

Coalition for the International Criminal Court Review Team Paper
Recommendations to the 21st session of the ICC Assembly of States Parties
on the Future of the Review Process

December 2022

As the assessment of the recommendations of the Independent Expert Review (IER) nears completion and the implementation of positively-assessed recommendations by the Court and States Parties continues, the Coalition for the ICC (Coalition)'s Review Team¹ underscores the central objective of the Review process: to bolster the International Criminal Court (ICC) and its ability to serve the communities affected by its work, as well as the international community as a whole, given that Rome Statute crimes are of international concern.

The Coalition Review Team submits the following proposals on the future of the Review process, including the implementation phase:

- As currently envisaged in the draft resolution on the Review, the **mandate of the Review Mechanism should be renewed** to finalize the assessment of the remaining IER recommendations and to provide suggestions on the modalities for ongoing implementation;
- **Implementation of positively-assessed recommendations should be ongoing**, ensuring that progress continues to be made in various clusters of recommendations, including communication and outreach, victims' issues, complementarity and positive complementarity, and recommendations directed to the Assembly about States Parties' responsibilities.
- The participation and stated **availability of the Independent Experts** to assist in the implementation phase is welcomed. Among other, the Experts will be able to provide context and clarify the reasoning for their recommendations and help finetune their implementation.
- **Efforts to improve the Court's performance should also be ongoing**, and not cease with the formal conclusion of the Mechanism's mandate or the IER. This includes ensuring that the progress achieved by the IER exercise does not fade and, on the contrary, that the Court and other stakeholders continue to build on that progress.
- The Court and States Parties, in collaboration with civil society, should **create opportunities to reflect on the progress achieved** in the Review process thus far, including whether it has advanced the key objective of strengthening the Court's delivery of justice, and to consider what gaps remain.

¹ This paper has been prepared by Coalition members most active on the issue of the review of the ICC and the Rome Statute system. It does not represent the views of all Coalition members. Since the Rome Diplomatic Conference, Coalition members have organised themselves into thematic teams to follow issues addressed by the ASP or its subsidiary mechanisms and by the ICC. Teams are a forum to discuss and follow issues and with a view to developing advocacy. All Coalition members can join any team.

For background information on the Review of the ICC and Rome Statute system, see: <https://www.coalitionfortheicc.org/review-icc-and-rome-statute-system>, or contact the CICC Review Team co-leaders Catherine Dunmore (International Federation for Human Rights, FIDH), at cdunmore@fidh.org and Esti Tambay (Human Rights Watch), at tambaye@hrw.org, or the Team's focal point in the CICC's International Secretariat, Yasmina Gourchane gourchane@coalitionfortheicc.org.

The Review process should continue to be **guided by the following fundamental principles**:

- *Transparency*: Ensuring a transparent review process contributes to the legitimacy and credibility of the results achieved, including through more regular and consistent communication about progress and next steps in different language and inclusive access of all stakeholders to meetings;
- *Inclusive and meaningful engagement with stakeholders*: Civil society has been an essential contributor to the review process from the outset and its active participation should continue to be facilitated. The Coalition ICC Review Team welcomes the provision of interpretation and advanced notice of scheduled meetings, and call on those practices to be continued and improved so as to better facilitate the participation of civil society from across the globe; and
- *Respect for the Court's judicial and prosecutorial independence and consciousness of limited resources*: Accountability in the Court's implementation of recommendations should be balanced with the need to uphold its judicial and prosecutorial independence. Timelines for execution and demands on reporting should not be too onerous on the Court and its impact on regular operations should be minimized.

Much work has been accomplished through this Review process by the key stakeholders in the Rome Statute system, including the Court, the Assembly of States Parties, and civil society, touching nearly every aspect of the Court's work. While continuing to respect the independence of the institution, the Coalition ICC Review Team calls on continued progress to improve the overall efficiency and effectiveness of the Court.