Abstract
This article aims at showing the evidentiary threshold required at every stage of trial before the International Criminal Court "ICC hereinafter". We will depend on what have been mentioned within the previous judicial precedents of the ICC.

Keywords: Evidentiary threshold - Reasonable grounds to believe - Substantial Grounds to believe - Beyond reasonable doubts.

Introduction
It is really important and essential to know that Office of The Prosecutor of International Criminal Court "hereinafter OTP" Can rely on reports and sources that he or she deems suitable and appropriate for the purposes of his or her investigative work. For that, Article 15 of the Rome Statute stipulates:

1. The Prosecutor may initiate investigations proprio motu on the basis of information on crimes within the jurisdiction of the Court.

2. The Prosecutor shall analyse the seriousness of the information received. For this purpose, he or she may seek additional information from States, organs of the United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony at the seat of the Court.

3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.

But what is even more important to realize is that of "How can these sources and evidences help the Court in the various stages of a trial?". In other words, "what is the probative value of such evidences that needed in every stage of the trial?"

No doubt that both evidences and sources have a various probative value. The source maybe "a Powerful evidence; where no doubt arise" or it can be described as "a hearsay evidence; if doubts and uncertainty arise".

Scholars - who were part of the commission that put and formulated the texts and articles of the Rome Statute - took the above-mentioned point into their consideration. So, anyone who is looking deeply to those articles and reading beyond the texts would certainly detect the nuance between them.

My paper would show the scrupulous difference between three main articles that connect the various stages of trials and the evidentiary threshold regarding the evidences that is needed in such stages.

There are three stages, in which the evidence that relied on - by the Court - must change, whether with respect to the number of evidences or even with regard to their value in proof "the Probative Value".

So, when analysing the Rome Statute, one can observe that drafters of the Statute established three different, progressively higher evidentiary thresholds for each stage of the proceedings under articles 58(1), 61(7) and 66(3) of the Statute. The nature of these evidentiary thresholds depends on the different stages of the proceedings and is also consistent with the foreseeable impact of the relevant decisions on the fundamental human rights of the person charged (1).

The first stage: Warrant of arrest stage:
Judicial Documents indicates that the evidentiary threshold at the arrest warrant stage of the ICC proceedings is that of "reasonable grounds to believe". Also, jurisprudence on this matter shows that the evidentiary threshold for the issuance of an arrest warrant is that of "reasonable grounds to believe".

Article 58 (1) (a) of the Rome Statute states "At any time after the initiation of an investigation, the Pre-Trial Chamber shall, on the application of the Prosecutor, issue a warrant of arrest of a person if, having examined the application and the evidence or other information submitted by the Prosecutor, it is satisfied that: (a) There are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court".
The second stage: Confirmation of charges stage:

If we look to the judgment on the appeal against the Prosecution’s Application for a Warrant of Arrest against Al Bashir (Al Bashir Appeal), the Appeals Chamber expressed that "the evidentiary threshold of "reasonable grounds to believe" which is required to satisfy the court for the issuance of a warrant of arrest must be distinguished from the threshold required for the confirmation of charges which is "substantial grounds to believe" (2).

For that, Article 61 (5) stipulates "At the hearing, the Prosecutor shall support each charge with sufficient evidence to establish substantial grounds to believe that the person committed the crime charged. The Prosecutor may rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial". Article 61 (7) also states "The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination ...".

The third stage: Conviction stage:

As mentioned previously, "the evidentiary threshold of reasonable grounds to believe which is needed for the issuance of an arrest warrant must be remarked from the threshold required for the confirmation of charges which is "substantial grounds to believe" and the threshold for the conviction which is "Beyond reasonable doubts" (3).

So, we find Article 66 (3) says "In order to convict the accused, the Court must be convinced of the guilt of the accused beyond reasonable doubt".

Now after realizing that there are three different stages where three different, progressively higher evidentiary thresholds for each stage. What is the benefit we get through differentiating between such stages?

Appeals Chamber of the ICC answered this question in "Bashir Case" as it ruled that "accordingly, when disposing of an application for a warrant of arrest under Article 58(1) of the Statute, Pre-Trial Chamber PTC should not require a level of proof that would be required for the confirmation of charges or for conviction"(4). This was also considered during the drafting of Article 58(1) where the term "reasonable grounds" was chosen over the term "serious reasons”(5) (6).

This standard of proof is analogous and counterpart to the standard of "reasonable suspicion" as a prerequisite for lawful arrest or detention under Article 5(1)(c) of the European Convention on Human Rights (7). In the case of Fox, Campbell & Hartley v. United Kingdom, the European Court of Human Rights recognized that a standard of reasonable suspicion "presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence (8) and (9).

Accordingly, the Appeal Chamber in Al Bashir Appeal ruled that "at this preliminary stage, it does not have to be certain that the person concerned may have committed the offence” and that certainty is only required at the trial stage when the Prosecutor has had a chance to submit more evidence.

So, in this stage - issuance of an arrest warrant - the prosecutor can rely on an evidence despite of not having the high probabilistic value. In other words he can rely on a source solely (e.g. The UNHCR report, Amnesty report or Fact Finding mission preliminary report).

Moreover, at the ad hoc tribunals, the International Criminal Tribunal for Rwanda ("ICTR") in the case of Rutaganda v Prosecutor has expressed that "in the absence of explicit, direct proof, the dolus specialis may be inferred from relevant facts and circumstances. Such an approach prevents perpetrators from escaping convictions simply because such manifestations are absent" (10) (11). This demonstrates that at the early pre-trial arrest warrant application stage, courts are prepared to infer from the facts and circumstances to find reasonable grounds to believe that a crime has been committed, without the need for explicit proof of intent. Therefore, the evidentiary threshold should not be set too high, in order to facilitate bringing the perpetrators to justice

Even at the confirmation of charges stage, where the evidentiary threshold is that of "substantial grounds to believe", the PTC has, in many cases, continued considering the relative probative value of the evidence, despite having already issued an arrest warrant at an earlier stage. In the confirmation of charges decision of The Prosecutor v Laurent Gbagbo, PTC I considered that the evidence, "although apparently insufficient, does not appear to be so lacking in relevance and probative value" as to leave it no choice but to decline confirmation and accordingly, adjourned the hearing (12). This further proves how the evidentiary threshold at the issuance of arrest warrant stage is lower and may be satisfied so long as there is sufficient probative value in the evidence provided.

Finely, a high evidentiary threshold is required for the purposes of conviction at the last stage of the trial which is "Beyond reasonable doubts". So, the evidence in this stage must have a great probabilistic value. If any doubt raises at this stage, the accused must get benefit from the innocence presumption stated within the article 66 (3) of the Rome Statue.

References

1. Prosecutor v. Bemba Gombo, Case No. ICC- 01/05-01/08-424, PTC II, Decision Pursuant to Article  61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, 15 June 2009, at Para 27.
3. Ibid, at Para 30
4. Ibid, at Para 30
5. Draft Statute for the International Criminal Court, Report of the Inter-Sessional Meeting from 19 to 30 January 1998 in

6. *Prosecutor v. Laurent Gbagbo*, ICC-02/11-01/11, Response of the Common Legal Representative to the "Prosecution’s application for leave to appeal the "Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7) (c) (i) of the Rome Statute", 17 June 2013, at Para 42. (The same meaning).


11. "The Appeals Chamber finds that the Trial Chamber’s approach as to how Ruzindana’s intent may be determined does not display any error on its part. As noted by the Trial Chamber, explicit manifestations of criminal intent are, for obvious reasons, often rare in the context of criminal trial". See: *Climent Kayishema and Obed Ruzindana v. Prosecutor*, ICTR-95-1, Appeals Chamber Judgment, 1 June 2001, (ICTR) at Para 159, Page 62.

12. *The Prosecutor v. Laurent Gbagbo*, ICC-02/11-01/11-432, Decision adjourning the hearing on the confirmation of charges pursuant to article 61(7) (c) (i) of the Rome Statute, 3 June 2013, (ICC, PTC I), at Para. 15.