



THE ROLE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT

Ali Mohammad
HasanThynat

Research Scholar Faculty of Law Aligarh Muslim University Aligarh, UP.202002, India

ABSTRACT

The Prosecutor In general, is the decisive figure among the international legal professionals of the Court. It is the first court in the Tribunal to respond to crimes committed and falling within the jurisdiction of the Court. In view of the nature of the International Criminal Court based on treaties and the mandate and powers of the Prosecutor provided for in the Rome Statute, he is a stronger and independent Prosecutor; and through what we will provide and in the absence of the power to enforce and separate from the United Nations, he is also the weakest prosecutor. The role of the Prosecutor is crucial for the International Criminal Court and for international criminal justice. His choice of cases to investigate and identify suspects and his performance in prosecution has a long-term global impact and will necessarily be the mode of operation of the ICC Court.

KEYWORDS : the Prosecutor, ICC, investigation, permission to initiate,

The Rome Statute of the International Criminal Court has established a system and procedures for the Prosecutor of the International Criminal Court to be charged by "acting independently of the Office of the Prosecutor as an independent organ of the Court". To further enforce the neutrality of the Office of the Prosecutor, the ICC treaty provides that officers are not required to act on instructions from any external source. As such, the Office of the Prosecutor operates independently of the judiciary and the Registry of the International Criminal Court, and the Prosecutor alone has full authority over the administration and administration of his office.

The Rules of Procedure and Evidence shall serve as a means of supporting the application of the Rome Statute of the International Criminal Court and in all its cases. It supports and interprets the provisions of the Statute and does not apply any retroactive amendments to those Rules to the detriment of the person under investigation, prosecution or convicted person. Those Rules shall be adopted as soon as they are adopted by the members of the Assembly of States Parties and by a two-thirds majority. The Statute shall give the right to any State Party, or any majority of the judges or the Prosecutor, to make any amendments or proposals to those Rules.¹

In accordance with article 42 (1) and (2) of the Statute, the Prosecutor shall act independently as an independent organ separate from the organs of the Court and shall receive referrals and any documented information on crimes within the jurisdiction of the Court to examine them for the purpose of investigation and prosecution before the Court. A member of the Prosecution may seek any instructions from any external source and may not act under any of these instructions. Article 42 (1) of the Statute. The Prosecutor shall have full power to organize and administer the Office. The Assistant Prosecutor shall be assisted by one Deputy Prosecutor Or more He shall be authorized to carry out any actions required of the Prosecutor (article 42 (2)) of the former regime

After explaining the basis of the work of the Prosecutor General of the International Criminal Court, we will explain his work from the beginning of the investigation to the end of the court, by dividing the search into several subheadings taking into account the job title of the prosecutor.

The initial actions of the prosecutor in the investigation.

The Prosecutor shall build upon the powers prescribed for him in the articles of the Statute to proceed with the preliminary investigation himself after receiving information in which an international crime is likely to occur, and in doing so he shall analyze this information and investigate its validity and seriousness and shall have the right to obtain any additional information from any party The United

Nations organs or any other reliable organs and sources that it deems appropriate.¹

After concluding this information, he found the necessary seriousness and concluded that there was a reasonable basis for initiating an investigation (Article (15/3) of the Statute.) which would make a written request to the Pre-Trial Chamber requesting permission to conduct a preliminary investigation, attaching the information obtained, evidence and evidence with the request for permission (Rule 50 (2) of the Rules of Procedure and Evidence), to hear their statements in this regard in accordance with the rules of procedure and evidence.

The interrogation is defined as: "The complainant's discussion about and charges against the acts attributed to him Inquiries and questions about the charge and responses to it and its response to the evidence referred to by the accusation And his request to reply Others defined interrogation as saying: "The accused shall confront the defendant with the crime against him and the evidence against him, and discuss it with a detailed discussion in order to refute this evidence if he is not guilty of the charge, or He confesses to committing the crime if he wishes to confess.

The stage of questioning at the International Criminal Court is an important and serious stage in the preliminary investigation. In view of the gravity of this stage, national legislation has also attached great importance to this stage and has taken it with multiple guarantees to preserve personal freedom without affecting it

The text of Article 55 of the Statute of the Court to protect the rights of the person against abuse of power and the most important of its safeguards are

First: To inform the accused prior to the initiation of his interrogation that there are grounds for believing that he has committed an offense within the jurisdiction of the Court

This right is given to the accused after verifying his identity and from the acts attributed to him, showing him reasons to believe that he has committed an offense within the jurisdiction of the court. "However, the investigator is not obliged to state the details of the facts attributed to the accused, This right is given to the accused so that he or she may be prepared to defend himself or his counsel if necessary.

Second: To remain silent, without this silence being a factor in the determination of guilt or innocence. This is one of the rights that characterize the Basic Law by giving it to the accused when interrogated and has complete freedom to answer the questions that are directed to him by the interrogator and his right to remain

silent(Article 55 (2) (b) of the Statute). If he is silent, he does not answer him, and his silence is not proof against him

Third: The right of a person to seek legal assistance if he chooses himself and works on it, and if he does not exist Must be provided to him without incurring any costs

The Statute provided the accused with the right to seek legal assistance, whether legal advice or the use of lawyers or other legal specialists, which was given to the accused to defend himself. Rule 22 of the Rules of Procedure and Evidence provides for the conditions to be met by counsel, since he must have sufficient competence in international law, criminal law and criminal procedure, and must be experienced, whether a judge, a prosecutor or a lawyer, To have at least one of the languages spoken and spoken by the court, and to counsel other persons, including law professors with the requisite expertise

Recording and registration.

The origin of the criminal proceedings was the common practice of codification, that is, the author or the person in charge of recording everything that happens in the sessions or investigations, and the development of scientific means has become possible registration in many of the legislation of the International Criminal Court, for a permanent reference can be consulted when needed , In accordance with rule (112) of the Rules of Procedure and Evidence, which requires that the person questioned be informed in the language he understands that his or her interrogation will be recorded by voice or video and has the right to object. The person's right to be questioned in the presence of a lawyer is recorded in a lawyer's presence, and it can be recorded by video or audio. In the event of a defect, and the recording is suspended during interrogation, the time of suspension is recorded before The interviewer is given an opportunity to add something or clarify something, after which the contents of the tape are reproduced as soon as possible after the interrogation is completed, and a copy of the interviewee is given with a copy From tape recorder, and After that, a seal shall be placed on the original tape in the presence of the person being questioned and his lawyer if present, and shall be signed by the Prosecutor, the person being questioned and his counsel if present.

The Statute provided that the Prosecutor had the authority to question the accused at the preliminary investigation stage, but did not address the manner and manner in which the Prosecutor interrogated the accused, but through the procedural rules and rules which the accused was required to attend. During the interrogation phase.

The International Criminal Court has restricted the Prosecutor to the request for leave and has the right to initiate investigations only after authorization by the Pre-Trial Chamber. If the Pre-Trial Chamber refuses to authorize an initial investigation, because it is not convinced of the seriousness of the information submitted to it by the Prosecutor, The refusal of the Prosecutor to submit a subsequent application to the Chamber and is based on new facts and evidence for the purpose of opening an investigation on article 15 (5) of the Statute.

Procedural steps for the Prosecutor of the International Criminal Court to request Investigation:

The Prosecutor shall make a written submission to the Pre-Trial Chamber detailing the basis for the request for authorization of the investigation and shall inform the Pre-Trial Chamber of the information provided by the State requesting the referral of the case to the International Criminal Court and those requested by the Prosecutor from that State as additional information, Which was based on the request for permission to proceed with the investigation

Determining the application for permission to initiate an

investigation:

Rule 55 of the Rules of Procedure and Evidence sets forth the procedural steps for deciding and passing a judgment on the request for authorization by the Pre-Trial Chamber and the submission of its judgment on that matter and the basis on which it was based on the petitioning Prosecutor and the requesting State Party without the above- But stipulated that this should be done "as soon as possible.

The role of the Prosecutor in hearing witnesses.

The certificate is one of the most important evidence in criminal law and comes immediately after recognition. It is "an accepted means of evidence before the International Criminal Court. The Statute does not provide for a mechanism to compel witnesses to appear before the court." Therefore, the International Criminal Court That the right to be heard by the Pre-Trial Chamber and also by the Prosecutor is granted under article 15 (2) of the Regulations), the Prosecutor shall analyze the seriousness of the information received and may for this purpose seek additional information from States, United Nations organs or intergovernmental organizations Or non-governmental organizations, or any other reliable sources that it deems appropriate, and may receive written or oral testimony at the seat of the Court.

The Statute allows witnesses to be heard and interrogated at the same time. During the hearing of the Pre-Trial Chamber, witnesses are entitled to testify by means of oral or audiovisual technology provided that such a technology allows the witness to be heard at the time of testimony by the Prosecutor, the defense or the Chamber itself Rule 67 (1) of the Rules of Procedure and Evidence, which is intended to question the witness in his or her information

Role of the Prosecutor in gathering evidence.

"The Statute of the International Criminal Court (ICC) adopts the basic rule of criminal trials under the presumption of innocence until a firm evidence of criminalization or conviction is established. The burden of proof lies with the Prosecutor. The Court does not seek to gather evidence and evidence, but rather to weigh its value and scope, and that suspicion is in the interest of the wrongdoers "

"The role of the prosecutor in this court is different from the previous international criminal tribunals when collecting evidence. The former courts followed the common law system where the prosecutor's task is to collect evidence only without evidence of innocence, unlike the International Criminal Court Evidence of innocence and accusation as in the civil law system. Therefore, the Prosecutor of the Court shall not be a litigant in the proceedings. On the contrary, when evidence appears that reveals or acquires or can be used by the accused, it shall be disclosed "in accordance with article 67 (2) (In addition to any sibling cases) The Prosecutor shall disclose, as soon as possible, the evidence in his or her possession which is believed to show or tend to show the innocence of the accused or to mitigate his guilt or that may affect the credibility of the prosecution evidence. Doubt in the application of this paragraph separates the court in the matter.

"The Rome Statute is thus far more advanced in comparison to the former international criminal tribunals, which is in favor, since the purpose of the Court is to administer justice internationally, and the unjust conviction of a defendant undermines that end and casts doubt on the credibility of the Court.

The role of the Prosecutor of the International Criminal Court in obtaining warrants of arrest and detention.

The powers of the Attorney-General come in the application for arrest warrants. Article 58 (1) of the Statute provides that

The Pre-Trial Chamber shall, at the time of the initiation of the investigation and at the request of the Prosecutor, issue an arrest warrant if, upon examination of the request and evidence or other information provided by the Prosecutor, There are reasonable grounds to believe that a person has committed a crime within the

jurisdiction of the Court, or that the arrest of the person appears necessary

To ensure that he is present before the Court, or to ensure that he does not obstruct or endanger the investigation or the proceedings of the Court, Or where applicable, to prevent a person from continuing to commit that crime or to prevent the commission of a related offense within the jurisdiction of the Court and the same circumstances arise

The Pre-Trial Chamber shall issue an order or decision to arrest the accused, at the request of the Prosecutor, and upon examination of the request, there are reasonable grounds that the person has committed an offense within the jurisdiction of the Court, His presence before the court after proceeding with the investigation if he deems it necessary to prevent the obstruction of the investigation or to prevent the accused from continuing his crimes. The importance of the arrest warrant is that the accused must be brought before the court. This may require substantial cooperation between the court and the reserving State.

Pre-trial proceedings of the Prosecutor.

The Prosecutor plays an important role before the Trial Chamber in the pre-trial phase. This was elaborated in detail in the Rules of Procedure and Evidence. The most important thing was the Prosecutor's power to request the Trial Chamber to defer trial in accordance with rule 132.1 of the Rules of Procedure and Evidence, The Prosecutor may submit a written request to the Trial Chamber before the commencement of the trial to decide on any matter relating to the conduct of the proceedings. At the commencement of the trial, the Chamber shall ask the Prosecutor or the defense if they have any objections or observations regarding the conduct of the proceedings taken prior to the trial The confirmation of the charges shall not be admissible and no objections or observations may be raised or presented again on a later occasion during the proceedings without the permission of the Chamber conducting the proceedings. The Trial Chamber may, at the request of the Prosecutor, decide on matters that may arise during the trial in accordance with Of rule 134 of the Rules of Procedure and Evidence

Preliminary proceedings before the International Criminal Court.

The Prosecutor has a role to play in the trial stage, in accordance with the Statute of the International Criminal Court. "He has the authority to prosecute, he reads the charges document, is entitled to ask questions at the trial, and makes statements about the evidence against the accused and is entitled to submit his / In accordance with article 42/1 of the Statute

Pre-trial proceedings "may not be absent, at the time of the confirmation of the charges before the trial, and the content of such proceedings shall be evidence of the accused through the pre-trial chamber

The stage of approving charges.

"The Pre-Trial Chamber shall, as provided for in article 61 of the Statute, hold a hearing to confirm the charges on which the Prosecutor intends to seek trial. The hearing shall be held in the presence of the Prosecutor, the accused and his counsel".

However, the Pre-Trial Chamber may, at the request of the Prosecutor or on its own initiative, hold a hearing in the absence of the person charged, in order to confirm the charges on which the Prosecutor intends to request the trial

Finally, in the final stage, the Pre-Trial Chamber shall notify the Prosecutor, the accused and his counsel of their decision to confirm the charges. They shall be referred to the Trial Chamber and then to the Presidency and shall be accompanied by the minutes of the Pre-Trial Chamber. When the Presidency establishes a Trial Chamber and transmits the case to it, Of the Trial Chamber. The Presidency may

also refer the case to another Trial Chamber previously established

Conclusion

The powers of the Prosecutor of the International Criminal Court have been found to be somewhat restricted in certain matters, and this may be somewhat useful because the jurisdiction of the International Criminal Court concerns serious international crimes affecting the sovereignty of States. These powers have to be restricted, particularly when the Prosecutor conducts investigations in States Because of course it affects the sovereignty of the state, and to request the arrest of the accused, whether he is a layman or a person of influence in the state.

However, the prosecutor may use his means and the court's powers to achieve political goals motivated by the desire of some influential countries and covered by the legal legal cover. This will bring international justice to its content and open the way for distrust of this court and its organs.

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