John Lukacs
Analyses on Global Affairs
2026/10

30 October 2026

# Melinda SZAPPANYOS – Zoltán VÖRÖS: US vs. ICC – Strategic or whimsical consideration?[1]

**Executive Summary**

- The US's increasingly hostile approach towards the ICC is not merely a product of President Trump's unpredictable decision-making but reflects the traditional effort to shield US personnel and allies from international criminal accountability.
- The US has developed a multifaceted set of legal, political, diplomatic and economic instruments to limit the ICC's jurisdiction and influence its activities.
- Beyond US–ICC relations, the growing political pressure on the ICC and the withdrawal initiatives of several states threaten the international criminal justice system and, ultimately, the protection of victims of international crimes.
- The sanctions targeting the ICC in October 2026 represent a further escalation from debates on individual accountability to institutional confrontation. While Washington's actions follow a recognizable strategic logic, their long-term effects on American influence, multilateral cooperation, and the international legal order remain uncertain.

**The International Criminal Court (ICC) evaluated the sanctions imposed on its President and a Trial Lawyer by the United States of America (US) in the summer of 2026 as "[f]lagrant attack against the independence of an impartial judicial institution".[2] In October, the Trump administration issued further financial sanctions against the ICC. These are not the first measures the US adopted against the ICC, but fit into a tendency starting even before Trump became president for the first time. After briefly introducing the ICC, the present analysis intends to draw up a quick timeline of these measures and put them in an international context. The ultimate answer we seek, and what the international community is desperately trying to figure out: „what is the point?" Is there a rational behind these decisions? Is it a legal and/or political consideration, which actually makes sense for the US? Or is it simply a whim in President Trump's long line of whimsical decisions?**

## 1. Introduction

The US has not always been set against the kind of work the ICC does today; in fact, the first international trial for international crimes[3] was partly set up by US president

[1] Melinda SZAPPANYOS (szappanyos.melinda@pte.hu; szappanyos.melinda@uni-nke.hu), Assistant Professor at University of Pécs, Faculty of Humanities and Social Sciences, Department of Political Science and International Studies and at Ludovika University of Public Service, Faculty of Public Governance and International Studies, Department of International Law; Zoltán VÖRÖS (voros.zoltan@uni-nke.hu), Senior Research Fellow, China and Indo-Pacific Region Research Program at the John Lukacs Institute for Strategy and Politics, Ludovika University of Public Service; Associate Professor at the Department of Political Science and International Studies, Faculty of Humanities and Social Sciences, University of Pécs.

[2] ICC: The ICC strongly rejects US sanctions against the institution [online, 2026.10.16]

[3] Under „international crimes" in the present analysis we understand three of the crimes under the jurisdiction of the ICC: crimes against humanity, genocide and war crimes. Agression as the fourth crime described in the Rome Statute has special jurisdictional rules.

Truman by appointing Robert H. Jackson, US representative to prepare the trial.[4] As a result of this preparation, the allies concluded an "[A]greement […] for the prosecution and punishment of the major war criminals of the European axis, whereas the United Nations have from time to time made declarations of their intention that war criminals shall be brought to justice…"[5] When it comes to international crimes and their punishment in international law after Nüremberg, we traditionally distinguish between different milestones. Some of them were adopted, created with the support and active participation of the US:

- The Genocide Convention[6] was adopted in 1948 and signed by the US on 11 December (though the ratification happened only on 25 November 1988).[7]
- The international tribunals created by the United Nations Security Council (UNSC), the International Criminal Tribunal for Yugoslavia (ICTY),[8] and the International Criminal Tribunal for Rwanda (ICTR)[9] needed a yes from the US, as permanent member of the UNSC with veto power, to be set up.
- The Geneva Conventions[10] and their Additional Protocols[11] were signed by the US immediately after their adoption in 1949, 1977, and 2005, though additional protocols I and II were not ratified by it.
- Finally, the Rome Statute creating the ICC was adopted in 1998,[12] which treaty was signed by the US later, in 2000. However, on 6 May 2002, the US government informed the Secretary-General of the UN, as the depositary of the Rome Statute, that "the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000. The United States requests that its intention not to become a party, as expressed in this letter, be reflected in the depositary's status lists relating to this treaty."[13]

It is generally stated that the US shows a hostile attitude towards the ICC. However, the situation is not that simple and has not always been like this. In fact, the US significantly contributed to the drafting of the Rome Statute. This drafting was extremely difficult, especially reaching a compromise among the interested parties, particularly in questions related to the jurisdiction of the ICC (including the elements of crimes to be prosecuted before it).[14] Still, the US proudly listed the successes they had during the

[4] Executive Order 9547: Providing for Representation of the United States in Preparing and Prosecuting Charges of Atrocities and War Crimes Against the Leaders of the European Axis Powers and their Principal Agents and Accessories 2 May 1945 [online, 2026.08.25]
[5] Nuremberg Trial Proceedings Vol. London Agreement of August 8th 1945 [online, 2026.08.25] Preamble
[6] Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948, entered into force 12 January 1951) 78 UNTS 277.
[7] Ibid.
[8] UNITED NATIONS SECURITY COUNCIL: Resolution 827 (1993), S/RES/827. [online, 2026.09.13]
[9] UNITED NATIONS SECURITY COUNCIL: Resolution 955 (1994), S/RES/955. [online, 2026.09.13]
[10] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea; Geneva Convention relative to the Treatment of Prisoners of War; Geneva Convention relative to the Protection of Civilian Persons in Time of War (all adopted 12 August 1949, entered into force 21 October 1950). ICRC: International Humanitarian Law Database. [online, 2026.09.13]
[11] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977, entered into force 7 December 1978); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) (adopted 8 June 1977, entered into force 7 December 1978); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) (adopted 8 December 2005, entered into force 14 January 2007). ICRC: International Humanitarian Law Database. [online, 2026.09.13]
[12] Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3. The US publicly acknowledged that they voted against the adoption of the text. ARSANJANI, Mahnoush H.: The Rome Statute of the International Criminal Court. *The American Journal of International Law* 93:1 (1999) 22–43. p. 22.
[13] Communication of the United States of America, 6 May 2002. [online, 2026.09.13]
[14] KIRSCH, Philippe – HOLMES, John T.: The Rome Conference on an International Criminal Court: The Negotiating Process. *The American Journal of International Law* 93:1 (1999) 2–12. p. 4.

negotiations on several occasions,[15] besides the instances, of course, when the negotiations did not reflect its position.[16] And this latter seems to be the root cause of the hostility since the adoption of the Rome Statute: the solid convinction of the US that if an international forum is not given jurisdiction explicitly over certain individuals, it should not have one in any circumstances.

**2. The ICC – What does it do? What is the risk in it?**

Before attempting to determine the US's problem with the ICC, it is prudent to briefly review what the ICC actually is and what is the potential risk in its activity for the US (or any other country for that matter). While the mission of the ICC, namely making sure that the perpetrators of international crimes (genocide, crimes against humanity, war crimes, and crime of aggression)[17] are held accountable, is well-known, its jurisdiction being as complex as it is, requires a quick summary. First, under the principle of complementarity, a case is generally inadmissible before the ICC if it is genuinely being investigated or prosecuted by a State with jurisdiction over it, subject to the conditions set out in Article 17 of the Rome Statute.[18] Second, the ICC can exercise its jurisdiction over a national of a State party or if the crime has occurred on the territory of a State party.[19] Additionally, a State can give jurisdiction to the ICC over particular crimes with a declaration, while not becoming a State party to the Statute.[20] The ICC may exercise its jurisdiction based on the initiative of either a State party, the UNSC, or the "Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court".[21]

How could the ICC then have jurisdiction over US nationals? Either the US ratifies the Rome Statute, thereby giving jurisdiction to the ICC if a US national commits an international crime anywhere, including on the territory of the US itself. Without ratification, a US national can be under scrutiny if they commit international crime(s) on any of the State Parties (unless, there is a procedure against them in the US). Finally, again, without ratification of the Rome Statute, the UNSC can decide to give jurisdiction to the ICC, the latter being only a theoretical opportunity, with the US being a permanent member of the principal organ.

In conclusion, the US cannot completely avoid the jurisdiction of the ICC, even if it does not become a State party. One notable example is the investigation of the situation in Afghanistan, started by the Prosecutor. Although the ICC occasionally halted the investigation, the final conclusion is that the investigation may continue "in relation to alleged crimes committed on the territory of Afghanistan in the period since 1 May 2003, *as well as other alleged crimes that have a nexus to the armed conflict in Afghanistan and are sufficiently linked to the situation and were committed on the territory of other State Parties* in the period since 1 July 2002".[22] It is important to note the last condition for jurisdiction: if a crime is committed related to the conflict but not committed on the territory of a State party, for example,

[15] SCHEFFER, David J.: Developments at Rome Treaty Conference, Testimony Before the Senate Foreign Relations Committee, 23 July 1998. [online, 2026.09.18]
[16] SCHEFFER, David J.: "International Criminal Court: The Challenge of Jurisdiction", Address at the Annual Meeting of the American Society of International Law, 26 March 1999. [online, 2026.09.18]
[17] Rome Statute of the International Criminal Court, Article 5.
[18] Ibid, Article 17.
[19] Ibid, Article 12, para 2.
[20] Ibid, Article 12, para 3.
[21] Ibid, Article 13 and Article 15, para 1.
[22] ICC APPELS CHAMBER: Judgment on the Prosecutor's appeal against the decision of Pre-Trial Chamber II entitled "Decision pursuant to article 18(2) of the Statute authorising the Prosecution to resume investigation" No. ICC-02/17-218, 4 April 2023 [online, 2026.09.18]

the US, the ICC has no jurisdiction. Thus, the alleged torture on US territory cannot be investigated by the ICC.

In 2003, Lincoln P. Bloomfield, Jr., Assistant Secretary for Political-Military Affairs summed up why the US is so against the ICC in general: „the Court's lack of ready accountability to governments legitimately empowered to represent the people's interests".[23] But it should be mentioned that this concern is part of a bigger picture, where it was feared that accepting such criminal accountability „would needlessly subordinate American foreign policy to an outside world often sceptical of, if not outrightly hostile to, American objectives abroad".[24] This fear may have been constant, since apparently no US president decided to change the general attitude towards the ICC, not George W. Bush, not Obama. While Biden eased the sanctions of Trump, he did not consider joining the ICC either. It is important to note that it was not solely dependent upon their personal opinion, since the US Congress insisted in an Act in 2001 that accession to the ICC is possible only with an international treaty, and the rule is still in force.[25] The geniuine hostility is still identified with Trump. So the question to consider is, why Trump is more against the ICC than other presidents before. The answer may be in the historical circumstances. No president before Trump had to face serious accusations about the potential crimes committed in massive proportions, as Trump's US was, related to Afghanistan.

## 3. ICC actions disliked by the US

### *3.1. Afghanistan*

From 2003, the ICC has jurisdiction over crimes committed in the territory of Afghanistan after the State became a State Party to the Rome Statute. In its 2016 report on preliminary examination activities, the Office of the Prosecutor concluded that there is a reasonable basis to believe that one group of crimes under the ICC's jurisdiction could be the "[W]ar crimes of torture and related ill-treatment, by US military forces deployed to Afghanistan and in secret detention facilities operated by the Central Intelligence Agency, principally in the 2003-2004 period, although allegedly continuing in some cases until 2014."[26] The report also lists the potentially committed crimes, such as „techniques amounting to the commission of the war crimes of torture, cruel treatment, outrages upon personal dignity, and rape," and that they were committed „as part of approved interrogation techniques" to gain information necessary for the US military.[27] Prosecutor Fatou Bensouda requested the Pre-Trial Chamber III to authorize the commencement of an investigation in 2017.[28] While the request was initially denied, the Appeals Chamber of the ICC finally authorized the investigation in 2020.[29] Even when the idea first emerged in 2017, the US's 2018-19 reaction was vehement, claiming that such procedure would be unjustified to the point,

[23] BLOOMFIELD, Lincoln P., Jr.: The U.S. Government and the International Criminal Court 12 September 2003 [online, 2026.10.08]
[24] BARNIDGE, Robert P. Jr.: The american servicemembers' protection act and article 98 agreements: legal analysis and case for constructive engagement with the international criminal court. *Tilburg Foreign Law Review* 11:4 (2004) 738–755. p. 740.
[25] Original text: H.R.3427 - Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001106th Congress (1999-2000) [online, 2026.10.15] Section 705. The text currently in force: 22 U.S.C. 7401: Restriction relating to United States accession to the International Criminal Court [online, 2026.10.15] §7401. Restriction relating to United States accession to the International Criminal Court, point a)
[26] ICC: Report on Preliminary Examination Activities (2016), 14 November 2016, para 198. point c)
[27] Ibid, paras 211-212.
[28] ICC PRE-TRIAL CHAMBER: Situation in the Islamic Republic of Afghanistan. ICC-02/17-7-Red, 20 November 2017.
[29] ICC THE APPEALS CHAMBER: Situation in the Islamic Republic of Afghanistan. ICC-02/17-138, 5 March 2020.

where the US national security advisor John Bolton threatened ICC personnel.[30] The concrete legal measures followed closely, first by visa restrictions (see below).

At the moment, there are four arrest warrants issued against Taliban leaders (crime against humanity of persecution on gender grounds),[31] and none against US personnel.

### *3.2. State of Palestine*

While Israel is not a State Party to the Rome Statute, the Pre-Trial Chamber of the ICC has established its jurisdiction over Gaza and the West Bank, including East Jerusalem.[32] While the jurisdcition of the ICC was clear over other parts of the State of Palestine,[33] it required some consideration over the occupied territories. The decision was based first on the fact that Palestine joined the Rome Statute based on the procedural rules.[34] Also, after analysing relevant United Nations General Assembly resolutions and expressing that „disputed borders have never prevented a State from becoming a State Party to the Statute" the Chamber came to the aforementioned conclusion with the dissenting opinion of Péter Kovács.[35] The investigation into the crimes committed in this territory began in 2021. The current events (namely, what happened during and after the 7 October terrorist attack) are being assessed in the same investigation. On 20 May 2024, the Prosecutor applied for arrest warrants against five individuals: three Hamas leaders and two Israeli officials. On 21 November 2024, Pre-Trial Chamber I issued warrants against Benjamin Netanyahu, Yoav Gallant, and Mohammed Deif. The applications concerning Yahya Sinwar and Ismail Haniyeh had been withdrawn following confirmation of their deaths. For the two Israeli citizens, the charges include war crimes (starvation as a method of warfare) and crimes against humanity (murder, persecution, and other inhumane acts).[36]

## 4. Measures against the ICC

Following the US's 2002 declaration that it did not intend to become a party to the Rome Statute, the US gradually introduced new legislative and policy steps against the ICC. When briefly describing the measures, both the legal implications and the potential strategy in the background will be analyzed.

### *4.1. American Servicemembers' Protection Act (ASPA)[37]*

Enacted in 2002, the Act shows remarkable hostility towards the ICC and gives relatively great power to the US President in making decisions on its jurisdiction and cooperation with it. The main points of the Act are listed below:

- Section 2004: No authorities can respond to the request for cooperation of the ICC; extradition is prohibited to the ICC; the ICC can receive no support from the US authorities; the ICC may receive no financial support; no legal assistance (based on existing mutual assistance treaties) is provided for the

[30] John Bolton speech, cited by CORMIER, Monique: Canthe ICC Exercise Jurisdiction over US Nationals for Crimes Committed inthe Afghanistan Situation? *Journal of International Criminal Justice* 0 (2018) 1–20. p. 3.
[31] ICC: Situation in the Islamic Republic of Afghanistan. ICC-02/17 [online, 2026.10.09]; ICC PRESS RELEASE: ICC Pre-Trial Chamber II unseals four arrest warrants in Situation in Afghanistan. 5 October 2026 [online, 2026.10.09]
[32] ICC PRE-TRIAL CHAMBER I: Situation on the State of Palestine. ICC-01/18-143 5 February 2021 [online, 2026.10.09] para 122. paras 115-118.
[33] ICC: State Partiest o the Rome Statute, State of Palestine [online, 2026.10.09]
[34] ICC PRE-TRIAL CHAMBER I: Situation on the State of Palestine. (2021) para 112.
[35] Ibid, paras 115-118.
[36] ICC: Defendants. [online, 2026.10.09]
[37] American Servicemembers Protection Act of 2002, 2 August 2002. [online, 30 September, 2026] For the sake of using up-to-date information, the present analysis primarily works with the consolidated version of the ASPA (29 December 2022 was the last amendment).

ICC; the ICC is not allowed to conduct any investigation in the US (the situation in Ukraine is an exception, if the Attorney General approves).

- Section 2005: With a few exceptions (explicit immunity of servicemen approved by the UNSC), US servicemen do not participate in actions of peacekeeping or peace enforcement under VI and VII Chapters of the UN Charter.
- Section 2006: No "classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the" ICC can be transferred to the ICC or any State Party.
- Section 2008: „The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court". Subsection (b) lists covered US persons,[38] covered allied persons,[39] and „[I]ndividuals detained or imprisoned for official actions taken while the individual was a covered United States person or a covered allied person".

The ASPA did not gain undivided support from the international community, and American scholars heavily criticized it from both US constitutional law and efficiency perspectives.[40] Faulhaber even argued that "a bill that redefines military aid and antagonizes potential future allies is not in America's national interest."[41]

One other point of criticism should also be mentioned: in the original text of the ASPA, Section 2007 rejected military assistance for States Parties to the ICC, unless they had concluded an Article 98 agreement with the US.[42] However, this section has since been repealed.

### *4.2. Article 98 / bilateral non-surrender agreements*

The second paragraph of Article 98 of the Rome Statute starts with declaring that "[T]he Court may not proceed with a request for surrender which would require the requested State to act inconsistently with its obligations under international agreements…". According to the US view, concluding such an agreement with the State parties of the Rome Statute would prevent the surrender of a person intended to be protected by the US.[43] Romania was the first to sign such a treaty with the US, but this number grew to 63 by the end of September 2003.[44] To date, the US has signed more than 100 such agreements.[45] However, several states categorically refused to sign an Article 98 agreement in the form suggested by the US, while others set conditions to do so.[46] As the ASPA, these agreements were the subject of criticism, one of which is identical to the one mentioned above: blackmailing. Not only military assistance from the

[38] „Members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court." Ibid, Section 2013 (4)
[39] „Military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major nonNATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the ICC." Ibid, Section 2013 (3)
[40] BARNIDGE (2004)
[41] FAULHABER, Lilian V.: American servicemembers' protection act of 2002. *Harvard Journal on Legislation 40:2 (2003)* 537–558.
[42] ASPA Original text. 2002.
[43] BARNIDGE (2004) p. 744.
[44] Ibid, p. 745
[45] CONGRESSIONAL RESEARCH SERVICE: Article 98 Agreements and Sanctions on U.S. Foreign Aid to Latin America, 22 March 2007 [online, 2026.10.08]
[46] ZAPPALÀ, Salvatore: The Reaction of the US to the Entry into Force of the ICC Statute: Comments on UN SC Resolution 1422 (2002) and Article 98 Agreements. *Journal of International Criminal Justice* Vol. 1 (2003) 114–134. p. 126.

US was endangered by the non-conclusion of an Article 98 agreement, but other forms of aid as well, following the Nethercutt Amendment.[47] This policy was particularly visible in relation to Latin American countries. However, the Bush administration started to reverse this strategy in 2006.[48]

### *4.3. Resolution 1422 of the UNSC[49]*

The US-promoted UNSC resolution establishes a one-year moratorium on investigations related to the current and former officials of non-state parties to the Rome Statute serving in UN operations.[50] It also expressed the intention to renew this request yearly as long as the UNSC deemed it necessary.[51] Furthermore, it orders Member States to act accordingly.[52] The resolution was adopted under Chapter VII of the UN Charter and was approved unanimously to prevent the US from using its veto power for all UN peacekeeping operations, as it had threatened to do so.[53] The request was renewed one year later.[54] While the US intended to continue the regime, it failed to gain the necessary political support to do so.[55] Alongside its efforts to secure the annual renewal of Resolution 1422, the US also promoted situation-specific jurisdictional exemptions, notably in UNSC Resolution 1497 (2003)[56] concerning Liberia and Resolution 1593 (2005)[57] concerning Darfur, Sudan. Simply put, the resolutions created exclusive jurisdiction of the contributing State.[58] Both strategies were subjected to severe legal criticism, ranging from the claimed lack of competence of the UNSC under Chapter VII to the compatibility of the resolutions with Article 16 of the Rome Statute.[59]

### *4.4. Visa restriction[60] and sanctions against ICC officials[61] and the ICC itself*

Two years after the Prosecutor had requested an investigation on the situation in Afghanistan in 2017, Secretary of State Michael Pompeo announced a policy of visa restrictions directed at individuals considered directly responsible for an ICC investigation of US personnel, under the reasoning that their "entry or proposed activities in the United States would have potentially serious adverse foreign policy consequences."[62] After the ICC Appeals Chamber authorized the Afghanistan investigation in March 2020, on 11 June 2020 President Trump issued Executive Order (E.O.) 13928,[63] and with it authorized economic

[47] Consolidated Appropriations Act, *2005*, Pub. L. No. 108-447, div. D, § 574, 118 Stat. 2809, 3036–3037 (2004).
[48] Congressional Research Service: (2007) p. 7.
[49] UNITED NATIONS SECURITY COUNCIL: Resolution 1422 (2002), S/RES/1422. [online, 2026.10.09]
[50] Ibid, para 1.
[51] Ibid, para 2.
[52] Ibid, para 3.
[53] STAHN, Carsten: The Ambiguities of Security Council Resolution 1422 (2002). *European Journal of International Law* 14: 1 (2003) 85–104. pp. 85–86.
[54] UNITED NATIONS SECURITY COUNCIL: Resolution 1487 (2003), S/RES/1487. [online, 2026.10.09]
[55] DEPARTMENT OF PUBLIC INFORMATION: Yearbook of the United Nations, 2004 Vol. 58, p. 89.
[56] UNITED NATIONS SECURITY COUNCIL: Resolution 1497 (2003) S/RES/1497. [online, 2026.10.08]
[57] UNITED NATIONS SECURITY COUNCIL: Resolution 1593 (2005) S/RES/1593. [online, 2026.10.08]
[58] ROSCINI, Marco: The Efforts to Limit the International Criminal Court's Jurisdiction Over Nationals of Non-Party States: A Comparative Study. *The Law & Practice of International Courts and Tribunals* 5:3 (2006) 495–527.
[59] DEEN-RACSMÁNY, Zsuzsanna: The ICC, Peacekeepers and Resolution 1422: Will the Court Defer to the Council? *Netherlands International Law Review* XLIX (2002) 353–388. EL ZEIDY, Mohamed: The United States Dropped the Atomic Bomb of Article 16 of the ICC Statute: Security Council Power of Deferrals and Resolution 1422. *Vanderbilt Journal of Transnational Law* 35 (2002) 1503–1544. MOKHTAR, Aly: The Fine Art of Arm-Twisting: The US, Resolution 1422 and Security Council Deferral Power under the Rome Statute. *International Criminal Law Review* 3 (2003) 295–344.
[60] U.S. DEPARTMENT OF STATE: 2019 Digest of U.S. Practice in International Law [online, 2026.10.08]
[61] U.S. DEPARTMENT OF STATE: Actions to Protect U.S. Personnel from Illegitimate Investigation by the ICC [online, 2026.10.08] U.S. DEPARTMENT OF STATE: 2020 Digest of U.S. Practice in International Law [online, 2026.10.08]
[62] U.S. DEPARTMENT OF STATE (2019) p. 96-97.
[63] EXECUTIVE ORDER 13928—Blocking Property of Certain Persons Associated With the International Criminal Court [online, 2026.10.08]

sanctions against individuals involved in the investigation. Consequently, "[I]n September, sanctions were imposed under E.O. 13928 on ICC Prosecutor Fatou Bensouda for having directly engaged in an effort to investigate U.S. personnel, and the ICC's Head of the Jurisdiction, Complementarity and Cooperation Division Phakiso Mochochoko for having materially assisted Prosecutor Bensouda."[64] In addition, visa restrictions were extended to family members.[65] On 1 April 2021, President Biden revoked E.O. 13928, and on 2 April Secretary of State Antony Blinken announced the termination of both the sanctions and the separate 2019 visa-restriction policy.[66] However, Trump was far from being finished with the ICC.

In 2025, President Trump returned to the sanction regime he established a few years back. His E.O. 14203 explicitly defines itself as a reaction to the ICC's "illegitimate and baseless actions targeting America and our close ally Israel".[67] The new regime brings back the visa restriction policy and asset blocking. In February 2025, only Karim Khan, Prosecutor of the ICC was on the list of targeted persons, then the list grew with several people, judges, prosecutors, a UN special rapporteur and some NGOs.[68] In December 2025 and August 2026 new individuals were targeted by asset blocking.[69]

On 9 October 2026, the US government took further steps and, following the sanctions imposed on individuals associated with the ICC, announced sanctions against the ICC itself, as stated by Secretary of State Marco Rubio.[70] The Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury has added the ICC to the Specially Designated Nationals and Blocked Persons List pursuant to E.O. 14203.[71] Although certain transactions have been authorized with general licenses, the designation clearly intensifies Washington's pressure on the institution, openly stating the demand for the ICC's abolition. As Rubio put it: "Our message is clear: the United States and its people are not subject to the jurisdiction of the ICC. Both parties agree on this, but only President Trump has the resolve to take the action needed to end this threat for good. Either the ICC will end its threats, or we will end the ICC."[72] Unlike the previous measures targeting individual judges, prosecutors, or other persons related to the ICC, the new steps affect broader financial and operational relationships in the case of the criminal forum.

What is particularly noteworthy is the timing of the announcement: the sanctions were introduced, hardly by coincidence, just a few hours after the 2026 Nobel Peace Prize was awarded to Navi Pillay, a former ICC judge, who was recognized by the Norwegian body for her work in international justice.[73] The new sanctions and the Secretary of State's choice of words indicate increasing pressure on the ICC, further intensifying the dilemmas and questions regarding the future of multilateral institutions.

---

[64] U.S. DEPARTMENT OF STATE (2020) p. 143.
[65] Ibid, p. 141.
[66] U.S. DEPARTMENT OF STATE: Digest of United States Practice in International Law 2021 [online, 2026.10.08] p. 115.
[67] EXECUTIVE ORDER 14203 [online, 2026.10.08]
[68] The database available at: OFFICE OF FOREIGN ASSETS CONTROL: International Criminal Court-Related Sanctions [online, 2026.10.08]
[69] OFFICE OF FOREIGN ASSETS CONTROL: International Criminal Court-Related Sanctions Regulations 31 CFR part 528 GENERAL LICENSE NO. 11 Authorizing the Wind Down of Transactions Involving Certain Persons Blocked on December 18, 2025 [online, 2026.10.08]; OFFICE OF FOREIGN ASSETS CONTROL: International Criminal Court-Related Sanctions Regulations 31 CFR part 528 GENERAL LICENSE NO. 12 Authorizing the Wind Down of Transactions Involving Certain Persons Blocked on August 18, 2026 [online, 2026.10.08]
[70] U.S. DEPARTMENT OF STATE, OFFICE OF THE SPOKESMAN: Imposing Sanctions on the International Criminal Court. *US Department of State*, October 2026. [online, 2026.10.10]
[71] U.S. DEPARTMENT OF THE TREASURY, OFFICE OF FOREIGN ASSETS CONTROL (OFAC): Settlement Agreement between the U.S. Department of the Treasury's Office of Foreign Assets Control and Pegasus Worldwide Logistics; International Criminal Court Designation and General Licenses; Burma-related Designation Removal. *OFAC*, 9 October 2026. [online, 2026.10.10]
[72] U.S. DEPARTMENT OF STATE, OFFICE OF THE SPOKESMAN: Imposing Sanctions on the International Criminal Court. *US Department of State*, October 2026. [online, 2026.10.10]
[73] THE NORWEGIAN NOBEL COMMITTEE: Announcement, Nobel Peace Prize 2026. *nobelprize.org*, 9 October 2026. [online, 2026.10.10]

**5. Strategic rationale and the limits of US coercion**

Visible hostilities started in 2002, until then the US was actually engaged in the creation and set up of the ICC. By 2018, however, the sentiment changed radically, and the US used international institutions (both legal tools and international organizations, like the UNSC) to express its rejection of the ICC. Hostility was renewed with new methods with Donald J. Trump's first presidency, and although the Biden administration was more self-restraining, the basic standpoint did not change. Since Trump started his second term in 2025, US pressure on the ICC and its members of the international community has steadily increased. However, from the analysis, it seems clear that the sanctions introduced against the ICC personnel may not be whimsical, they all represent reactions to ICC activities.

Not whimsical, but maybe not even strategic. All scholars criticizing the hostile attitude of the US point out is that if the US is not engaged with the ICC, it will always have a very insignificant chance of influencing the rules being created and applied by the international community in international criminal law. Another remark made by several scholars is that if the Trump administration wishes to avoid the investigation of the ICC, it should take use of complementarity: if there is genuine action in holding perpetrators accountable under the State's jurisdiction, the ICC cannot act.[74]

From a broader geopolitical and global perspective, the clash between the US and the ICC can also be interpreted as a struggle over the transformation of world order processes and the dismantling of the previous rules-based world order.[75] Simultaneously, it raises the dilemma of how much international institutions will be able to maintain their independence in the new era. Washington's increasingly coercive and threatening approach may, therefore, be understood as an attempt to prevent international legal mechanisms from restricting the activities of American actors and strategic allies. In this logic, these measures are not necessarily irrational or merely interpretable as personal decisions of Donald Trump, but rather as part of a longer tradition aimed at maintaining American strategic autonomy.

At the same time, it is important to distinguish between the immediate effectiveness of these steps, their assessment, and their long-term strategic consequences. As can be seen from the initial reactions,[76] economic sanctions may limit the functioning of the ICC and increase the political costs of maintaining the institution, while these new sanctions could undermine the credibility of the broader international order, in which the US has traditionally played a leading role, at least within the rules-based world order. Washington, therefore, seems to be further weakening the institutional foundations of the international system,[77] which have so far provided it with significant influence. Consequently, the long-term and key question is not only whether the sanctions serve identifiable American interests but also whether the benefits of restricting the ICC outweigh the potential loss of institutional legitimacy and international cooperation.

While the hostility towards the ICC, or rather the non-cooperativeness or the lack of support is not unique to the US, the sanctions are. Until 2029, President Trump can make the life of the ICC and its

[74] CORMIER, p. 20.
[75] In this context, it is also worth presenting the American perspective that criticizes the quasi-abuse of these institutions: for example, the composition of the UN Human Rights Council.
[76] Al Jazeera: European states, Canada, Japan and UN back ICC against US sanctions. *Al Jazeera*, 9 October 2026. [online, 2026.10.10]
[77] VÖRÖS, Zoltán – TARRÓSY, István: Rendezetlen világrend: poszthegemón bizonytalanság és a helyi-regionális háborúk kockázata [Unstructured world order: Post-hegemonic uncertainty and the risk of local-regional wars]. In: VÖRÖS, Zoltán – TARRÓSY, István (eds.): Poszt-hegemón bizonytalanság – A globális rend eróziója és a regionális háborúk kockázata [Post-hegemonic uncertainty – The erosion of the global order and the risk of regional wars]. Budapest: Ludovika, 2027. Accepted for publication.

officials significantly more difficult, instead of taking the crimes potentially committed by US personnel seriously.

**6. Implications for international criminal justice and global order**

It is clear that as long as President Trump is in office, the relationship between the US and the ICC will remain non-cooperative. However, the US's hostility is not the biggest problem. It is even graver that several States fit into this tendency. Mali, Niger, and Burkina Faso shortly after establishing the Alliance of Sahel States (Alliance des Etats du Sahel) all declared their intention to withdraw from the Rome Statute.[78] Since then, even more States decided to do so,[79] apparently shortly after the US Secretary of State explained why the US „will dismantle the ICC—brick by brick."[80] The newest in the row is Naoero, whose president announced the intention in the 81st regular session of the UN General Assembly: "[S]imilarly Mr. President, a multilateral agency with which we see of increasing irrelevance today, namely the International Criminal Court, is one which calls for an order to end its participation and to revoke its membership. Before I depart New York, neither will be depositing our instruments of withdrawal with the Rome Statute repository."[81]

Washington's sanctions are also worth examining in the context of the transformation of the international system. The increasingly intense attacks on the ICC pose a challenge to the power and legitimacy of an institution created to promote accountability in international criminal law, and this trend is particularly significant in an international environment characterized by escalating geopolitical competition and growing uncertainty.[82] The US's position is particularly significant in this regard because if a player that has worked to maintain a rules-based international order takes action against institutions that seek to defend the norms of the international order, it can provide additional political legitimacy to those governments that wish to reduce their own international legal obligations – even if their fundamental motivations differ significantly.

However, the consequences remain uncertain; the new round of sanctions could accelerate institutional fragmentation but could also encourage those states committed to international criminal justice to strengthen cooperation and develop mechanisms that protect the ICC's independence.

As we briefly mentioned above, the reactions of traditional American allies reveal another dimension in this situation. Numerous European governments and other close American partners have reaffirmed their support for the ICC despite Washington's increasing sanctions.[83] The confrontation also demonstrates

[78] Joint Communique of the States of the AES Confederation Relating to the Withdrawal from rhe Rome Statute of the International Criminal Court [online, 2026.10.08]
[79] COALITION FOR THE INTERNATIONAL CRIMINAL COURT: Wave of Withdrawals and New US Campaign Threaten Victims' Access to Justice: The International Criminal Court Needs Immediate Action from Its States Parties [online, 2026.10.08]
[80] RUBIO, Marco: Why We're Dismantling the ICC 14 July 2026 [online, 2026.10.08]
[81] ADEANG, David Ranibok: Full Statement at the General Assembly, Transcript & summary 22 September 2026 [online, 2026.10.08]
[82] The establishment and functioning of the ICC represented a truly significant advancement in holding individuals accountable for international crimes. However, even during the period of the rules-based international order, its operations have already revealed inequalities: the absence of major powers has allowed common legal norms to not imply equal accountability. Previous investigations into the alleged crimes of American soldiers, and their subsequent sidelining, highlight the limitations of holding major powers accountable. The arrest warrants issued against Putin, Netanyahu, and Gallant, however, indicate the court's independence, but their execution depends on the cooperation of states. Thus, the ICC is simultaneously capable of challenging the advantages of great powers while also demonstrating inequality through accountability. Overall, the ICC's results are real, but its effectiveness and credibility are weakened when states only support international justice in cases against their adversaries. The dismantling of rule-based structures reinforces this duality, while Washington's sanctions threaten the organization's effectiveness (and operation).
[83] Al Jazeera: European states, Canada, Japan and UN back ICC against US sanctions. *Al Jazeera*, 9 October 2026. [online, 2026.10.10]

that the debate cannot simply be interpreted as a clash between Western powers and states that criticize the existing international order and are interested in changing the status quo; it also generates debates within the transatlantic community regarding the future of international institutions and international law. All these reactions further raise the question of how the previous disagreements in the Western bloc, which emerged in relation to the US's international role, such as criticisms of NATO or the Iran war, will progress in the face of the opposition observed in the field of international criminal justice.

This tendency of escalation is unlikely to end, as long as President Trump dedicates long minutes in his important speech in front of the UNGA to question the importance, integrity, and lawfulness of the ICC: "[T]he United States is equally opposed to the out of control institution known as the International Criminal Court. We will never allow U.S. service members or anyone else to be investigated or given show trials by an anti-American tribunal with no jurisdiction over us or an evil group of people. I call on all nations that are members of the ICC to officially resign from this rogue institution immediately."[84]

The confrontation and debate between the US and the ICC ultimately serve as a stress test for the Western alliance system maintained by Washington within the new world order, as well as a dilemma regarding whether international institutions can maintain their independence when their decisions conflict with the interests of major powers. Based on the American sanctions of October 2026, economic pressure can be applied not only against governments and individuals but also against the institutional infrastructure of international justice. However, the long-term consequences extend beyond the ICC. The questioning of the enforcement of international criminal law by great powers casts doubt on the credibility of international accountability mechanisms; thus, the international reactions, steps, and the future of the ICC are also a test of the newly reformed international order's ability to reconcile sovereignty, power, and accountability.

[84] TRUMP, Donald J.: Full Statement at the General Assembly, Transcript & summary 22 September 2026 [online, 2026.10.08]

The John Lukacs Analyses on Global Affairs discusses the most important issues related to the transformation of the global political and economic order. The series aims to contribute to the discourse on the changing world order through scientifically rigorous analyses and to shed light on the dynamics of international relations. The analyses examine great power competition, the transformation of global political structures, and the foreign policies of key actors shaping the 21st-century geopolitical landscape.

The analyses are jointly edited by the America Research Program and the China and Indo-Pacific Region Research Program, both of which operate under the John Lukacs Institute for Strategy and Politics. The authors of the analyses are primarily the researchers of the Institute and members of its research groups, but external experts may also participate, provided they adhere to the academic requirements. The analyses are available in both English and Hungarian and aim to offer valuable and useful insights into the changing world order for the academic community, policymakers, and the wider public.

Publisher:

John Lukacs Institute for Strategy and Politics
Eötvös József Research Centre
Ludovika University of Public Service

ISSN: 3094-1148

Editors:
Gábor Csizmazia, Viktor Eszterhai, Balázs Tárnok

Professional Reviewer:
the Editors

© Author

Publisher's contact information:
1441 Budapest, P.O. Box 60.
Address: 1083 Budapest, Ludovika tér 2.
Tel: +36 1 432-9000
Email: jli@uni-nke.hu