

Joint Statement of Al Haq, Human Rights Watch, the International Federation for Human Rights, No Peace Without Justice, Parliamentarians for Global Action and the Ukrainian Legal Advisory Group

ASP21, 6 December 2022

Excellencies, distinguished delegates, dear colleagues,

It is an honour for me as No Peace Without Justice to address this Assembly also on behalf of Al Haq, Human Rights Watch, the International Federation for Human Rights, Parliamentarians for Global Action and the Ukrainian Legal Advisory Group to share with you some reflections on the issue of the Court's budget. As you know, civil society – among others – has consistently raised the issue of the Court's resources not only as a means to conduct their work effectively and efficiently, but also in the context of guaranteeing the independence and integrity of the Court.

In advance of your discussions on the 2023 budget, we wish to reiterate some points that our organisations have been making throughout 2022, especially following the opening of an investigation and the ongoing crimes allegedly committed in Ukraine since 2014.

Our organisations welcome the strong show of support for the Court's role in Ukraine, believing that not only will it advance victims' rights to access justice, but also in that it represents an important vote of confidence in international justice in general, and the ICC in particular. We call on you to show the same level of enthusiasm and support across all situations.

Our organisations also call on you to keep your commitment to international justice in mind, during the negotiations for the 2023 budget.

To that end, we wish to make three points for your consideration in advance of the budget discussions this week.

First, while the boost to the OTP's capacity is welcome, more attention needs to be paid to what this means for the rest of the Court. The OTP has been described as the engine of the Court and indeed is its main cost driver: better investigations and prosecutions inevitably leads to increased needs in other areas, including victims participation and reparations, outreach, witness support, legal aid, family visits, court management, interpretation and everything else that goes into ensuring a fair trial and a process that is meaningful for victims and affected populations. These are also areas that have been significantly under-funded in the past, to the detriment of the Court's overall performance and the ability of the rest of the Court to support and enhance the work of the Office of the Prosecutor. This

should be reflected in the 2023 budget and feature prominently in the budget negotiations to that end.

Second, we wish to stress that voluntary funding – for any part of the Court’s work – and the provision of gratis personnel should only ever be considered as an extraordinary measure. Voluntary contributions are not a sustainable funding model, as we have seen from other international courts; they risk damaging the perceptions of the Court’s independence; and they are inherently susceptible to the vagaries of political priorities. Reliance on these methods of support may seem alluring, but they carry too great a risk for the future sustainability and operations of the Court, not least in terms of perceptions of prosecutorial and judicial independence.

Finally, a word on the 2023 budget more generally. As mentioned, the call from the Prosecutor for additional voluntary resources demonstrates that the 2022 budget was simply insufficient for the Court to carry out its work, even without the addition of a new, high profile investigation. We therefore strongly recommend that the budget discussions for 2023 should have in mind not only the approved budget for 2022, but the fact that the court needed voluntary contributions and gratis personnel to undertake the investigative work it has managed to undertake this year, across all of its situations. The situation this year demonstrates clearly that what was requested and approved at the end of last year does not reflect the real costs of the Court. We ask that you bear this in mind during your consideration of the overall 2023 budget request. Equally, we ask that you take the opportunity at this Assembly session to lay the groundwork to reframe discussions around the court’s resources, with a longer-term focus on sustainability and the real investment necessary to live-up to our collective aspirations for the court.

Thank you.