an Executive Order imposing sanctions on the ICC Prosecutor for 'illegitimate and baseless actions targeting America and our close ally Israel'.<sup>20</sup> US sanctions were also imposed on four ICC Judges in June 2025.<sup>21</sup> Highlighting some of these and other 'coercive measures, threats, pressure and acts of sabotage that have sought to undermine the legitimacy of the Court and its ability to administer justice', at the end of 2024, ICC President Judge Tomoko Akane warned that such actions 'rapidly undermine the Court's operations in all situations and cases and jeopardise its very existence'.<sup>22</sup>

The ICC is actively seeking to address these major challenges and elevate the matter of suspects at large to a higher political level.<sup>23</sup> The Court reports that the Office of the Prosecutor (OTP) has been undeterred in requesting new applications for arrest warrants, 'reaching unprecedented levels'.<sup>24</sup> The OTP and the Registry have endeavoured to strengthen their capacity to more effectively track suspects and support arrest efforts.<sup>25</sup> Similarly, the Presidency of the Assembly and the Bureau's co-facilitators on cooperation have actively promoted cooperation with arrest and surrender by States Parties to the ICC Statute. Many States Parties have voiced support for the Court in response to some political attacks.<sup>26</sup> Nonetheless, it is clear that if arrest and surrender initiatives are to succeed in this extremely challenging political environment, States Parties, individually and collectively through the Assembly and other intergovernmental organisations, must further intensify their support for the ICC and their efforts to address the many political and systemic barriers that it faces.

This paper draws on the research and dialogue conducted by the ICC & ICL Programme to propose a strategic framework that incorporates and builds on current efforts to strengthen cooperation with and support for the enforcement of ICC arrest warrants. The framework aims to provide a clear structure that will assist the ICC and the Assembly in developing a comprehensive strategy that fully recognises the complexity of the challenges that the Court is facing and defining coordinated and multifaceted activities

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18 See Office of the High Commissioner for Human Rights, Arrest warrant against ICC officials, Press Briefing Notes, 13 October 2023.

19 See Rebecca Ingber, 'Mapping State Reactions to the ICC Arrest Warrants for Netanyahu and Gallant' (Just Security, 6 March 2025).

20 The White House, Imposing Sanctions on the International Criminal Court, 6 February 2025.

21 See International Bar Association, 'US presidency: ICC Sanctions threaten international justice', 13 June 2025, <https://www.ibanet.org/US-presidency-ICC-sanctions-threaten-international-justice> accessed 16 June 2025.

22 Judge Tomoko Akane, President of the International Criminal Court, Opening remarks at the 23rd session of the Assembly of States Parties, 2 December 2024.

23 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 28.

24 *Ibid*, para 27.

25 *Ibid*, para 29.

26 See n 19 above. See also the Joint Statement in support of the International Criminal Court, 15 June 2024, signed by 93 States Parties [www.legal-tools.org/doc/whl4qe3g/pdf](http://www.legal-tools.org/doc/whl4qe3g/pdf) and Joint Statement – Sanctions International Criminal Court (ICC), 7 February 2025, signed by 79 States Parties [www.government.nl/documents/diplomatic-statements/2025/02/07/joint-statement--sanctions-international-criminal-court-icc](http://www.government.nl/documents/diplomatic-statements/2025/02/07/joint-statement--sanctions-international-criminal-court-icc) accessed 5 June 2025.

to promote arrest and surrender involving the Court, States Parties, intergovernmental organisations and civil society.

## The need for a comprehensive strategy on arrest and surrender

Challenges in executing ICC arrest warrants were first acknowledged in 2013. The Assembly's Hague Working Group developed an arrest strategies roadmap and concept paper, which led to the appointment of a Rapporteur on arrest strategies tasked to research the experiences of other international criminal tribunals and propose an action plan to the Assembly.<sup>27</sup>

In 2014, the Rapporteur submitted a detailed Report to the Assembly, as well as a Draft Action Plan reflecting six recommendations. The recommendations focused on:

1. establishing conditionality policies to incentivise states, on a case-by-case basis, to cooperate with arrests by making it a condition for their participation in intergovernmental organisations, receiving some forms of aid and other assistance;
2. establishing incentives for suspects to voluntarily surrender themselves to the ICC, such as a possible mitigation of sentences;
3. isolating suspects, including through freezing their assets, avoidance of non-essential contacts and individual sanctions, as well as providing monetary rewards for information leading to arrests;
4. enhancing political support for cooperation with arrests, including public statements and demarches by states promoting arrests, as well as ensuring effective responses to non-cooperation;
5. enhancing arrest operations, including by establishing a unit in the OTP dedicated to tracking suspects, and increasing engagement with the International Criminal Police Organisation (INTERPOL) and national authorities; and
6. establishing mechanisms to coordinate actions on arrests, including an Assembly Focal Point and an expert Special Rapporteur on arrests, as well as a network of regional and situation focal points.<sup>28</sup>

Although the Assembly committed to consider the Draft Action Plan for a number of years, the initiative stalled and dropped off the Assembly's agenda in 2021. Nonetheless, some recommendations contained in the Draft Action Plan have been advanced:

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<sup>27</sup> *Report of the Bureau on Cooperation*, ICC-ASP/12/36, 21 October 2013, Annex IV: Arrest Strategies: road map and concept paper, Road Map, paras 1–3.

<sup>28</sup> *Report of the Bureau on Cooperation*, ICC-ASP/13/29/Add.1, 21 November 2014. Annex VII: Report on arrest strategies by the Rapporteur.

- Since 2014, the Assembly has incorporated language into its annual resolution on cooperation urging States Parties to avoid contact with persons subject to a warrant of arrest issued by the ICC, unless such contact is deemed essential by the States Parties.<sup>29</sup>
- In 2017, a declaration was adopted inviting States Parties to take measures to increase their ability to cooperate with financial investigations and asset recovery.<sup>30</sup> The ICC also issued a guide, including best practices for freezing assets.<sup>31</sup>
- In 2017, the Assembly updated procedures related to non-cooperation, setting out informal and formal responses that the Assembly and the Bureau would carry out in cases of non-compliance with the ICC’s arrest warrants and other requests for cooperation.<sup>32</sup> In 2024, the Assembly decided to include ‘consideration of non-cooperation issues arising during the intersessional period’ as a standing item on its agenda for future sessions.<sup>33</sup>
- Since 2023, the ICC has intensified its efforts to track suspects and engage with states in seeking cooperation. Because arrest and surrender require close cooperation and coordination between the OTP, which leads the investigation, and the Registry, which leads the execution of Court orders, both organs have strengthened their in-house capacity in this area. The OTP has created a dedicated Tracking and Information Fusion Section.<sup>34</sup> The Registry has created the Judicial Cooperation Support Section, which includes a Suspects at Large Unit to strengthen tracking efforts conducted by the Registry at the request of Chambers.<sup>35</sup> Both organs have revitalised an inter-organ Suspects At Large Working Group to ensure better internal coordination.<sup>36</sup>
- In 2024, the OTP and the Registry carried out a full review of all outstanding arrest warrants and issued Recommendations for increased engagement of States Parties on the implementation of outstanding ICC arrest warrants (the ‘Court’s 2024 Recommendations’).<sup>37</sup> The two organs have also increased their engagement with INTERPOL, the European Union Agency for Law Enforcement Cooperation (Europol) and national authorities.<sup>38</sup>

Although each of these initiatives have the potential to support the ICC’s efforts to enforce arrest warrants, collectively, the measures fall short of fully addressing the challenges that the Court is facing. Furthermore, as explained below, some of these efforts have been undermined by a lack of political support and resources.

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29 See, eg, *Resolution on Cooperation*, ICC-ASP/13/Res.3, 17 December 2014 para 6.

30 See *Resolution on Cooperation*, ICC-ASP/16/Res 2, 14 December 2017, Annex: Declaration of Paris; ICC, *Financial investigations and recovery of assets (2017)* [www.icc-cpi.int/sites/default/files/iccdocs/other/Freezing\\_Assets\\_Eng\\_Web.pdf](http://www.icc-cpi.int/sites/default/files/iccdocs/other/Freezing_Assets_Eng_Web.pdf) accessed 5 June 2025.

31 ICC, *Financial investigations and recovery of assets* [www.icc-cpi.int/sites/default/files/iccdocs/other/Freezing\\_Assets\\_Eng\\_Web.pdf](http://www.icc-cpi.int/sites/default/files/iccdocs/other/Freezing_Assets_Eng_Web.pdf) accessed 5 June 2025.

32 *Strengthening the International Criminal Court and the Assembly of States Parties*, ICC-ASP/17/Res.5, 12 December 2018, Annex II: Assembly procedures relating to non-cooperation.

33 *Strengthening the International Criminal Court and the Assembly of States Parties*, ICC-ASP/23/Res.1, 6 December 2024 para 36.

34 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 7.

35 *Report of the Court on Cooperation*, ICC-ASP/22/24, 26 October 2023, para 9.

36 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 7.

37 *Report of the Bureau on Cooperation*, ICC-ASP/23/23, 28 November 2024, Annex III: Recommendations for increased engagement with States Parties on the implementation of outstanding ICC arrest warrants, 18 September 2024.

38 *Ibid*, para 26.

As it stands, the strategies in place to execute ICC arrest warrants lack coordination and sufficient support. Whether a warrant is executed is therefore largely dictated by the political status of the suspect and the political will of the requested State Party to cooperate. Suspects with low levels of political influence and weak support may be surrendered to the ICC, although this has not always been the case. However, when suspects hold positions of power and/or maintain strong support, the Court (and the victims) are too often forced to wait and hope that the political circumstances might change. Meanwhile, the number of ICC trials are diminishing and the Court's inability to deliver justice in many situations threatens to erode its authority. In the context of mounting political attacks against the Court, the challenge of enforcing arrest warrants must be elevated to the highest level of priority for supporters of international criminal justice. Urgent action is required to revitalise efforts to develop a comprehensive strategy for arrest and surrender involving all stakeholders to ensure the effective functioning and legitimacy of the Court.

## Proposed strategic framework

To advance the aim of increasing the arrest and surrender of suspects to the ICC, this section draws on the ICC & ICL Programme's research and consultations to propose a framework of six strategic goals that should provide the focus of an effective and comprehensive strategy.

### *Goal 1: strengthen conditions at the ICC to encourage arrest and surrender*

The ICC & ICL Programme proposes that the first strategic priority must be to shore up cooperation when it is attainable. Experience shows that, in some instances, suspects are prepared to surrender voluntarily to the Court and states are genuinely willing to cooperate with an arrest. In these circumstances, arrest and surrender should be achieved promptly in accordance with the ICC Statute. Nonetheless, the IBA ICC & ICL Programme has identified a number of ongoing fair trial issues that have the potential to deter voluntary surrender or raise concerns with cooperative states, which must be addressed.

The first issue relates to a lack of safeguards to enable suspects to surrender themselves voluntarily to the ICC without their rights being violated. Allegations of human rights violations committed by national authorities during arrest and surrender have featured in a number of the Court's cases. However, ICC Chambers have found that, as arrest and surrender are matters for national authorities, in the absence of the Court's involvement in the alleged violations, they are not in a position to adjudicate the allegations or order remedies to the suspect.<sup>39</sup> This situation has the potential to dissuade suspects from voluntary surrender, as it implies that the ICC cannot assure suspects that their rights will be protected when they surrender themselves to national authorities. During the IBA ICC & ICL Programme's Roundtable, a representative of the Office of Public Counsel for the Defence (OPCD) advocated that the Court must be more proactive in ensuring that suspects are provided with access to highly qualified national lawyers to protect their rights during arrest and surrender in accordance with national law. They also recommended

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39 See, eg, *Prosecutor v Gbagbo*, Decision on the 'Corrigendum of the challenge to the jurisdiction of the International Criminal Court on the basis of Arts 12(3), 19(2), 21(3), 55 and 59 of the Rome Statute filed by the Defence for President Gbagbo (ICC-02/11-01/11-129)', Pre-Trial Chamber I, ICC-02/11-01/11-212, 15 August 2012; and *Prosecutor v Al Hassan*, Public redacted version of 'Decision on the Defence request to terminate the proceedings and related requests', Trial Chamber X, ICC-01/12-10-18-1009-Red, 29 October 2020, para 57.

that the OPCD should have access to those lawyers to support them in understanding the arrest and surrender process in the ICC Statute and the rights of their client. These and other proposals should be explored to protect the rights of suspects surrendering themselves to the Court and ensure that they have access to effective remedies in the event that violations occur.

Where suspects can be arrested and surrendered to the ICC in full respect of their rights, there are a number of other issues that may deter voluntary surrender or state cooperation. Only two States Parties, Argentina and Belgium, have entered into agreements with the ICC to accept persons granted interim release by the Court. Other States Parties have sometimes refused or ignored specific requests for such assistance from the Court.<sup>40</sup> As a result, suspects are likely to spend years in ICC detention during pre-trial and trial proceedings, even if they meet the statutory criteria for interim release.<sup>41</sup> Ineffective systems put in place by the Assembly of States Parties to fund family visits for indigent detainees<sup>42</sup> mean that their right to receive visits from their families may be limited. Longstanding flaws in the Court's legal aid system, which were partly addressed in a new Legal Aid Policy in 2024, mean that, although indigent suspects will receive free legal representation, the defence remains under-resourced compared to the OTP, raising concerns about the equality of arms. The legal process may take many years while they are in detention. Because only 14 States Parties have entered into Agreements on the Enforcement of Sentences with the ICC,<sup>43</sup> if a suspect is convicted and sentenced to imprisonment, there is significant uncertainty and limited options available to the Court as to where the individual will serve his/her sentence. Even if the individual is acquitted, the proceedings are terminated or the individual completes his/her sentence, only one State Party, Argentina, has entered into an agreement with the ICC to accept released persons on its territory.<sup>44</sup> This means that the Court may be unable to practically give effect to the individual's release if no state is willing to accept him/her.<sup>45</sup> The reluctance of more states to negotiate cooperation agreements with the Court on interim release, release and enforcing sentences severely undermines the regularity of the legal process.

Fundamental reforms and investment by States Parties are required to address these issues to ensure that arrest and surrender can be framed as an opportunity for a suspect to present his/her case in full respect for their rights, not as punitive measures. States Parties must also equip the ICC with the necessary means,

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40 See, eg, *Prosecutor v Mokom*, Public redacted version of 'Decision on interim release', Pre-Trial Chamber II, ICC-01/14-01/22-173-Red, 8 March 2023, para 59: 'in the present case, the States identified by Mr Mokom have either explicitly rejected to accept him (even though certain States have not provided any reasons while certain other States provided reasons not pertaining specifically to the possible interim release of Mr Mokom) or not responded to the Chamber's repeated invitations to provide observations'.

41 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 44. The Court states that if States Parties are unwilling to accept persons on their territory, 'this could hamper the possibility of interim release or render it impossible'.

42 See, eg, IBA ICC & ICL Programme, *Strengthening the International Criminal Court and the Rome Statute System: A Guide for States Parties* (2nd edn, October 2024), 47–48 [www.ibanet.org/document?id=Strengthening-the-International-Criminal-Court-A-Guide-for-States-Parties-2nd-Edition](http://www.ibanet.org/document?id=Strengthening-the-International-Criminal-Court-A-Guide-for-States-Parties-2nd-Edition) accessed 5 June 2025.

43 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 41.

44 ICC press release, 'Argentina and ICC sign agreements on Interim Release and Release of Persons, reinforcing Argentina's commitment to accountability and fair trial', 28 February 2018.

45 *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 43. The Court re-emphasised that 'the consequences of the lack of agreements, paired with the low interest of States Parties to cooperate with the Court for the purpose of accepting released persons, still poses a serious risk to the Court on its possibility to implement its mandate and respect the right of the defendants', referring specifically to the challenges it faced in releasing Maxime Geoffroy Eli Mokom Gawaka after the charges were withdrawn in the case.

through cooperation agreements, to practically enable the enforcement of sentences and decisions on release and interim release.

## *Goal 2: strengthen the ICC's capacity to track suspects and pursue arrests*

Drawing on the recommendations of the 2020 Independent Expert Review of the ICC and the Rome Statute System (the 'Independent Expert Review'),<sup>46</sup> the Court has made significant strides in strengthening its capacity to track suspects and improve coordination with states and other actors in arrest operations. During the ICC & ICL Programme's events in 2024, representatives of the Court recognised that, although states have obligations to arrest and surrender suspects, the ICC must play a proactive role in gathering the information required to enforce arrest warrants and pursue a more collaborative effort with states and other actors to execute them. The OTP reports that it has developed more advanced and analytical investigative techniques to track suspects. The Registry and OTP aim at providing comprehensive dossiers for states containing critical and timely information that allows them to immediately launch arrest operations, including information on the location of the suspects and, where available, additional details on their networks of support and frequency of travel. The OTP and Registry have also reviewed all outstanding arrest warrants and issued the Court's 2024 Recommendations for increasing engagement with States Parties on implementing them, which include establishing innovative mechanisms that promise to strengthen coordination (see Goal 3 for further details).

Regrettably, despite these compelling initiatives, the ICC has not received the necessary financial support from the Assembly to advance them fully. Last year, having identified a lack of resources and the inability to support the tracking and arrest of suspects as a major risk,<sup>47</sup> the OTP requested a significant increase of nine temporary positions for the Tracking and Information Fusion Section in 2025.<sup>48</sup> However, although the Assembly's Committee on Budget and Finance (the 'Committee') acknowledged the importance of improving the Court's track record in executing arrest warrants,<sup>49</sup> it recommended that the Assembly only approve six of the posts, each for three or four months only.<sup>50</sup> The Committee also recommended that a request for modest increases for travel by the Registry's Judicial Cooperation Support Section to establish networks/partnerships with states and United Nations agencies be scaled back and a request for consultancy to expand its network for collecting human intelligence be absorbed by other budget lines.<sup>51</sup> Despite adopting a resolution underlining the necessity to improve cooperation between states and the ICC with a view to enhancing the prospects for the implementation of pending arrest warrants,<sup>52</sup> the Assembly followed the Committee's recommendations to only approve part of the resources requested by the Court.<sup>53</sup>

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46 *Independent Expert Review of the International Criminal Court and the Rome Statute System: Final Report*, 30 September 2020, in particular, R285.

47 Proposed Programme Budget for 2025, ICC-ASP/23/10, 24 July 2024 para 466.

48 *Ibid.*, paras 471–476.

49 *Report of the Committee on Budget and Finance on the work of its forty-fifth session*, ICC-ASP/23/25, 22 November 2024, para 10.

50 *Ibid.*, paras 66–68.

51 *Ibid.*, paras 133–135.

52 *Strengthening the International Criminal Court and the Assembly of States Parties*, ICC-ASP/23/Res.1, 6 December 2024 para 24.

53 *Resolution of the Assembly of States Parties on the proposed programme budget for 2025 and related policy and administrative matters*, ICC-ASP/23/Res.6, 6 December 2024.

The Independent Expert Review also recognised that the ICC needs a rewards programme in order to facilitate access to information from the general public for the location and arrest of fugitives. It recommended that the Assembly establish a working group to consider the possible ways such a programme could be set up and funded.<sup>54</sup> However, although this recommendation was positively assessed, a rewards programme has yet to be established by the Assembly. During the IBA ICC & ICL Programme's events in 2024, representatives of the Court and civil society stressed that the rewards programme could be a powerful tool in supporting the Court's efforts to track suspects and execute arrests. Some representatives emphasised that the amount of rewards offered need not be extremely large to be effective.

The lack of sufficient resources allocated to the ICC's arrest and surrender efforts highlights a current mismatch between States Parties' expectations and the Court's needs, which threatens to undermine the Court's efforts to make progress on tracking and coordinating the pursuit of arrests. Any strategy to strengthen the ICC's ability to effect arrest and surrender must ensure that the Court has sufficient resources to enhance its in-house capacity to promote arrest warrants, as well as to establish an effective rewards programme.

### *Goal 3: strengthen logistical and technical support for tracking, arrest and surrender*

During the ICC & ICL Programme's events, the Court highlighted its need for practical forms of support and cooperation from a range of stakeholders at all three stages of the process: (1) tracking suspects; (2) planning and conducting arrests; and (3) surrendering suspects to the Court. It recognised that cooperation needs will vary from case to case and at each stage.

During the tracking phase, the Court reports that it seeks information from a range of sources, including states, INTERPOL, Europol and civil society, to identify a suspect and the individual's location, movements and networks. The OTP and Registry suggest that, with effective support from all sources, it should be possible to track and locate almost all suspects at large. They also highlight the role of states in freezing the assets of suspects to limit their capacity to evade justice.

In addition to simply calling on the state in which a suspect is located to execute an arrest, the Court's 2024 Recommendations suggest a new mechanism to establish, with the guidance and authorisation of the relevant Chamber, a very small group of states that can provide direct and indirect operational support necessary in relation to the arrest of the suspect in question.<sup>55</sup> Such mechanisms may be particularly useful to provide support to a state that does not have the capacity or experience necessary to execute an international arrest warrant or where the state is under political pressure by third states not to cooperate. It has been highlighted that, for such groups to be effective, they will need to ensure strict confidentiality in relation to the operation and be set up in a way that they can react effectively to small windows of opportunity to execute arrests. The Court has also recognised that civil society may provide important support for arrests. For example, they may initiate complaints or litigation before national courts for authorities to execute warrants. While some civil society organisations currently seek to perform this role, they have identified challenges in communication and access to information that need to be addressed.

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<sup>54</sup> See n 46 above, R289.

<sup>55</sup> See n 37 above, paras 23–24.

In relation to surrender, in addition to requesting cooperation from the state with custody of the suspect in accordance with the Rome Statute, the ICC may require cooperation from other states for transiting the suspect through their territory in order to get to The Hague. The ICC has also encouraged states to provide logistical assistance with surrender by entering into agreements to put aircraft at the disposal of the Court, if requested.<sup>56</sup>

Strategies should be put in place to ensure that the ICC receives cooperation and assistance at each of these three stages, including to fully implement the Court's 2024 Recommendations. In particular, effective channels of communications on cooperation should be put in place by all States Parties to ensure prompt and effective assistance with tracking, arrest and surrender. In addition to the Assembly's regular calls for States Parties to establish 'a national focal point and/or national central authority or working group' to ensure efficient cooperation with the ICC,<sup>57</sup> it has been noted, during consultations, that the Court may require direct access to national law enforcement and other technical experts. In the country where an arrest operation is conducted, a national task force involving a number of relevant agencies may be necessary to execute the arrest. Representatives of the Court and States Parties have reported that internal coordination and communication between agencies has been particularly important in achieving successful arrests.

#### ***Goal 4: strengthen political support for state cooperation***

Especially in light of the growing political attacks against ICC arrest warrants, the strategy should focus on urgently strengthening political support for state cooperation.

Political efforts to promote cooperation with arrests may be required as soon as a warrant is made public. Criticism of warrants should be countered by individual and joint statements by States Parties that emphasise the independence of the Court and stress the validity of all ICC arrest warrants irrespective of the situation or case. Statements along these lines by intergovernmental organisations, other states and advocacy by civil society organisations may also be effective in responding to criticism. Coordinated action by all stakeholders should condemn any threats to the Court or its officials and ensure that effective measures are taken to protect them.

The emerging strategy of some states seeking to delegitimise arrest warrants and challenge the Court's authority by inviting known ICC suspects to visit their territory requires specific attention. In particular, the Assembly should revisit its guidance on non-essential contact with suspects, including the inadequate language contained in its annual resolution on strengthening the ICC and Assembly, which indicates that states have complete discretion to determine when contact may be essential.<sup>58</sup> When States Parties permit such visits, the Assembly should respond decisively with both informal and formal measures condemning the practice (see Goal 5).

Efforts should also be made to demonstrate strong political support for the Court's tracking functions. In addition to addressing resource challenges (see Goal 2) and cooperating with ICC efforts to track suspects

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<sup>56</sup> *Report of the Court on Cooperation*, ICC-ASP/23/21, 24 October 2024, para 47.

<sup>57</sup> See, eg, *Resolution on Cooperation*, ICC-ASP/23/Res.5, 6 December 2024, para 12.

<sup>58</sup> Such guidance may consider the United Nations Secretary-General's Guidelines on contacts with persons who are the subject of arrest warrant or summonses issued by the International Criminal Court, UN Doc. A/67/828-S/2013/210, 8 April 2013 and the EU's response to non-cooperation with the International Criminal Court by third states, 27 November 2013.

(Goal 3), the Court's 2024 Recommendations suggest that states can encourage cooperation by other states and entities, such as INTERPOL and Europol, to provide support to the ICC on suspect-at-large-related matters.<sup>59</sup> The conclusion by the Court of a Working Arrangement with Europol in 2023 is a positive step forward in this regard.<sup>60</sup>

Although the Presidency of the Assembly and the co-facilitators on cooperation already encourage states to cooperate with specific requests for arrest and surrender, there is significant potential to expand on and strengthen these efforts. In many instances, states are likely to face political consequences nationally and/or internationally if they cooperate with the arrest and surrender of suspects to the ICC, especially when the suspect holds a position of power in that state or another state. In addition to emphasising states' legal obligations to cooperate fully with the ICC (if they are States Parties to the ICC Statute or cooperation is mandated by a UN Security Council Chapter VII resolution), it is essential that incentives are put in place that demonstrate strong political support for them to arrest and surrender suspects and to counter pressure they may be facing not to cooperate. The Court's 2024 Recommendations suggest a number of measures that States Parties can take to encourage cooperation, including promoting arrests directly with other states and international and regional organisations, as well as publicising arrest warrants domestically and internationally.<sup>61</sup> To coordinate efforts, the ICC proposes the establishment of working groups of relevant states for each situation with political, economic and diplomatic ties to the situation in order to pool their resources, expertise and diplomatic relationships to maximise the chances of the successful implementation of arrest warrants.<sup>62</sup> This may involve measures to incentivise states to cooperate, including the establishment of conditionality policies along the lines recommended in the 2014 Draft Action Plan.<sup>63</sup> The Court also foresees that working groups could cooperate closely with civil society organisations to align advocacy efforts, share information and leverage their collective influence.<sup>64</sup>

These measures are unlikely to prevent political attacks against the ICC's arrest warrants. However, if they are implemented in a coordinated manner involving all stakeholders, they may serve to minimise damage to the Court and expand opportunities to execute arrest warrants.

### ***Goal 5: strengthen responses to non-cooperation***

Although the Assembly adopted procedures for responding to non-cooperation in 2011 and updated them in 2017, formal responses outlined in the procedures have yet to be implemented in relation to any of the 11 referrals of non-cooperation with arrest and surrender that have been communicated by the ICC to the Assembly.<sup>65</sup> In relying on only informal responses to non-cooperation issues, States Parties are sending a

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59 See n 37 above, paras 8.

60 ICC press release, 'ICC and Europol conclude Working Arrangement to enhance cooperation', 25 April 2023.

61 See n 37 above, paras 7–9 and 30.

62 See n 37 above, paras 14–22.

63 See *Report of the Bureau on Cooperation*, ICC-ASP/13/29/Add.1, Annex VII: Report on arrest strategies by the Rapporteur, paras 33–45.

64 See n 37 above, para 22.

65 For a list of referrals, see the Assembly's Non-Cooperation webpage: <https://asp.icc-cpi.int/non-cooperation>. See also Open Society Justice Initiative, 'From Spectators to Champions, How Supportive States Can Promote Cooperation with the International Criminal Court through Multilateral Bodies', February 2022 [justiceinitiative.org/uploads/7cb0ee98-26e6-4ae5-a428-44a30b74bff7/justice-initiative-ICC-state-cooperation-briefing-paper\\_02282022.pdf](https://justiceinitiative.org/uploads/7cb0ee98-26e6-4ae5-a428-44a30b74bff7/justice-initiative-ICC-state-cooperation-briefing-paper_02282022.pdf) accessed 5 June 2025.

clear message that states that decide not to cooperate will face no formal consequence for failing to comply with their obligations under the ICC Statute. As noted during the Side Event at the Assembly, if there is no political will to implement existing measures, nothing will be done. The lack of formal responses also curtails efforts to understand the reasons for non-cooperation and learn lessons from them.

Strategies to improve cooperation with arrest and surrender must involve strengthening the current non-cooperation procedures so that they are applied consistently and effectively, ensuring formal dialogue and an appropriate response each time a referral is transmitted by the ICC. In all cases, dialogue with non-cooperating states should be encouraged to understand the barriers to cooperation in each case and consider measures to address them in future requests for arrest and surrender.

### ***Goal 6: strengthen national laws to provide effective cooperation with arrest and surrender***

As highlighted in the IBA ICC & ICL Programme's 2024 *Strengthening the International Criminal Court and the Rome Statute System: A Guide for States Parties* (the 'Guide'), the enactment of legislation by States Parties implementing their obligations to cooperate with the ICC into national law, setting out national procedures to be followed and assigning national authorities responsible for providing different forms of cooperation is central to advancing arrest and surrender.<sup>66</sup> The Court states that implementing legislation 'greatly facilitates cooperation between the Court and States'.<sup>67</sup>

At the end of 2024, only 59 of the 125 States Parties to the Rome Statute had enacted national legislation providing for cooperation with the ICC.<sup>68</sup> Some of those laws contain flaws and barriers to arrest. For example, some States Parties provide political officials with discretion to approve cooperation with an ICC arrest warrant.<sup>69</sup> Others fail to set out clear procedures for arrest and surrender, and sometimes conflate extradition with surrender.

A central element of any strategy to promote arrest and surrender must therefore include a strong focus on encouraging states to enact new legislation or review existing legislation to put in place national laws and procedures that guarantee prompt and effective cooperation. In particular, the Guide contains detailed guidance for states to establish national procedures to promptly arrest and surrender suspects to the ICC with full protection for their rights; to provisionally arrest suspects, if requested; and to assist the ICC with the transit of a person being surrendered to the Court through its territory.<sup>70</sup> It also makes recommendations for legislation to provide full and effective cooperation with other forms of cooperation that may be requested to support the Court's arrest efforts, including tracking suspects and freezing assets.<sup>71</sup> In all cases, domestic legislation must be adequate to give effect to the Court's cooperation requests, as provided for in Article 88 of the ICC Statute. It should provide that any problem or impediment encountered must be raised immediately with the Court in accordance with Article 97 to prevent a person from absconding.

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66 See n 42 above, s 2.3.

67 See, eg, *Report of the Court on Cooperation*, ICC-ASP/19/25, 28 October 2020, para 46.

68 For a list of states, see n 42 above, 94.

69 Eg, Australia's International Criminal Court Act 2002, s.29 provides 'The Attorney-General must not issue a warrant for the surrender of a person for a crime unless the Attorney-General has, in his or her absolute discretion, signed a certificate that it is appropriate to do so.'

70 See n 42 above, in particular, Recommendations 80–83.

71 *Ibid*, in particular, Recommendations 84–85.

Given the limited impact of efforts by the Assembly, some States Parties, intergovernmental organisations and civil society in the last decade to promote implementing legislation, the strategy should include a review of barriers to enacting legislation in many States Parties and develop renewed initiatives that coordinate advocacy and technical assistance offered to these states. As recommended in the Guide, all States Parties should review their implementing legislation every 10–15 years<sup>72</sup> and the Assembly should establish a periodic review of national frameworks to strengthen cooperation.<sup>73</sup>

## Conclusion and next steps

This paper proposes a framework for a comprehensive strategy to execute ICC arrest warrants, building on past and ongoing efforts to promote arrest and surrender, and drawing on the views and recommendations expressed by the ICC and relevant stakeholders. In light of the complex and potentially damaging challenges that the ICC is facing in securing cooperation with tracking suspects and ensuring their arrest and surrender, it is essential that the Court and Assembly work together and in coordination with all relevant stakeholders to ensure that ICC arrest warrants are executed properly and in full respect of the rights of the suspect; trials are conducted; and the Court delivers justice for the most serious crimes of concern to the international community.

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<sup>72</sup> See n 42 above, 138.

<sup>73</sup> *Ibid*, 191.



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