



**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

# The Role and the Powers of the Office of the Prosecutor of the International Criminal Court

**Structure of the Public Prosecution offices  
in the Arab Region**

**UNDP-Pogar; Amman 14 November 2007**

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Appeals Section**



## **OUTLINE OF THE PRESENTATION**

- 1 OTP functions and structure**
- 2 Guiding legal principles**
- 3 Challenges and key strategies**
- 4 Questions and comments**



### The Role and Powers of the Office of the Prosecutor of the ICC

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#### The Office of the Prosecutor:

- **Receives** referrals and substantiated information on crimes within the jurisdiction of the Court;
- **Examines** referrals and information;
- Conducts **investigations and prosecutions.**

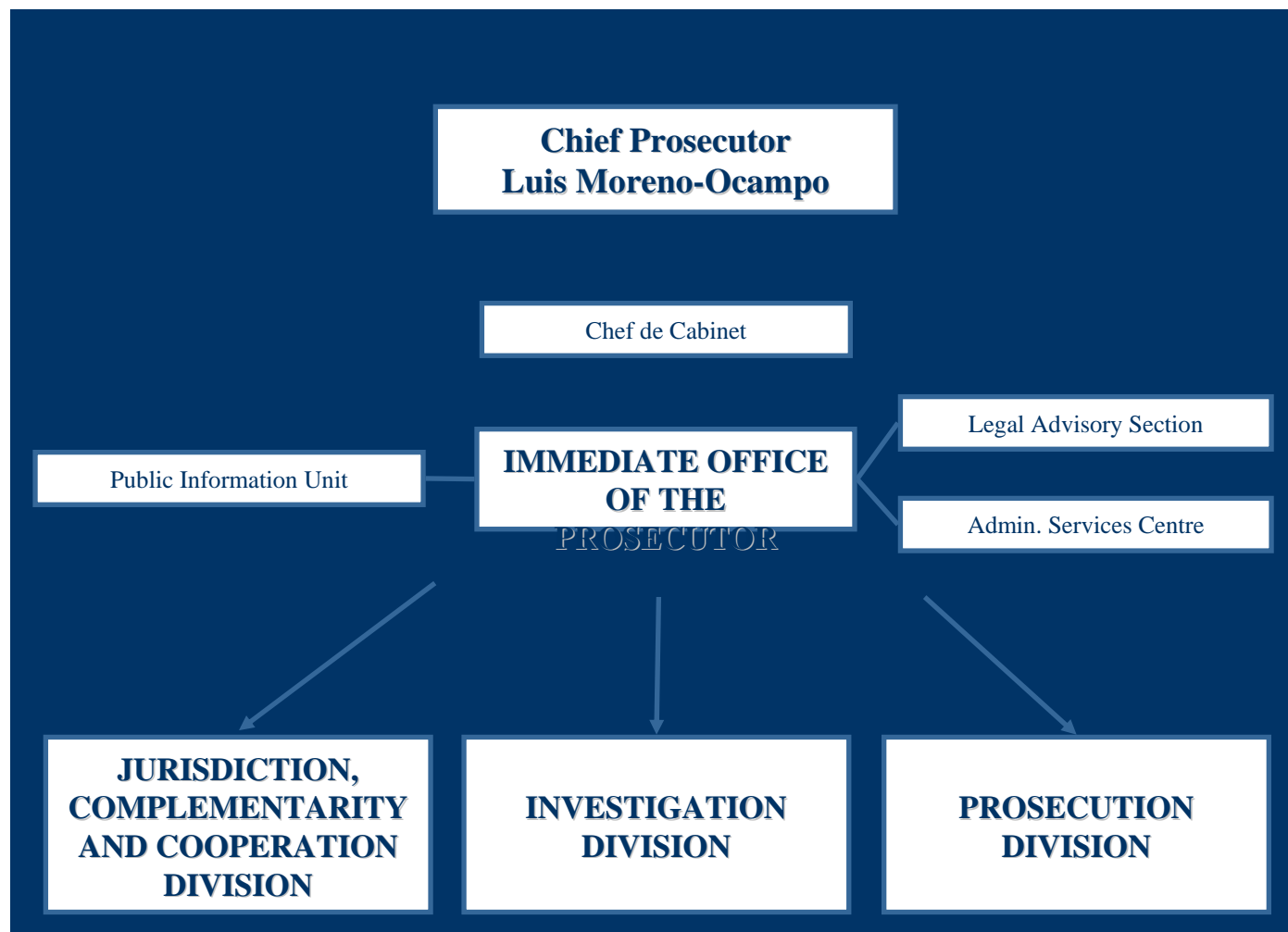
*See article 42 RS*



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**Independence** (arts. 13(c), 42 RS)



**Objectivity** (arts. 54(1)(a) RS)



**Complementarity** (art. 17 RS)



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- **From other organs of the Court**  
(art. 42(2) RS)
- **From individuals, international organizations and States**  
(art. 42(1) RS)

**Prosecutor's *proprio motu* powers to investigate (art. 13(c) RS)**



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- **Aim to establish the *truth* of what happened**  
(art. 54(1)(a) RS)
- **Investigation of incriminating *and* exonerating circumstances *equally***  
(art. 54(1)(a) RS)
- **Disclosure to suspect / accused**  
(arts. 61(3), 67(2) RS)



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- **Deferral to State action** (arts. 18-19 RS), **unless:**
  - **State *unwilling* to investigate / prosecute** (art. 17(2) RS)
  - **State *unable* to investigate / prosecute** (art. 17(3) RS)



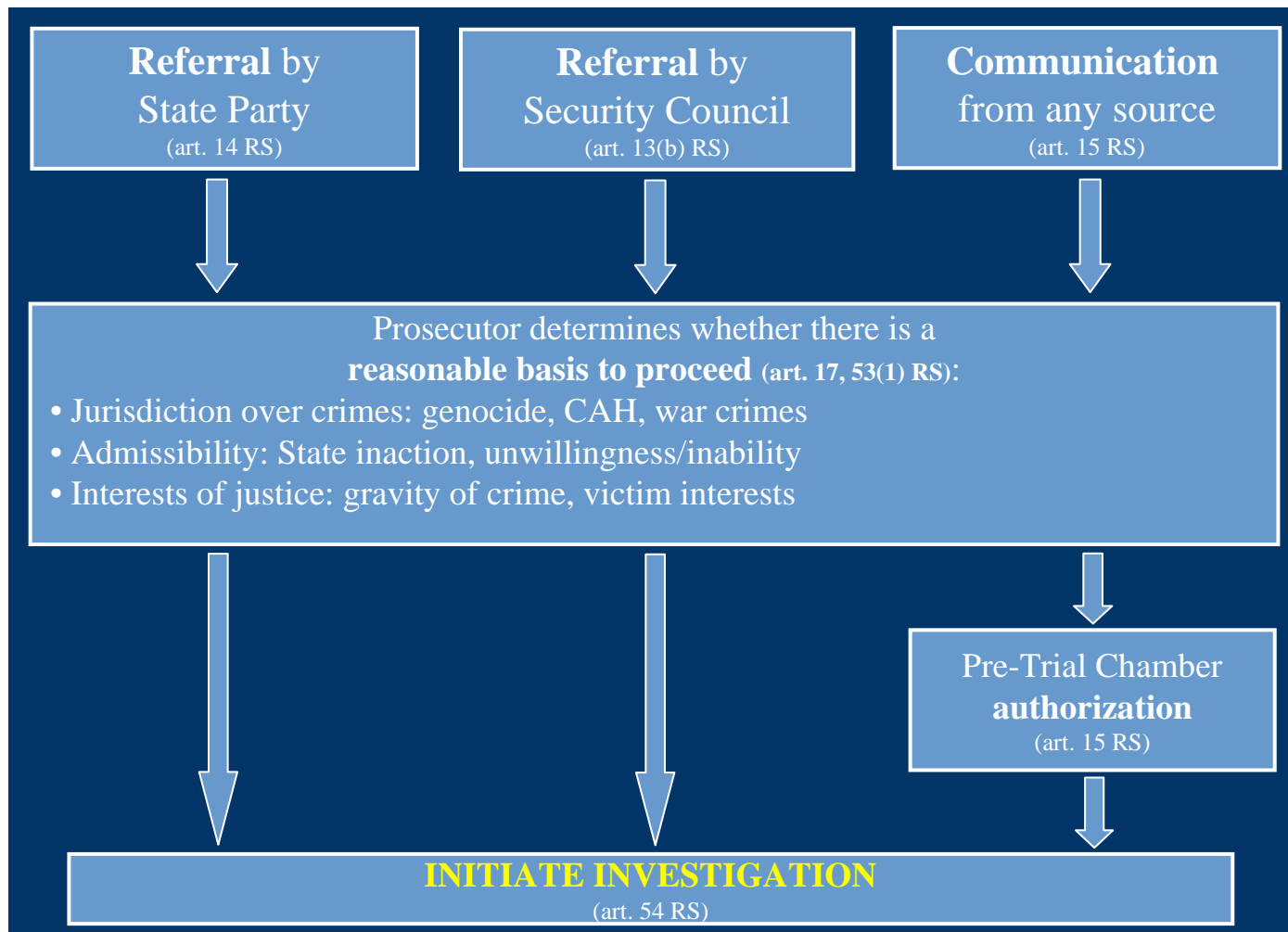
## 2. GUIDING LEGAL PRINCIPLES

### Preliminary examination and investigation

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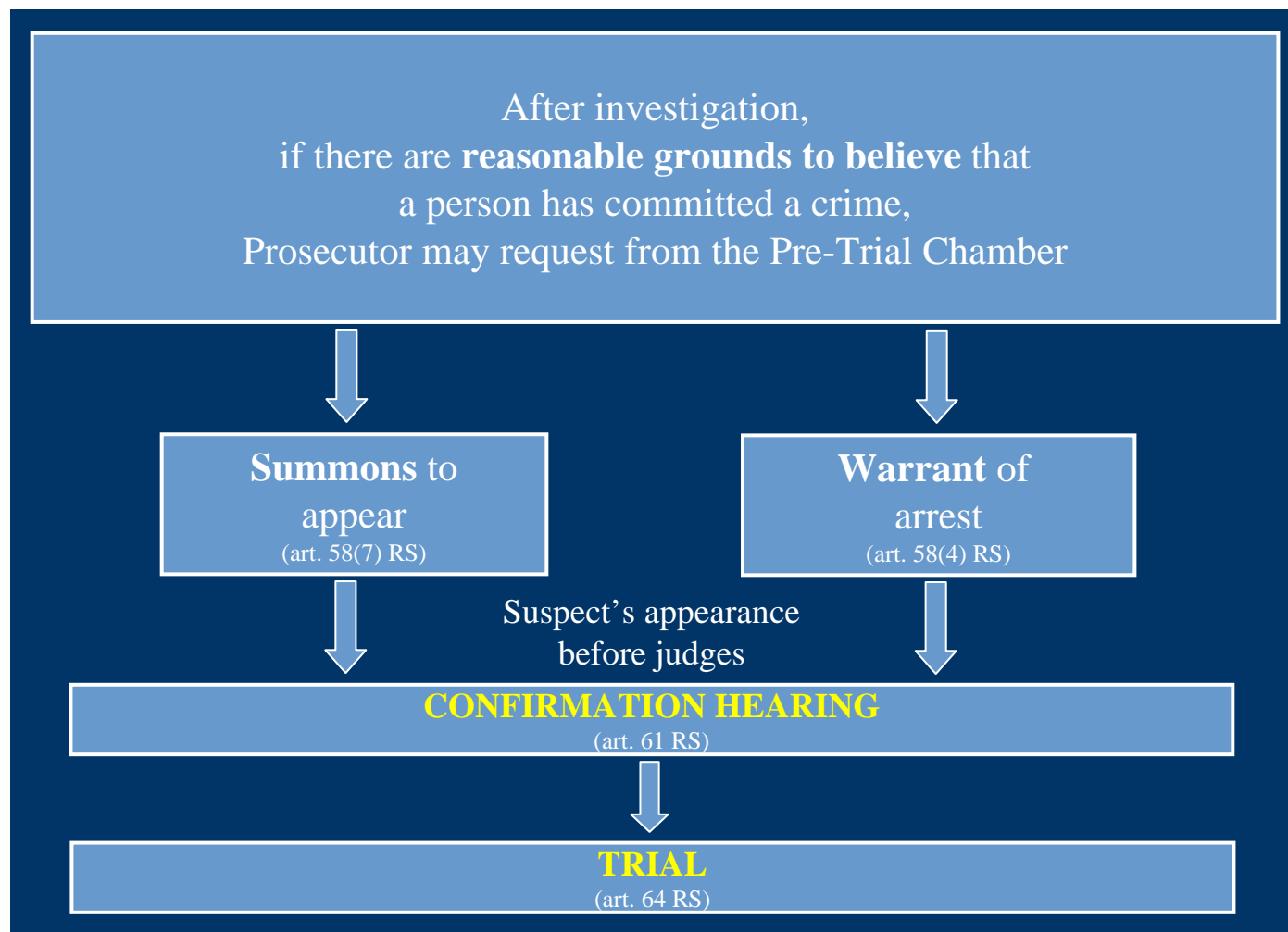
## 2. GUIDING LEGAL PRINCIPLES

### Prosecution

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- **1 UN Security Council referral:**  
Darfur, Sudan (March 2005)
- **3 State referrals:**  
Uganda (December 2003)  
Democratic Republic of Congo (April 2004)  
Central African Republic (December 2004)
- **Over 1900 communications** since July 2002, from individuals and NGOs in over 100 different countries:  
63% communications from Germany, France and USA  
Over 80% communications outside jurisdiction

**Three Year Report** on OTP activities available at [http://www.icc-cpi.int/otp/otp\\_public\\_hearing.html](http://www.icc-cpi.int/otp/otp_public_hearing.html)



### 3. CHALLENGES AND KEY STRATEGIES

#### Situations under investigation

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The Office of the Prosecutor is currently **investigating** four situations:

1. Democratic Republic of Congo
2. Northern Uganda
3. Darfur, Sudan
4. Central African Republic

**No “reasonable basis”** was found to open an investigation in two situations:

1. Venezuela
2. Iraq





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- 1 **Efficient and cost-effective** while respecting highest standards of justice.
- 2 Most serious **crimes**.
- 3 Context of ongoing **violence**.
- 4 **Perpetrators** protected.
- 5 No ICC **army or police**.
- 6 **Divided communities**.



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### 3. CHALLENGES AND KEY STRATEGIES

#### Key strategies

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- 
- 1 **Small and flexible** office.
  - 2 Focus on **gravest** situations.  
Focus on those bearing the greatest responsibility for **most serious** crimes.
  - 3 **Short** investigations and focused charges.
  - 4 **Positive** approach to cooperation and complementarity.
  - 5 **Respect** for the interests of victims.

**Report on Prosecutorial Strategy** available at [http://www.icc-cpi.int/otp/otp\\_public\\_hearing.html](http://www.icc-cpi.int/otp/otp_public_hearing.html)



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**QUESTIONS/COMMENT  
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