On 1 July 2002, the Rome Statute1 ('Statute') of the International Criminal Court ('ICC' or 'Court') entered into force, giving birth to the first permanent international criminal jurisdiction. Eight years into the Court’s existence, it is appropriate to take stock of what has been achieved so far. The aim of the present article is not to give a comprehensive or conclusive analysis, but to highlight issues that have proved to be of importance for the Court in its early years. The article touches upon two broad topics: first, the institution-building of the ICC and second, developments regarding the investigation and prosecution of crimes under international law, including aspects of the Court’s first jurisprudence.

I INSTITUTIONAL DEVELOPMENT

1.1 Building a New International Organization

The first hurdle that the ICC had to overcome was to develop from an idea on paper into a fully functioning reality. Swift action in

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building up the Court was particularly important since the Court’s temporal jurisdiction commenced with the entry into force of the Statute.\(^2\) There was no time to lose.

As the Court is not part of the United Nations system, it could not rely on the UN’s infrastructure and experience during its building-up phase.\(^3\) To overcome this challenge, the Preparatory Commission, which had been set up at the Rome Conference inter alia to ‘prepare proposals for practical arrangements for the establishment and coming into operation of the Court’,\(^4\) established shortly before the entry into force of the Statute a small advance team of experts to lay the ground-work.\(^5\) At the first session of the Assembly of States Parties (‘ASP’) in September 2002, Philippe Kirsch, then chairperson of the Preparatory Commission, could report that the advance team, consisting of eight people, was ready to take up its work.\(^6\) Thus, even before the first judges of the Court\(^7\) and its Prosecutor\(^8\) were elected, a small team of experts was in place. The number of staff has grown considerably since then. Today, the Court has more than 750 established posts,\(^9\) plus a large number of interns and visiting professionals. Within a very short period of time the Court has grown from virtually zero to a medium-sized organization.


\(^5\) See B. N. Schiff, \textit{Building the International Criminal Court} (Cambridge: Cambridge University Press, 2008) 106 et seq; Verweij (n 3 above) 743 et seq.


\(^7\) The first eighteen judges of the Court were elected at the first resumption of the first session of the ASP, on 4 to 7 February 2003; see ASP, First session (first and second resumptions), Official Records, ICC-ASP/1/3/Add.1, 3.

\(^8\) The Prosecutor was elected at the second resumption of the first session of the ASP, on 21 April 2003; see ASP, First session (first and second resumptions), Official Records, ICC-ASP/1/3/Add.1, 6.