

The Nuremberg Academy contextualises the announcement of Hungary's possible withdrawal from the ICC

14 April 2025, by Astrid Walter and Dr Pablo Gavira Díaz

1. The announcement of the Hungarian government to leave the International Criminal Court

On 3 April 2025, the Hungarian government publicly [announced](#) its intention to withdraw from the Rome Statute of the International Criminal Court (ICC or the Court). This brief comment contextualises the legal framework and implications of Hungary's stated intent to leave the Rome Statute.

The decision taken by the Hungarian government was preceded by an official visit of Israeli Prime Minister Benjamin Netanyahu to Hungary, despite being subject to outstanding [arrest warrant](#) for alleged war crimes and crimes against humanity issued against him by the ICC. On 22 November 2024, just after the arrest warrant against Benjamin Netanyahu was made [public](#), Hungarian Prime Minister Viktor Orbán criticised the Court and [announced](#) that he would invite the Israeli Prime Minister on an official visit to Hungary. On 3 April 2025, in a press statement during his meeting with Mr Netanyahu, Mr Orbán again [accused](#) the Court of operating "on the basis of political motivations" and indicated that Hungary, therefore, would take steps to leave the Court. To move ahead with the efforts and formally trigger the withdrawal procedure, a [parliamentary decision](#) on the issue would be required.

Hungary has been a State Party to the Rome Statute since 2001 and as such is [duty-bound](#) to cooperate fully with the Court in its investigation and prosecution of core international crimes. This includes the execution of warrants of [arrest](#) and [surrender of suspects](#) to the Court. On 31 March 2025, a corresponding [letter signed by the President of the Assembly of States Parties](#) to the Rome Statute of the ICC (ASP) formally requested the surrender of Mr Netanyahu upon his arrival to Budapest and called upon Hungary to fulfil their obligations deriving from the Statute.

2. The conditions to leave the International Criminal Court in accordance with the Rome Statute

The Rome Statute is a treaty under international law that established the ICC, a permanent court with jurisdiction over four core international crimes, namely genocide, crimes against humanity, war crimes and the crime of aggression. A treaty under international law constitutes a formal and legally binding written agreement between sovereign States. States may express their willingness to be bound by the Rome Statute of the ICC by way of ratification, acceptance or approval, and they may also withdraw from it according to the conditions laid down in [Article 127 of the Rome Statute](#). This provision clarifies that a withdrawal will take effect one year at the earliest after a respective notification has been received by the Secretary-General of the United Nations (UN). Until that time, the leaving state remains a party to the

Statute and is subject to all obligations arising from it. Due to the pending parliamentary process, no notification to this effect has yet been submitted to the UN Secretary-General by Hungary.

If the withdrawal comes into effect, Hungary will become the third country to leave the ICC following Burundi and the Philippines. The former [informed](#) the UN Secretary-General in 2016 about its decision to exit from the Rome Statute, just after the Prosecutor of the ICC Fatou Bensouda had [decided](#) to open a preliminary examination into the situation in Burundi. On 27 October 2017, Burundi's withdrawal from the Court [took effect](#). Similarly, upon Prosecutor Bensouda's confirmation that her office would [open](#) a preliminary examination into the situation in the Philippines in 2018, the then President Rodrigo Duterte [announced](#) the withdrawal from the Court, which became effective on 17 March 2019. By doing this, the Philippines became the second State Party to exit from the Court.

Further, in the past few years we have also witnessed unsuccessful and discontinued attempts to leave the ICC. In this respect, in 2016, [South Africa](#) and the [Gambia](#) notified the UN Secretary-General of their intention to withdraw from the Rome Statute. However, in February 2017, before their departure took effect, the then newly elected government of the Gambia [decided](#) to maintain their ICC membership. Similarly, in March 2017, the government of South Africa [revoked their notification of withdrawal](#) after the Higher Court of South Africa found the notice [unconstitutional](#). Another failed initiative in this regard occurred in 2017, when the African Union (AU) [called](#) for the collective withdrawal of African States Parties from the Rome Statute. The reason for the push to leave the ICC was the [view](#) expressed by several African leaders that the Court was not only unfairly targeting individuals from African States, but also undermining the sovereignty of the States themselves. The AU resolution eventually did not follow through as its resolutions are not binding and various African States opposed the campaign.

3. Implications of Hungary's announcement to withdraw from the International Criminal Court

As described above, the ICC has faced similar challenges before, but they have not constituted an existential threat to the Court or impeded its mandate or functioning. Furthermore, the ICC has on several occasions [stated](#) that States Parties continue to be bound by duties derived from the Rome Statute, even after they expressed their decision to withdraw. The implementation of available [non-compliance mechanisms](#) is, however, not to be expected in such situations. Recent events have shown that the Court's jurisdiction does not cease to apply even if States Parties pull out from the treaty. In response to Hungary's decision, the ASP has also [reiterated](#) that a "State Party shall not be discharged, by reason of its withdrawal, from the obligations arising from the Rome Statute while it was a Party to the Statute." The arrest and surrender to the Court of former President of the Philippines Rodrigo Duterte demonstrates the nature of these obligations with great clarity (please see the Nuremberg Academy's [comment](#) on the developments in Mr Duterte's case at the ICC).

In addition, the Hungarian government's intention to exit the ICC indicates a repudiation of the principles of international law recognised in the Charter and Judgment of the International Military Tribunal at Nuremberg and of the heritage they represent. Moreover, in the view of Professor Dr Christoph Safferling, Director of the Nuremberg Academy, the push to withdraw implies that Hungary "not only leaves the ICC, but it also deviates from the values and beliefs of the European Union." Hungary was one

of the first European countries to sign the Rome Statute in 1999, which was a testament to its commitment to the fight against impunity. By withdrawing, Hungary would be the only Member State of the European Union that is not a State Party to the ICC. Director Professor Safferling further added that “States Parties to the ICC should stress that international law must not be applied selectively and that the Court should be allowed to fulfil its mandate without any political interference.” (pg/aw)