



**General Debate Statement**  
**22<sup>nd</sup> Session of the International Criminal Court Assembly of States Parties**  
**4-14 December 2023 – New York**

Excellencies and esteemed colleagues,

The International Bar Association is honoured to submit this statement to the General Debate setting out the priorities and recommendations of the organisation for the 22<sup>nd</sup> session of the ICC Assembly of States Parties (ASP). The IBA full recommendations for States Parties are published in the [\*Priorities and Recommendations for the 22<sup>nd</sup> Session of the International Criminal Court Assembly of States Parties\*](#).

The IBA was established in 1947 to contribute to global stability and peace through the administration of justice. Our members include more than 80,000 individual international lawyers, and 190 bar associations and law societies from more than 170 countries.

The IBA is a strong supporter of the ICC. Since 2005, our International Criminal Court & International Criminal Law Programme has promoted cooperation and support for the ICC and monitored issues related to fairness and equality of arms.

In this statement, the IBA seeks to highlight a few critical issues that are on the agenda of the ASP session, urging States Parties to take decisions that support the just, fair and effective functioning of the ICC.

The 22<sup>nd</sup> Session of the Assembly is being held at a critical time for the Court and the Rome Statute system. The effective execution of the Court's mandate is threatened by continued attacks against the institution, its officials, and those cooperating with it. In its recommendations, **the IBA calls on States Parties to support the ICC and its work across all situations, and to cooperate with the Assembly and the Court in the prevention and response to attacks and threats.**

After a decade of failed reform attempts, the IBA welcomes the submission to the ASP for adoption of a draft legal aid policy reform and the emerging consensus among States Parties that a review of the Court's legal aid system is necessary.

Legal aid is a key component of the ICC's administration of justice. An adequately funded and efficient legal aid system is fundamental to ensuring fair trials and the rights of the accused, as well as the rights of victims to participate in proceedings and present their views and concerns at appropriate stages. The current legal aid policy, entered into force in 2013, has become obsolete, threatening the equality of arms principle on which the policy itself is based and leading to protests and strikes from support staff based on the serious shortcomings of their working conditions.

**The IBA commends the ongoing efforts of the Registry and States Parties to review the Court's legal aid system to make it accessible, sustainable, and credible. The IBA urges the ASP to adopt the draft legal aid policy reform, implementing the so called 'Scenario B+', and encourages the ASP and the Court to ensure a more frequent review of the new policy once adopted, aiming at resolving some long outstanding issues including in particular the income taxation for external teams.**

The IBA remains concerned about the protracted mismatch between the resources needed by the Court to discharge its mandate and the resources allocated by the ASP through its budget process. The lack of sufficient resources for the Court is made evident by the initiatives spearheaded by the ICC Prosecutor and ICC Registrar to create trust funds and special funds to support specific areas of the work of the Court. The request for funds outside the Court's regular budget puts at risk the long-term budgetary sustainability of the Court and may create perceptions of politicisation and possible double standards in its work. This has been noted by several civil society organisations as well by the ASP Committee on Budget and Finance.

**The IBA reminds States Parties that the lack of sufficient resources threatens the effectiveness of many of the ICC's core functions, including investigative and prosecutorial activities, adequate legal aid for defence and victims, victim and witness protection, outreach, and reparations.**

**The IBA Calls on States Parties and the ASP to provide the Court, within the regular budget, with the necessary resources to discharge its mandate effectively, efficiently, independently, and in line with considerations of fairness.**

The IBA urges the Assembly to redouble its efforts to promote State cooperation with the ICC. The Court's ability to fulfil its mandate is largely dependent on state cooperation but regrettably, less than half of States Parties have enacted national cooperation legislation and only a few have signed cooperation agreements with the Court.

Despite the Assembly's important efforts to strengthen cooperation with the Court - especially through the work conducted by the Co-Facilitators on cooperation (France and Senegal) - intensified efforts and additional resources are clearly required for the Assembly to ensure that many more States Parties develop the necessary instruments to fulfil their cooperation obligations.

**The IBA reminds ICC States Parties of their obligations to fully cooperate with the Court in line with Part IX of the Rome Statute, which include cooperation in the arrest and surrender of suspects and other forms of cooperation established by Article 93 of the Statute. The IBA calls on States Parties to put in place effective national frameworks to cooperate fully with the Court, and to support efforts by the ASP to promote cooperation with the Court. These include enacting national implementing legislation, ratifying the Agreement on Privileges and Immunities and entering into cooperation agreements with the Court, as well as advancing the Assembly's 66 recommendations on cooperation.**

The IBA congratulates the 6 judges just elected to the bench of the International Criminal Court.

The IBA welcomes that a vetting process to assess the high moral character of judicial candidates was put in place for this election, and welcomes the discussions around the creation of a permanent vetting procedure for all ICC elections. The adoption of a permanent vetting process for elected officials is a historic first for international institutions, and represent a shared success of civil society, states parties, and Court's efforts. **The IBA calls on the Assembly to adopt the permanent vetting process for all ICC elections ensuring that it is fair, independent, professional and thorough, and to agree on a concrete plan for implementing the vetting process after its adoption.**

The 22<sup>nd</sup> Session of the Assembly takes place at a critical moment in the history of the ICC and many of the decisions taken during this session will shape the work of the Court for years to come. The IBA urges all States Parties to strive for outcomes that reflect their shared commitment to advance international justice and their determination to end impunity.

Thank you.