FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

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The ICC under Attack: Defend the Court, Support Victims & Ensure Accountability

FIDH Recommendations to the ICC Assembly of States Parties

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Introduction

The 24th session of the Assembly of States Parties (ASP24) to the Rome Statute of the International Criminal Court (ICC or Court) will be held in The Hague from 1-6 December 2025.

This year's ASP comes at a critical juncture for the ICC. As international crimes intensify, the Court faces unprecedented political, operational and institutional threats, from both ICC States Parties and non-States Parties, that jeopardise its ability to deliver justice when it is most needed. Following the issuance of an arrest warrant for Israeli Prime Minister Benjamin Netanyahu, the United States (US) imposed sanctions against the ICC Prosecutor, Deputy Prosecutors, six judges, the UN Special Rapporteur on the Occupied Palestinian Territories, and three leading Palestinian human rights organisations, all FIDH members. Alarmingly, the US administration is also reportedly considering sanctions against the Court as a whole. These measures and threats constitute a direct attack on the Court's independence and its very existence.

2025 also witnessed an erosion of state cooperation, notably regarding the arrest and surrender of suspects, alongside a retreat from universality. ICC judges found Italy and Hungary non-compliant with their Rome Statute obligations, and confirmed Mongolia's non-cooperation after dismissing its request for reconsideration. Announcements of Hungary's withdrawal and that of three Sahel States have undermined the universality of the Rome Statute. Meanwhile, states missed a crucial opportunity to adopt an amendment aimed at strengthening the ICC's jurisdiction over the crime of aggression at the Special Session in New York, delaying equal access to justice for victims until at least 2029.

Internally, the ICC continues to grapple with a crisis of integrity characterised by misconduct allegations, weak election processes, and systemic workplace dysfunction. Such issues erode staff trust and institutional credibility, underscoring that the Court cannot credibly deliver justice externally unless it embodies accountability and integrity from within.

Nevertheless, the ICC has advanced its mandate considerably, particularly in strengthened jurisprudence on gender-based crimes and intersectional harm, in line with long-standing calls from civil society organisations (CSOs), including FIDH. Two arrest warrants were issued against senior Taliban officials, marking the first arrest warrants to exclusively allege the crime of persecution on gender grounds, and the first time an application explicitly includes the targeting of members of the LGBTQI+ community. The landmark conviction of Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb"), the first conviction in the Darfur situation, constituted the Court's first conviction for persecution on gender grounds.

After nearly four years of trial the Court convicted Alfred Yekatom and Patrice-Édouard Ngaïssona of war crimes and crimes against humanity committed during the 2013-2014 conflict in the Central African Republic. Although the absence of convictions for rape and the use of child soldiers was deeply disappointing for survivors, the verdict remains a significant step in recognising the responsibility of Anti-Balaka commanders for atrocities in CAR, with nearly 2,000 victims participating in the proceedings. Separately, the Court held its first confirmation of charges hearing in absentia for Joseph Kony, alleged Commander-in-Chief of the Lord's Resistance Army (LRA) in Uganda, who has been under an ICC arrest warrant since 2005. This represented a long-awaited step for nearly 6,000 victims participating in the proceedings. All charges were confirmed by the Pre-Trial Chamber, paving the way for trial if Kony is ever surrendered to the Court.

In parallel, some states have demonstrated strong commitment to the Court. The arrest and surrender of former Philippine President Rodrigo Duterte in March 2025, despite the country's withdrawal from the Statute, marked the first ICC case against an Asian head of state, while Germany's arrest of Libyan suspect Khaled Mohamed Ali El Hishri, signalled renewed cooperation after Italy's failure to do so, advancing long-delayed accountability for international crimes in Libya.

Beyond the ICC, the broader international justice landscape also progressed. In November 2024, the UN General Assembly agreed by consensus to begin formal negotiations in 2026 on a Crimes against Humanity Convention, a long-awaited complement to the Rome Statute system.

For many survivors whom FIDH works alongside, these advances represent not only legal progress but a source of hope that their experiences are finally being acknowledged and addressed. At a time of mounting threats against the Court's mandate and international law itself, States Parties must renew and strengthen their support for an institution that often represents the last resort in the fight against impunity for the world's gravest crimes. This paper, based on close monitoring of the ICC by FIDH and its member organisations throughout the year, focuses on four key areas and provides concrete recommendations to States Parties at ASP24, namely to: **(1) stand for the ICC in the face of US sanctions; (2) deliver on commitments to victims' Rome Statute rights; (3) strengthen cooperation and fulfil complementarity obligations; and (4) advance a healthy and accountable workplace culture at the ICC.**

Trump's sanctions against ICC officials are a direct assault on accountability for victims of international crimes worldwide. © ICC-CPI, from FIDH statement and X.

1. Stand for the ICC or Bow to US Sanctions: A Critical Test for States Parties

The ICC and its States Parties stand at a defining moment. Sanctions targeting its Prosecutor, Deputy Prosecutors, and judges, and credible threats against the Court itself, mark an unprecedented assault on international justice and the rule of law. These attacks extend beyond the Court: in June 2025, US sanctions were imposed on a designated Palestinian civil society organisation, Addameer, for its alleged connections to terrorism, and in September 2025, the US designated FIDH's three Palestinian member organisations, Al-Haq, Al-Mezan, and the Palestinian Centre for Human Rights (PCHR) under the ICC sanctions programme for engaging with the Court on the case against Israeli officials, silencing ICC partners long at the forefront of documenting violations in Gaza and the West Bank. The UN Special Rapporteur on the Occupied Palestinian Territories, Francesca Albanese, has also been sanctioned, in a move that openly defies the UN Convention on Privileges and Immunities and endangers all UN-mandated experts. Meanwhile, the Court has faced sustained espionage, cyberattacks, disinformation campaigns, and threats against its staff and the Court as a whole, revealing the breadth of this campaign to erode global accountability for international crimes. These measures strike not only at the ICC but at the global rule of law, sending a chilling message to all institutions and civil society actors engaged in accountability work.

By blocking access to financing and essential services, sanctions also disrupt witness protection programmes, data protection, legal aid, detention operations, and the delivery of reparations to victims. Sanctions therefore threaten the Court's very ability to function. Hard-won gains – such as the recent arrest and surrender of former Philippine President Rodrigo Duterte and Germany's arrest of Libyan suspect Khaled Mohamed Ali El Hishri – could be undone. Ongoing investigations may stall or collapse, denying victims justice globally. Moreover, if the ICC can be manipulated through financial blacklisting and sanctions are used to normalise double standards in accountability at the ICC, no national or regional court or accountability mechanism is safe.

If states fail to act now, sanctions will become the norm: a tool to silence courts, cripple investigations, and intimidate human rights defenders worldwide. The erosion of the ICC's independence would reverberate far beyond The Hague, undermining victims' access to justice and the collective promise of the Rome Statute system.

This is a test of political courage and collective resolve. The choice before States Parties is clear: defend the ICC and the principles it embodies or allow coercion and impunity to prevail.

In order to protect this historic institution, states must:

i. **Publicly defend the ICC and denounce all sanctions** against the ICC as an institution, its staff and officials, and organisations and individuals supporting its work, including during the ASP24 general debate.

ii. **Explore all mechanisms to ensure the survival of the ICC and its partners**.

iii. **Continue to fulfil legal obligations under the Rome Statute**, including financial contributions to the Court's annual budget, cooperation with the Court, and resisting any pressure to disengage in response to sanctions.

1.1 Publicly defend the ICC and denounce all sanctions

States must collectively defend the ICC now to ensure the survival of the Court and its partners. Designations have already proven crippling for FIDH's member organisations, with suspended websites, blocked social media platforms, and unpaid salaries due to frozen bank accounts, resulting in "multiple detrimental effects on [their] operations, [their] ability to continue representing victims, and document human rights violations". Al-Haq's director, Shawan Jabarin, describes the broader impact starkly: US-based funders have pulled away, long-standing partners have gone quiet, and major platforms have removed critical content, including YouTube's removal of hundreds of the organisation's videos documenting Israeli forces' abuses, and service restrictions imposed by Meta and Mailchimp. He warned that the sanctions are designed to isolate Palestinian organisations and send a message that any group supporting accountability can be targeted and cut off, calling this moment a test for global civil society and "*a war between the rule of the jungle and the rule of law*".

Without clear public denunciations of sanctions and concrete actions, they will become the norm, used to silence all justice mechanisms and CSOs pursuing accountability, ultimately denying victims access to justice and redress worldwide. While the ICC and the ASP Presidency have condemned sanctions against Court officials, they have not yet publicly addressed those targeting civil society partners. States have also largely shied away from publicly denouncing these attacks on human rights NGOs. Meanwhile, CSOs have continued to mobilise. In September, FIDH and more than 220 signatories, including organisations and individuals, joined a call to save the Court, urging states to protect the ICC, its officials and partners, and international justice. FIDH also joined other CSOs in condemning sanctions against Palestinian human rights organisations.

Overall, the global response to these arbitrary attacks has been weak and fragmented. States that claim to champion the rule of law too often remain silent or divided, leaving the Court exposed. This escalation represents an all-out assault on a global Court backed by 125 States Parties, mandated to prosecute atrocity crimes. The US objectives are clear: to pressure the ICC to close the Palestine and Afghanistan situations, withdraw arrest warrants against Netanyahu and Gallant, and bury investigations into US military and CIA officials. If states bow to such pressure, it will entrench double standards, transforming a system designed to hold the powerful accountable into one that shields them instead.

States Parties must boldly respond collectively to defend the ICC's independence and legitimacy. The Rome Statute system was built to end impunity for the gravest crimes, and abandoning that promise would weaken international accountability far beyond The Hague. When sanctions were first imposed, only 79 of 125 States Parties issued a joint statement rejecting punitive measures against the ICC. Many, including some traditionally strong supporters of international law, remained silent. Regular political declarations and resolutions from more States Parties reiterating support for the ICC, like those finally delivered recently by groups of 60 states, 59 states, and Nordic states, are necessary to reassure banks and service providers that cooperation with the Court is lawful and encouraged. The absence of collective defence to date has only emboldened those who seek

to dismantle international justice, as they capitalise on perceived division. At the upcoming ASP24, states have uniquely been invited to address these precise challenges during the General Debate, a pivotal moment to show unity, reaffirm support for the Court, and commit to concrete action to safeguard its independence. The choice is stark: either sanctions and intimidation succeed in shutting down the ICC, or states rally together to protect the Court.

1.2 Explore all mechanisms to ensure the survival of the ICC and its partners

One of the most serious consequences of sanctioning the ICC as an institution is that it could bring its operations to a standstill, including its access to financing from banks and states, and other essential services. US control over the global financial system means that even the threat of secondary sanctions has a far-reaching impact, as non-US banks, insurers, and service providers often over-comply for fear of being penalised, blocking even basic transactions. States must therefore provide clear guidance and create legal tools to protect these entities against the threat of sanctions and prevent over-compliance.

States must also explore all mechanisms at their disposal to ensure the ability of the ICC and its partners, including civil society, to continue all aspects of its operations. Among other priorities, ensuring continuity of essential services is critical, for example, by supporting the Court in its plans to switch its internal work environment away from Microsoft Office to a European open source alternative.

Civil society will continue to advocate against these illegitimate sanctions, but only states can take the concrete steps required to preserve the international justice system. The ICC's survival depends on structural safeguards that protect it from political coercion. If left unchallenged, these measures will erode the foundations of international justice and democratic governance worldwide.

1.3 Continue to fulfil legal obligations under the Rome Statute

The ICC cannot deliver justice without full cooperation from its States Parties. Public hesitation or selective engagement, including reluctance to enforce arrest warrants or cooperate in politically sensitive cases, feeds narratives that seek to weaken the Court and legitimise external interference. Guaranteeing state cooperation across all situations and cases, without exception, is essential to upholding the principle of equality before the law and ensuring the effective and consistent application of the Rome Statute.

States must also ensure that the Court is legally empowered and protected to perform its mandate. This requires harmonising national laws with the Rome Statute, ratifying and fully implementing the Agreement on Privileges and Immunities of the ICC (APIC), and concluding voluntary cooperation agreements on matters such as witness relocation, interim release, and enforcement of sentences. These measures do more than facilitate the Court's work; they send a clear political signal that this is the world's court – an institution backed and protected by the international community. Ratification of APIC also shields Court officials and partners from retaliation, ensuring that those who support the ICC are not left vulnerable to the same coercive tactics now being deployed against the institution.

Adequate financial backing is equally crucial. States Parties must continue to fund the Court's budget in full and on time, preferably through advance payments to mitigate the risk of financial disruption. They should also adopt practical safeguards against financial obstruction. Together, these measures will build institutional safeguards, signal political unity, and underscore that the ICC's independence and longevity depend on the collective will of its States Parties.

Turning Rhetoric into Reform: Strengthening Outreach and Victim Participation at the ICC.
© Redress, from VRWG paper.

2. Deliver on Commitments to Victims' Rome Statute Rights

States and ICC officials consistently affirm that "victims of mass atrocities remain at the centre of ICC proceedings", as ICC President Akane recently emphasised when presenting the Court's Annual Report to the UN. States have a pivotal opportunity in the year ahead to deliver on that promise by driving forward the ongoing review of the ICC's Strategy in Relation to Victims (Victims' Strategy Revision) to ensure that a robust, rights-based strategy shaped by genuine victim engagement is adopted in 2026.

Despite victims' rights, including the right to information, outreach and participation, being clearly enshrined in the Rome Statute, victims and survivors continue to face a lack of early and meaningful outreach, as well as operational barriers to participation. These gaps undermine the ICC's legitimacy and erode trust among victims and affected communities. To ensure these rights are realised, States Parties must translate the Rome Statute's commitments into practice through sustained political will, adequate resources, and oversight of their implementation.

The Victims' Strategy Revision provides a unique opportunity to address these long-standing shortcomings, identified by multiple experts including FIDH. Despite repeated calls for genuine consultations with survivors during the current revision process, this has yet to occur, even though such engagement could readily take place through online platforms. For instance, in June 2025, the Registry convened a seminar intended to inform the revision, but survivors were underrepresented and given limited opportunities to speak. The few survivors attending in person called out the Registry's inadequate engagement with them. A thoughtful rights-centred approach is needed now to rebuild trust with affected communities, reinforce the ICC's legitimacy, and demonstrate that states' commitment to the Rome Statute includes concrete support for those most harmed by international crimes. This must begin by directly engaging with and listening to survivors.

If States Parties continue to profess a commitment to victims' rights without providing adequate oversight and funding, the consequences are severe: marginalised victims disengage, evidence is lost, and cases are weakened. At a time of immense external pressure, states must ensure that victims and survivors feel included with genuine agency, rather than alienated and belittled. Now more than ever, the Court depends on their trust and support.

Such an approach requires that states:

i. **Drive forward the Victims' Strategy Revision**, ensuring meaningful reform and direct victim engagement.

ii. **Adopt a victim-centred funding model and Key Performance Indicator (KPI) framework**, reflected in the ICC annual budget to be adopted at ASP24, ensuring sustained resourcing throughout all stages of the Court's involvement in a situation, including early outreach from the preliminary examination.

iii. **Remove operational barriers to participation** through the full implementation of the 2024 Legal Aid Policy (LAP) and the introduction of flexible, needs-based budgeting.

2.1 Drive forward the Victims' Strategy Revision

States Parties' request to update the 2012 Victims' Strategy offers a critical opportunity to close persistent rights gaps identified by the 2020 Independent Expert Review (IER) and the 2021 evaluation by the ICC's Independent Oversight Mechanism (IOM). Multiple rights gaps identified over the years persist at every stage of the Court's proceedings – from early outreach to the reparations phase – as highlighted by the Victims' Rights Working Group (VRWG), a network of over 180 national and international civil society organisations promoting the rights and interests of victims before the ICC, co-led by Redress, FIDH, and the Coalition for the ICC. In the 2023 "omnibus" resolution, States Parties reaffirmed the fundamental rights of victims and requested the Court to initiate consultations for the development of an updated Victims' Strategy. In August 2024, the ICC Registry (on behalf of the Court) launched a questionnaire to identify shortcomings in the Court's approach to victims. The VRWG was encouraged by this engagement and the Registry's intention to hold broader in-person consultations with all stakeholders including various ICC offices, and victims themselves. However, it is our understanding that during the first year of this process neither Court-wide meetings on developing the content of the new strategy, nor meaningful engagement and direct dialogue with survivors took place.

In July 2025, the Registry organised a two-day on-site seminar that illustrated the inadequate inclusion of victims. The VRWG was informed that survivors were underrepresented due to a lack of organisational support to attend. The few who attended in person were afforded limited opportunities to speak, sometimes only informally via civil society representatives who ceded their speaking time. Those who could only participate online were at times prevented from speaking due to internet connection problems. Survivors who took the floor in person criticised their exclusion from the seminar and more broadly from ICC processes, emphasising that victims should not have to use their time "to lobby organisers to have more victims participating" in a seminar about them, and affirming that the Court could not credibly speak of victim-centred justice while excluding victims "by design". One survivor called for co-creation, not consultation. Survivors stressed that victims should not be passive observers in justice: they must help shape strategy and participate fully in the process, which must respond to their lived realities, not only to procedural benchmarks.

Language alone is not enough. States and the Court must rebuild the Victims' Strategy through adequate funding and direct and sustained consultations with survivors and civil society. States will have an opportunity to hear directly from survivors at a survivor-led side event during the ASP, facilitated by the VRWG, called "*Victim-centred justice begins with us: A dialogue led by survivors*" on 1 December 2025. This unique opportunity will help inform states to engage with and monitor the strategy review process. FIDH recognises the complexity of this process and the efforts already undertaken by the Registry, and contributes these observations in the spirit of strengthening a strategy that victims can trust and genuinely shape. FIDH strongly encourages states to ensure that the Registry co-develops the revised Victims' Strategy with survivors, recognising them as both rights-holders and experts in justice and community leadership. Otherwise, the revised strategy risks remaining a technical exercise rather than a driver of real progress. The VRWG remains ready to support these efforts.

2.2 Adopt a victim-centred funding model and KPI framework

Serious concerns have also been raised about chronic underfunding and inconsistent implementation of effective outreach, especially at early stages. Despite clear recognition of its importance by the ASP and the Court's strategic plan, outreach remains poorly defined, under-funded, and inconsistently applied.

The Registry's restrictive interpretation of what constitutes a "situation" delays outreach until the investigation stage and excludes affected communities in earlier stages, which are critical to trust building. It also leads to chronic underfunding, as the Registry does not request and allocate adequate resources to outreach from the outset even though victims are already actively engaging with the Court in various ways. Civil society actors have repeatedly stepped in to fill this gap, reinforcing perceptions of institutional disengagement. Finally, the Registry's restrictive interpretation leads to non-compliance with Chambers' orders on outreach, as seen in Palestine and Bangladesh/Myanmar, leaving victims uninformed and shifting communication burdens to Legal Representatives of Victims (LRVs), as acknowledged by the Registry itself. Compliance with such orders must be non-negotiable and monitored through transparent performance indicators.

Treating early outreach as a standing institutional obligation to engage in a reciprocal exchange with victims, rather than a discretionary activity, would address key shortcomings. Early communication contributes to countering misinformation, supporting timely victim participation, and strengthening the evidentiary basis of proceedings. States should ensure that outreach is carried out in the language of affected communities, is continuous, and uses community-specific methods. To do so, states must adopt funding models and KPIs that explicitly measure victim-centred outcomes rather than insisting that KPIs be linked to hearings.

The Court's workload has expanded considerably, from just two situations and four participating victims in its early years to 17 active situations, and participation of a combined total of over 18,000 victims in cases before the Court during the 2024-2025 reporting period. In the same period, the Pre-Trial Chambers oversaw 22 situations and issued 183 decisions and orders. While the Division of External Operations (DEO) acknowledged in the Court's proposed 2026 budget that in spite of a reduction in judicial activity, it "must maintain its capacity to support operations, analysis, outreach and public information and most critically the protection of witnesses and victims", the budget request itself remains largely tied to a reduction in anticipated trial activity for 2026. The Public Information and Outreach Section (PIOS) has reduced its budget requests for staffing, in part due to discontinuation of posts at headquarters, including that of a public information assistant, a post described as "trial related". The PIOS has also requested a decreased amount in non-staff resources, again tying this reduction to a reduction in trial activities, despite calls to allocate the budget based on the full scope of victims' rights at all stages. It is unclear how a reduced budget for outreach will fill the gaps identified by CSOs, in particular the absence of any outreach in Sudan, while in Libya poor communication and lack of local-language materials fuel mistrust and retraumatisation across all stages, including reparations. Even in situations with ICC field office presence, such as Ukraine, CSOs report a lack of engagement, despite higher expectations.

To address this gap, the Registry should clearly assess and communicate current funding needs, and states must translate commitments into action, in particular by allocating adequate resources to the implementation of victims' rights within the annual budget to be adopted at ASP24. Moreover, states should support the VRWG's call, during a meeting with the ASP's Committee on Budget and Finance (CBF) in June 2025, for more transparent financial practices. These should include publishing detailed budget line items, to allow civil society to monitor and assess whether resources align with victims' needs.

2.3 Remove operational barriers to participation

The ASP has repeatedly affirmed that the ICC's legal aid system is central to ensuring fairness, due process, and effective representation for victims and defendants. However, progress has been uneven and delayed, undermining the system's core purpose. After more than a decade of calls for reform following the ASP's initial request for a review, the new legal aid policy (LAP) was adopted in 2023 and entered into force in January 2024. Yet, it is our understanding that the new early-stage allocations have still not been released, leaving victims' counsel without resources and weakening trust.

While early-stage allocations were a welcome improvement, the LAP introduced caps of €30,000 for early stages and €60,000 for reparations implementation, which does not take into account case complexity. LRVs consulted by FIDH described these caps as arbitrary and insufficient. Alarmingly, despite requesting funds since May 2024, they have not received a formal response or payment. They continue to work pro bono, which is both unsustainable and inequitable particularly as €30,000 was allocated per situation in the Court's approved 2024 budget. FIDH has been informed that these funds were reintegrated into the general budget, and it remains unclear how they have been used.

The reparations proceedings in the *Katanga* case illustrate the essential role of LRVs during implementation, with the Registry and the Trust Fund for Victims (TFV) relying on them to communicate with victims and facilitate reparations. Their contribution underscores the need for adequate and predictable support so victims can participate meaningfully at every stage.

Since 2014, defence and victims' counsel have been taxed on their income, unlike their counterparts in the OTP, undermining equality of arms and recognition of their essential role in fair trials. These financial disparities have also limited the pool of experienced defence and victims' counsel, which the Registry has confirmed is contributing to longer and more costly proceedings. Amendments to the APIC are needed to restore parity and ensure counsel and support staff are valued and protected. The ICC Bar Association's draft text, considered and generally supported by states, provides a basis for reform, and states should seek to align on a final version by ASP25 to resolve these longstanding inequities. In the meantime, states should engage with relevant stakeholders to adopt interim measures that level the playing field for all counsel before the ICC, pending the proposed APIC amendment.

Further reform of the LAP is needed to strengthen fairness and transparency in how counsel are supported. While remuneration during proceedings is tied to case complexity, the current policy lacks clear indicators, potentially leading to arbitrary assessments. States should advocate for transparent and consistent complexity indicators for each level of complexity across all phases, including early representation and reparations implementation.

During the legal aid reform process, the ASP has repeatedly requested that proposed amendments be cost-sensitive and funded within existing resources. This approach has been widely criticised for reducing matters of fairness, transparency, and equality of arms to budgetary concerns. It also contradicts the IER recommendation to reform the LAP without rigid financial limits. A flexible, needs-based model is required to ensure meaningful participation, including access to reparations, maintain equality of arms, and uphold the integrity of the Court's proceedings. States must ensure that the legal aid system upholds the ICC's founding principles of fairness, equality, and justice for all participants.

The Court's daily operations rely on the full cooperation of all ICC States Parties.
© ICC-CPI, opening of ASP15, in The Hague.

3. Strengthen Cooperation and Fulfil Complementarity Obligations: Implement the Rome Statute, Arrest ICC Suspects, and Prosecute Atrocities Domestically

The ICC, which relies on states to enforce its mandate, faces an unprecedented crisis of cooperation. Arrests, judicial cooperation, victim protection, and enforcement of sentences are all state-dependent. Without states' full engagement, the Court cannot function. Without arrests, there can be no trials, and "without trials, there can be no justice or reparations for victims". In 2024-2025, three major failures – including Italy's release of Osama Elmasry Njeem, and Hungary's refusal to arrest Netanyahu – exposed serious weaknesses in state compliance with ICC arrest warrants and the risk of normalising selective enforcement. These incidents and the invocation of immunity have deepened public scepticism and emboldened open defiance of the Court's authority and credibility.

Cooperation extends beyond arrests. States must also host suspects on interim and final release, respond promptly to requests for judicial assistance, and provide support to domestic investigations and prosecutions. Sustained and operationally effective cooperation requires clear legal frameworks, prepared inter-agency mechanisms, and adequate resourcing for both national authorities and the ICC's internal tracking and enforcement units. Civil society also plays a critical role in monitoring, documenting, and facilitating accountability.

Complementarity is equally essential to victims' access to justice. The ICC Office of the Prosecutor's (OTP) 2024 Policy on Complementarity and Cooperation aims to strengthen partnerships with states to enable genuine national investigations and prosecutions of atrocity crimes. This includes assistance to reinforce domestic judicial capacity and ensure effective application of the principle of complementarity. Yet recent experiences, such as setbacks in Guinea, highlight gaps in the Policy's implementation. Political interference, selective prosecutions, and impunity measures undermine the principle of complementarity, which must never serve as a pretext for delay or inaction. Transparency and independent monitoring of Memoranda of Understanding (MOUs) between the ICC OTP and national authorities are essential to ensure domestic proceedings meet international standards and uphold victims' rights.

In this context, states must:

i. **Ensure the execution of ICC arrest warrants and end the culture of non-cooperation.**

ii. **Uphold the principle of equality before the law, by rejecting immunity claims and politicisation of ICC arrest warrants.**

iii. **Fulfil their obligations to investigate and prosecute international crimes domestically**.

3.1 Ensure the execution of ICC arrest warrants and end the culture of non-cooperation

According to the IER, the ICC's inability to secure the arrest and surrender of suspects is an "inherent problem with the Rome Statute system". 33 publicly known fugitives remain at large, several for over a decade, while others are protected by political allies or shielded through procedural pretexts. Arrest and surrender are not only technical acts of cooperation; they are the linchpin of the Court's mandate. Despite some recent progress, with one arrest and surrender fully executed (Philippines) and another arrest pending surrender (Germany), a third surrender was not executed (Italy) and the Court has warned that the continued failure to implement arrest warrants remains a "major strategic risk" to its ability to deliver justice. It stresses that "without arrest no accountability process can start" and calls for sustained, high-level political engagement by States Parties to overcome the persistent political and operational obstacles that block enforcement.

Recent high-profile breaches underscore this crisis. On 17 October 2025, the Pre-Trial Chamber found that Italy had violated its Rome Statute obligations, when it failed to surrender Elmasry in January 2025, after arresting him pursuant to an ICC arrest warrant. Judges deferred deciding whether to refer Italy to the ASP or UN Security Council, pending Italy's response, which was filed on 31 October 2025. While some allege the non-cooperation was politically motivated, Italy does not admit wrongdoing in its response. Instead, it argues that the incident prompted high-level judicial and political scrutiny, leading to domestic investigations and a review of its implementing legislation, which it claims will ultimately strengthen cooperation with the Court. Meanwhile, Libya accepted the ICC's jurisdiction on 12 May 2025 for alleged crimes in its territory committed from 2011 to 2027, and on 5 November 2025, Libyan authorities announced they had arrested Elmasry in Libya for torture and killing, charges reportedly "very similar" to those in his ICC arrest warrant.

Hungary's refusal to arrest Netanyahu marks another serious breach by the EU Member State. Despite binding obligations under EU law, including EU Council Conclusions, the 2011 Council Decision on the ICC, and the EU-ICC Cooperation Agreement, as well as its Rome Statute obligations which apply until its withdrawal from the Rome Statute becomes effective, Hungary refused to cooperate. In July 2025, the ICC's Pre-Trial Chamber found that Hungary had failed to comply with its obligations under the Rome Statute by not executing the Court's request for the provisional arrest of Netanyahu while he was on Hungarian territory, and referred Hungary to the ASP for non-compliance. Mongolia was also referred to the ASP in 2024, after failing to arrest Russian President Vladimir Putin, having cited head of state immunity and practical impediments to execution of the warrant. Following the March 2025 dismissal of Mongolia's final reconsideration request, the referral is now ready to be taken up at ASP24.

The actions of Italy, Hungary, and Mongolia demonstrate how political calculations are displacing legal obligations, undermining the credibility of the entire Rome Statute system and risking normalising selective compliance. An underlying problem is that the Rome Statute provides little effective means of holding states to account for non-cooperation. Under Article 87(7), when a State Party refuses to cooperate, judges may refer the matter to the ASP or, in Security Council-referred situations, to the Council, yet these referrals carry no automatic consequences. As the International Bar Association has underscored, the Court hadreferred 16 instances of non-cooperation by 2024, yet "no action has been taken". Despite the Assembly's procedures for responding to referrals, it has in most cases simply "taken note" of the Court's findings without applying any of the tools

at its disposal. Against this backdrop, at ASP24, with new referrals concerning Mongolia, Hungary, and potentially Italy, the Assembly has a clear opportunity to demonstrate that referrals carry consequences and, for the first time, to apply concrete measures, such as issuing a formal public response, limiting a non-cooperating State's ability to hold ASP leadership or facilitation roles, or adopting coordinated political steps to increase pressure.

The Assembly Presidency and the Bureau's co-facilitators on cooperation have actively promoted cooperation on arrest and surrender, and states decided at ASP23 to have a new standing session on non-cooperation at future sessions which is an important step in the right direction. However, States Parties must go beyond more meetings and expressions of concern, and "develop a comprehensive strategy on arrest and surrender" in order to use diplomatic, legal, and economic leverage to ensure adherence to the Statute. States already possess tools to reverse this trend: for instance the ASP's procedures on non-cooperation and recommendations on cooperation, the ASP Toolkit on how to implement the informal aspects of non-cooperation procedures, and the OTP's Cooperation and Complementarity Forum, provide concrete pathways to improve responsiveness. Yet these mechanisms remain underused.

Operational readiness is equally crucial. States should ensure that they have a complete legislative framework, whether in a single act or through coordinated instruments, that fully covers all Part 9 cooperation obligations, so that ICC requests can be executed clearly, consistently, and without legal uncertainty. More States Parties also need to test how an ICC warrant would actually be implemented within their national systems. The Registry's cooperation questionnaire identified persistent gaps, and as of 2024, only 35 states had replied to the questionnaire. There is a new 2025 version with additional questions on arrest procedures, and states are encouraged to review it and ensure their national answers are updated. States should also meet regularly with the Registry and OTP to identify procedural bottlenecks, update national arrest-capacity mappings, and strengthen preparedness for future operations, including through practical simulation exercises. Canada and others' mock arrest operations – Canada tested how an ICC warrant would move through its system under the *Crimes Against Humanity and War Crimes Act (2000)* – offers a valuable model for other states. Effective cooperation also requires sustained support for tracking and enforcement efforts.

The ICC has strengthened its internal capacity for tracking suspects and securing their surrender to the Court with the establishment of the OTP's Tracking and Information Fusion Section and the Registry's Judicial Cooperation Support Section, which have improved coordination with these actors. Civil society plays an increasingly active role in assisting in tracking suspects through open-source intelligence, financial analysis, network mapping, and local partnerships. Yet, these mechanisms remain underfunded. Insufficient resourcing by States Parties' exposes a clear gap between expectations and actual capacity. Strengthening the ICC's arrest operations – financially, logistically, and politically – is indispensable to ensure that suspects are pursued effectively. While civil society complements and supports the work of the Court, it does not substitute state responsibility.

Beyond arrest and surrender, meaningful cooperation also requires states to host current or former suspects on interim and final release. The Mokom case, in which the accused was left in legal limbo after the OTP withdrew its charges soon after the suspect, while in custody in The Hague, was sentenced *in absentia* to life imprisonment in Bangui, underscores how the absence of voluntary cooperation agreements undermines the rights of both victims and suspects. States must enter into comprehensive cooperation agreements covering all stages of proceedings, including interim and final release, to ensure the full functioning of the Court.

When political will aligns with preparedness, enforcement is possible. The March 2025 arrest of former Philippine President Rodrigo Duterte in Manila – coordinated between national authorities, Interpol, and the ICC – demonstrates that even high-level suspects can be brought to justice when systems function. Despite the Philippines' 2019 withdrawal from the Rome Statute, national authorities cooperated under Interpol obligations and surrendered Duterte to the Court within twenty-four hours. Several sources confirm that the national Department of Justice had prepared an operational plan to arrest Duterte well in advance of receipt of an arrest warrant.

Such examples show that non-compliance is not inevitable, but a choice. States must treat failure to execute ICC arrest warrants as a violation of international law, not as a matter of discretion. Ending the culture of selective enforcement is essential to preserving the credibility and survival of the Rome Statute system.

3.2 Uphold the principle of equality before the law by rejecting immunity claims and politicisation of ICC warrants

Beyond operational failures lies a deeper challenge to the Rome Statute system: the erosion of the fundamental principle that no individual, regardless of position, is above the law. Increasingly, States Parties invoke head-of-state immunity or political expediency to justify non-execution of ICC warrants, particularly in politically sensitive cases. Italy and France have stated that immunities would protect Netanyahu from arrest, while France, Italy, and Greece authorised overflights facilitating his travel despite being parties to the Convention on International Civil Aviation, which affirms airspace as national territory. Poland and Germany have similarly indicated that Netanyahu would enjoy safe passage. Even in the Netherlands – the ICC's host-state – Prime Minister, Dick Schoof, stated that "there are possible scenarios... in which he would be able to come to the Netherlands without being arrested". Such statements, whether politically motivated or legally misguided, fracture the collective commitment of States Parties and embolden defiance of the Court.

Disregard for arrest obligations extends beyond this case. Putin continues to travel internationally despite an ICC arrest warrant for war crimes. Several States Parties have made troubling statements regarding engagement with both Netanyahu and Putin, including Argentina, Austria, Belgium, Bulgaria, Brazil, Hungary, Mexico, Paraguay, Romania, South Africa, Tajikistan, and others. Nevertheless, the majority of state responses to Netanyahu's arrest warrant were broadly supportive or affirmed their cooperation obligations, including South Africa welcoming the warrant and Ireland stating that "international law must apply in all circumstances, at all times".

These examples illustrate vast inconsistencies between states and how political rhetoric and immunity arguments are being instrumentalised to shield suspects from accountability, damaging the Rome Statute system. As detailed in a forthcoming briefing paper, co-published by FIDH and Redress in collaboration with students from The Hague University of Applied Science, entitled *Ending Immunity, Ending Impunity: Advancing Accountability for Heads of State at the International Criminal Court*, to be launched in December 2025, the Court's jurisprudence, customary international law, and a harmonious reading of Rome Statute Articles 27 and 98 all support the inapplicability of personal immunity before the ICC. Moreover, any ambiguity in identifying collective support for the proposition that immunities, including personal immunities, are no bar to the ICC's jurisdiction must be removed by States Parties themselves, by reaffirming publicly and consistently that they are legally bound by the Rome Statute and that no person, regardless of position, enjoys immunity from ICC arrest. More critically, states must ensure their implementing legislation domesticating the Rome Statute fully reflects Article 27, by clearly affirming that immunities do not bar execution of ICC arrest warrants. Failure to do so risks emboldening impunity, and entrenching double-standards in international criminal justice.

3.3 Fulfil state obligations to investigate and prosecute international crimes domestically

States are the backbone of accountability. When states meaningfully investigate and prosecute international crimes, impunity shrinks; when they fail to do so, the entire system of justice weakens. The ICC's effectiveness ultimately depends on states' willingness and capacity to exercise jurisdiction domestically. According to the OTP's 2024 Policy on Complementarity and Cooperation, a "renewed approach to complementarity" responds to "the reality of a changed landscape in the field of core international crimes", with national authorities "increasingly seeking to assert jurisdiction over

international crimes in national settings, including under universal jurisdiction". The Policy frames the Court as a "hub" for global accountability, emphasising that domestic proceedings are central to the system's effectiveness. Ultimately, most cases must be handled domestically, as the ICC remains the court of last resort.

The Guinea situation illustrates both progress and fragility. In 2022, the OTP and the government of Guinea entered into a Memorandum of Understanding (MoU) on proceedings related to the 28 September 2009 massacre. The trial, in which FIDH and its member and partner organisations acted as civil parties alongside more than 700 victims, concluded with the conviction of former senior officials sentenced to between 10 years and life imprisonment for crimes against humanity. In March 2025, the government also adopted a long-awaited decree on compensation measures for victims, but only two days later, Moussa Dadis Camara, sentenced to twenty years, was pardoned on health grounds.

This pardon is an affront to justice and to the memory of the victims, who continue to call on the Guinean authorities to uphold international standards and implement a fair compensation process. Article 4 of the MoU explicitly allows the OTP to reconsider its assessment if significant developments jeopardise the genuineness of domestic proceedings. FIDH has urged the OTP to do so, noting that the pardon contradicts national, regional, and international obligations. A policy without implementation is insufficient; failure to respond risks undermining the credibility of complementarity rather than advancing justice.

While some domestic processes advance, many others remain stalled or compromised. Civil society has repeatedly questioned how the OTP applies complementarity in other contexts, including Colombia, Georgia, Libya, Nigeria, and Venezuela, where national proceedings appear to be delayed, politicised or lack genuine independence. FIDH has called for transparency, clear criteria for assessment, and structured reporting to ensure that domestic proceedings genuinely uphold international standards. Civil society plays a crucial role in this process, documenting crimes, monitoring national proceedings, supporting victims' participation, and bridging the gap between the Court, states, and affected communities.

Where domestic proceedings are absent, stalled or inadequate, states can exercise universal jurisdiction to investigate and prosecute atrocity crimes. Such mechanisms complement the ICC's role, helping to ensure accountability. In 2024 alone, 36 new cases were opened or made public and 27 convictions secured, nearly double the previous year's total. Civil society organisations contributed to more than half of these proceedings, underscoring their indispensable role in domestic accountability.

States should also utilise existing frameworks, such as the Ljubljana-The Hague Convention (Ljubljana Convention), to facilitate cooperation in investigations, evidence sharing, and prosecutions, reinforcing domestic capacity to handle international crimes effectively, including through universal jurisdiction which is mandated in the Convention. States should accelerate its ratification. Although 40 states have signed it to date, the Convention will only enter into force three months after the third ratification. Latvia became the first state to ratify it in August 2025.

States and the OTP must act decisively. Genuine complementarity is only achieved when national authorities fully investigate and prosecute international crimes. Political expediency, impunity, and delays undermine both domestic accountability and the ICC's credibility. The OTP's Policy emphasises a two-track approach: supporting states in strengthening domestic capacity while retaining the ability to intervene where proceedings are plainly inadequate. States must uphold domestic accountability, avoid using complementarity as a cover for delay or pardon, and ensure victims' rights are respected. Civil society engagement, regular reporting, and transparent benchmarks are essential to preserve trust in the complementarity framework.

If the promise of the OTP's Policy on Complementarity and Cooperation is to become reality, domestic accountability cannot be sidelined. Genuine investigations and prosecutions, transparent engagement, and civil society partnership are indispensable layers of the Rome Statute system.

JUSTICE IN ACTION

Actions States can take to Champion and Strengthen Accountability Mechanisms

Signing conference Ljubljana-The Hague Convention in the Peace Palace, 14 February 2024.

© Netherlands Ministry of Foreign Affairs / Valerie Kuypers & Martijn Beekman

LJUBLJANA–THE HAGUE CONVENTION

Ratify and implement the Ljubljana–The Hague Convention to establish the first global framework for state cooperation on atrocity crimes. By closing critical impunity gaps, the Convention streamlines evidence-sharing, extradition, and mutual legal assistance via a single comprehensive framework. It reinforces universal jurisdiction and advances the ICC's principle of complementarity. Forty states have signed the Convention so far, and Latvia was the first state to ratify it in August 2025. The Convention will enter into force three months after the third ratification.

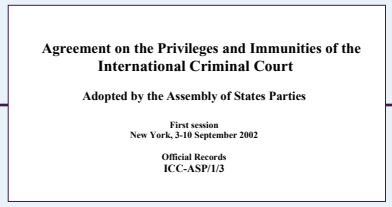
© Council of Europe, 2025.

SPECIAL TRIBUNAL FOR THE CRIME OF AGGRESSION AGAINST UKRAINE

Actively support the Special Tribunal by ratifying the *Enlarged Partial Agreement* and ensuring meaningful victim participation in its establishment and operations, through consultations with victims and their representatives, including Ukrainian civil society. Key issues, such as the definition of "victims", their participation in hearings, and the implementation of judgments should be clearly addressed.

CRIMES AGAINST HUMANITY (CAH) CONVENTION

Support the negotiations of the CAH Convention scheduled to begin in 2026 and adopt a strong Convention, reflecting today's realities and recent developments in international law, to close the long-standing gap in international treaty law. A CAH Convention would strengthen states' obligations to prevent, investigate, and prosecute CAH, including persecution, enforced disappearance, gender apartheid, and incitement to such crimes, but the current draft remains weak on victims' rights. The final text should adopt a victim-centred approach and recognise victims' rights, including broad participation beyond criminal proceedings, and their rights to protection, reparation, and truth. States should ensure the inclusion of civil society organisations in every stage of this negotiation process.


Agreement on the Privileges and Immunities of the International Criminal Court

Adopted by the Assembly of States Parties

First session
New York, 3-10 September 2002

Official Records
ICC-ASP/1/3

AGREEMENT ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL CRIMINAL COURT (APIC)

Ratify the APIC to ensure the Court, its officials, staff, and experts can operate without undue interference. While the APIC is essential for the ICC to function effectively and deliver justice for victims of Rome Statute crimes, only 80 states have ratified the Agreement. At a time when the Court's independence is increasingly jeopardised, states should ratify this treaty to ensure national authorities apply these protections in practice, enabling full cooperation with the Court. Parties to the agreement must commit to re-negotiating relevant sections of APIC to end taxation disparities between internal and external counsel.

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ENFORCED DISAPPEARANCES

Ratify and promote the International Convention for the Protection of All Persons from Enforced Disappearance, which has only been ratified or acceded to by 77 states, to end this grave practice without delay and ensure accountability for perpetrators. The first World Congress on Enforced Disappearances, which took place in January this year, brought together a coalition of voices from around the world, calling for truth, justice, reparations, and enhanced protections for victims of enforced disappearances. This message that no disappeared persons should be forgotten was reiterated on the International Day of the Victims of Enforced Disappearances in August this year.

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CRIME OF AGGRESSION UNDER THE ROME STATUTE

Harmonise the ICC's jurisdiction over the crime of aggression to align it with the Court's other core crimes. While the Special Tribunal is an essential step towards accountability for the crime of aggression committed in Ukraine, victims in other regions must also have equal access to justice for this crime, including through the ICC. The current Rome Statute framework is too limited and leaves major accountability gaps, preventing the prosecution of those most responsible for these acts. Amending the Court's jurisdiction will close existing gaps and establish a comprehensive framework for all victims of the crime of aggression.

On 8 December 2022, the ICC launched its first comprehensive Court-wide Gender Equality and Workplace Culture Strategy.
©ICC-CPI, from ICC statement.

4. Advance a Healthy and Accountable Workplace Culture at the ICC

The ICC faces a defining test of integrity. Allegations of sexual misconduct against the Prosecutor, evidence of systemic workplace dysfunction, and the weaknesses of its election processes together expose a crisis of accountability, culture, and leadership. Addressing these challenges is not simply a matter of staff morale but a question of institutional survival: an ICC that fails to uphold its own standards cannot credibly demand accountability from others.

Three areas require urgent reform:

i. **Evaluate and strengthen the ICC's workplace culture framework** to close the gap between policy and practice, by establishing a standalone working group to develop a time-bound action plan and mandating an IOM evaluation of an office or policy.

ii. **Ensure accountability and transparency in misconduct cases involving elected officials** through a clearly communicated and confidential complaint system, and by fully implementing IER Recommendation 108.

iii. **Reinforce a culture of integrity through election and vetting reforms** that uphold the highest standards of ethical conduct and public trust.

If these problems remain unresolved, the consequences will be far-reaching. A toxic workplace culture undermines retention, reduces staff productivity, erodes trust, and ultimately, compromises the Court's ability to conduct sensitive, victim-facing work. Failure to ensure accountability and transparency in misconduct cases will erode confidence among staff, victims, and states. Questionable election practices can enable unsuitable candidates to reach leadership positions, with implications for staff well-being and the institution's moral authority. Ultimately, if these internal problems persist, they will weaken the Court's capacity to serve its primary stakeholders – the victims – at all stages, from early engagement to meaningful participation and reparations.

4.1 Evaluate and strengthen the ICC's workplace culture framework

Problems of workplace culture at the ICC go beyond individual complaints. The IER Final Report disturbingly describes a "culture of fear" and reported "many accounts of bullying behaviour amounting to harassment" particularly in the OTP, and a culture that is "adversarial and implicitly discriminatory against women". Following the IER's identification of systemic workplace-culture failures, by 2023 almost all IER recommendations had been reviewed by the Review Mechanism and implementation of those positively assessed was underway.

The Court has taken several positive steps, including: launching a Gender Equality and Workplace Culture Strategy; introducing administrative instructions on Prevention of Sexual Exploitation and Sexual Abuse and Flexible Working Arrangements, and the Presidential Directive on Protection Against Retaliation; introducing mandatory anti-harassment training, which applies to staff but not apparently to elected officials including judges and the prosecutor; expanding unconscious-bias training for staff recruitment panels; further rolling out the Developmental 360 feedback tool for managers, with almost 50% of supervisors having completed it, a tool that also appears to be for staff but not elected officials; and expanding the work of the Focal Point for Gender Equality, including for the first time ever, an induction session with new judges on gender dynamics and inclusion.

Despite these numerous policies and activities introduced over recent years, and recognising that these reflect genuine efforts to improve the working environment and that cultural change inevitably takes time, data from internal oversight and staff surveys shows that mistrust, harassment, and weak accountability persist. This demonstrates the limits of policy adoption without effective, consistent, and transparent implementation across all organs of the Court. Moreover, while the Court outlines a wide array of activities undertaken in 2024, it presents them in descriptive and forward-looking terms, with no acknowledgment of the depth or underlying causes of the well documented workplace-culture challenges – an assessment that is very much needed for lasting systemic change.

The IOM 2024–2025 Annual Report highlights "an unprecedented increase of reports of alleged misconduct" including 76 new allegations of misconduct in one year, a 77% increase compared to last year, with 53 advancing to investigations, in addition to 20 cases carried over from the previous reporting period, underscoring the scale and persistence of serious workplace-misconduct problems at the Court. The 2025 Staff Engagement Survey (as provided to FIDH), completed by 78% of ICC personnel, further illustrates a workplace in crisis: only 32% believe the ICC has an open and honest culture, and fewer than half (49%) would recommend it as a good place to work. Although 88% of staff know how to report instances of discrimination, harassment, or abuse of authority, only 46% believe the ICC takes such allegations seriously, and only 36% feel safe reporting without fear of retaliation. In the OTP, this drops to just 22%. Alarmingly, 62% of respondents said they had experienced discrimination, harassment, sexual harassment, or abuse of authority in the past year, up from 53% in 2023, and over a quarter said no action was taken after reporting, and nobody saw disciplinary measures applied. Of the 47 staff members who reported discrimination, 75% indicated that the problem continued or worsened.

These findings point to deep systemic challenges in trust and leadership across the Court, including within the IOM. Concerns regarding perceptions of potential bias have been raised, as the Head of IOM, who commenced in December 2024, previously worked for the OTP. In response, a conflict of interest protocol was introduced. Allegations of misconduct against elected officials, including judges and the Prosecutor, are not isolated incidents but part of a broader institutional pattern. In 2025, two lead counsel practising before the Court were disciplined following bullying and misconduct findings (see here and here). Standard measures of workplace health are also poor: only 23% see opportunities for internal mobility, 40% reported poor onboarding, and fewer than half (48%) believe their organ heads will act on the survey's results, falling to just 22% in the OTP. Only 42% believe they are treated equally regardless of gender, race, or other characteristics. Together, these results reveal a workforce marked by disillusionment, mistrust, and a deep sense of resignation about the prospects for change.

The ASP should consider establishing a standalone working group to close these gaps. Its membership could include individuals with relevant expertise, including those from institutions that have successfully undertaken workplace reform. The group's mandate would be to develop a time-bound action plan, informed by staff feedback, to address priority areas such as gaps in the regulatory framework, reporting mechanisms, power dynamics, and leadership accountability. A multidisciplinary approach would allow it to tackle under-addressed issues including secondary trauma, rigid hierarchies and power imbalances, and structural sexism. The group could report annually to the Bureau and adapt its plan as progress is achieved and new areas for reform emerge.

The ASP Bureau could also consider requesting the IOM to evaluate a specific office or policy under the 2025 Evaluation Policy, which identifies evaluation as a key accountability tool for assessing the effectiveness of institutional reforms. The Policy provides for evaluations of whether Court policies are fit for purpose and effectively implemented, as well as reviews of organisational effectiveness or workplace culture within specific offices or organs. Workplace-culture evaluations may also include a change-management component to support practical reform. Any requested evaluation would culminate in a public report which should include time-bound recommendations and regular follow-up reporting, giving the ASP a sound basis for monitoring and sustaining reform. To do so, the IOM will require adequate and predictable resources, as its evaluation function is currently carried out by a single staff member, with occasional support from interns and invited professionals. In its last report, the IOM stressed this represents a significant risk to standards and quality and that the resources currently allocated on a temporary basis are insufficient to effectively and rigorously implement the new Evaluation Policy. The IOM is already facing an "unprecedented increase" in its "significant workload" and two inspections were delayed during the period 2024-2025, due to a lack of dedicated resources. The IOM's dramatically increasing activities should be supported by permanent and adequate funding.

A poor workplace culture undermines the Court's credibility and effectiveness, as FIDH, and other CSOs have warned. The Court's sensitive, victim-facing work depends on a motivated workforce and the ability to retain experienced staff in an environment where they feel safe, respected, and able to perform at their best. Persistent concerns about harassment and discrimination weaken trust among victims and states. It is therefore critical that states support efforts to reform the Court's workplace culture through a clear assessment of underlying causes, strengthened leadership accountability and independent oversight. These measures are essential not only to improving morale and the quality of the Court's work, but also to reinforcing its credibility as a model of the justice it seeks to deliver.

4.2 Ensure accountability and transparency in misconduct cases involving elected officials

Ensuring a healthy workplace at the ICC requires robust and transparent accountability structures, whether they are ad hoc or permanent.

The external investigation against the Prosecutor

In May 2024, initial complaints of sexual misconduct were raised against ICC Prosecutor Karim Khan and reviewed by the IOM. In November 2024, the ASP President sought an external investigation, later announced as being conducted by the UN Office of Internal Oversight Services (OIOS).

Civil society played an important and sustained role as the process unfolded. FIDH and Women's Initiatives for Gender Justice (WIGJ) called for Khan's immediate temporary suspension in November 2024, and in May 2025, FIDH welcomed his decision to take administrative leave pending the outcome of the OIOS investigation. On 28 May 2025, FIDH and WIGJ issued an explainer, which was shared with the ASP Bureau, detailing critical gaps in the Court's convoluted accountability framework and recommending urgent measures to ensure a credible, impartial, and rights-based process.

The Bureau subsequently established a three-step process, as recommended in the explainer: (1) OIOS fact-finding; (2) legal assessment by an ad hoc panel of external judges; and (3) Bureau and/or ASP decision-making. Key milestones included the 4 June 2025 decision to establish the Panel; the 2 July 2025 decision confirming its mandate and composition (both genders are included on the panel and members represent African, Caribbean, and European nationalities); and the 17 July 2025 meeting confirming the Panel's readiness to begin immediately upon receipt of the OIOS report.

These decisions marked significant progress in filling regulatory gaps, but left key issues unresolved. The President has indicated that the OIOS report will only be shared with states if the legal assessment results in a finding of serious misconduct triggering Article 46 removal proceedings. No provision has been made for sharing the report with either the elected official or the complainant, which does not adequately protect their due process rights, namely the elected official's right to know the case against them, and to be heard, and the complainant's right to be kept informed of the process. Providing access to the findings to the elected official is especially required in the event of Article 46 proceedings, as the elected official must be allowed to respond in writing within a set timeframe consistent with the ICC Rules of Procedure and Evidence (RPE).

Any sharing of the OIOS report, whether in the context of Article 46 removal proceedings or Article 47 disciplinary measures, must be done in a strictly confidential manner. For example, a watermarked "copy" of the OIOS report can be made available in a secure reading room to protect the rights of the parties and the integrity of the process. Robust protective measures must also be adopted to protect whistleblowers, the complainant, and witnesses. Finally, the Bureau must be prepared to impose a temporary suspension if serious misconduct is substantiated pending a final ASP decision, to preserve the integrity of the process and protect staff during deliberations.

Addressing gaps in future misconduct cases involving elected officials

Across successive leadership cycles, persistent reports of harassment, retaliation, and opaque disciplinary processes have revealed structural, not episodic, weaknesses. The external investigation against the Prosecutor and the protracted process has exposed persistent gaps in the Court's regulatory framework for addressing alleged misconduct. The Court does not yet have a modern, fully resourced compliance architecture capable of addressing misconduct swiftly, transparently, and in a survivor-centred manner, and experts have cautioned that the current procedures are insufficiently clear or user-friendly and often unnecessarily stressful for those navigating them.

To begin strengthening the Court's enforcement framework, over the past year, joint meetings of the Study Group on Governance (SGG) and the IOM Facilitation have focused on investigations of elected officials. States have importantly agreed to implement IER Recommendation 108, by establishing an ad hoc panel to advise the competent decision-makers. The Panel is tasked with assessing whether facts established through IOM or external investigations amount to serious misconduct under Rule 24 of the RPE, or less serious misconduct under Rule 25. These legal assessments will inform (but not replace) decisions to impose disciplinary or removal measures.

Civil society, including FIDH, welcomed this initiative, actively participating in meetings and providing input on the ad hoc panel's terms of reference (ToR), which facilitators took into account during the drafting process. FIDH's recommendations included: widening the panel's expertise beyond the judges and prosecutors originally proposed by the IER, to integrate specialists in international administrative law, workplace investigations, and gender-based violence; reducing the proposed 90-day panel deliberation period to a more efficient 30 days to uphold due process and prevent undue delay, and avoid prolonged uncertainty for both the complainant and the elected official; and embedding robust victim-centred safeguards, including protections against retaliation, clear communication of findings where permissible, and alignment with existing Court policies on harassment, discrimination, and retaliation.

While this process and sustained efforts by states mark real progress, FIDH is concerned about the asymmetrical treatment of elected officials and complainants in the final ToR draft, particularly regarding unequal access to information and limited opportunities afforded to complainants to engage with the Panel. The ToR give elected officials guaranteed access to the investigation report, while complainants may only engage with the Panel "as appropriate". This does not seem to align with IOM practices of updating complainants throughout the underlying investigations, and this imbalance risks weakening the victim-centred approach. The ToR should also avoid language that implies a criminal process, such as "charges" in what are administrative proceedings. Using accurate

terms such as "allegations" or "complaints" would bring the document into line with existing rules and internal guidance. FIDH hopes these elements can be strengthened in the next amendment cycle to ensure greater fairness and consistency.

While FIDH welcomes the agreement on a 30-day timeframe for future ad hoc panel deliberations, in line with FIDH's recommendations, as several states have noted, the absence of clear timelines for the underlying misconduct investigations is detrimental to elected officials, victims, complainants, whistle-blowers, and the institution. Fixed deadlines for the initial evidence-gathering phase, aligned with international standards for workplace investigations, should apply in all cases. The external investigation against the Prosecutor shows how open-ended procedures permit protracted delay and erode trust; time limits with regular, confidential updates would protect due process for all parties. Investigations should reach a conclusion even if the person concerned resigns, with anonymised outcomes recorded to ensure accountability and institutional learning.

Finally, transparency and confidentiality must be balanced through clear rules on publication. At present there appears to be an unnecessary conflation between the confidentiality of the substance of disciplinary proceedings and the transparency that can (and should) be provided about the procedural steps taken, many of which can be safely shared. Summaries of main developments such as the conclusion of an external investigation, findings, and decisions including on suspensions or removals, should be made public with the necessary redactions. Public summaries should confirm any measure imposed and that due process and protection obligations were observed. This would strengthen confidence in the disciplinary system and demonstrate accountability without compromising confidentiality, and reduce the risk of speculation, a media frenzy, and staff leaking information out of frustration.

4.3 Reinforce a culture of integrity through election and vetting reforms

The integrity of ICC elections is critical to the institution's credibility. Together, judges, the Prosecutor and Deputy Prosecutors, and the Registrar are the public face of the Court, and their character, expertise, and conduct are central to shaping the culture and standards it embodies. Numerous allegations of various forms of misconduct and mismanagement against elected officials since the ICC began its operations in 2002, together with a persistent workplace culture crisis, demonstrate the risks of weak election processes. A significantly strengthened election process is therefore essential to ensure that only leaders of proven integrity and competence are elected, protecting the Court's long-term stability and credibility.

Civil society has persistently called for transparent, merit-based, and de-politicised election processes, which actively prevent unilateral nominations, vote trading, endorsement, campaigning, or other forms of support to individual candidates. CSOs also strongly advocated for the introduction of a permanent vetting process to ensure candidates have the necessary professional, managerial and ethical competencies to hold leadership roles at the ICC. In 2023, the ICC became the first international justice institution to adopt a permanent, institution-wide due diligence procedure for all elected officials, which is now being operationalised. The procedure incorporates some key safeguards, including a criminal record check, independent background checks of academic, professional, and criminal records, analysis of open-source information and (where feasible) contacts with former and current employers and employees who may have worked with the candidates, a confidential channel for reporting misconduct, protection of complainants' anonymity, and due process guarantees for candidates.

However, due diligence processes focus solely on whether candidates meet the requirement of high moral character under Article 43(3) of the Rome Statute, relying mainly on background checks and screening for any history of misconduct. CSOs have advocated for a more comprehensive vetting process, which goes beyond identifying integrity risks and behavioural concerns, towards proactively

identifying individuals who demonstrate management competence, emotional intelligence, and other qualifications relevant to professional fitness for these leadership roles.

The option to contact colleagues of the candidates is strongly welcomed, but reputational reviews through interviews with former employees and supervisors should be mandatory. Reputational interviews in the Canadian federal judicial selection process offer a strong model for assessing suitability. Committees consult a broad range of legal and non-legal contacts, including individuals not named by the candidate, to gain candid insight into judgement, conduct, and working relationships. Because non-referees often provide the only honest accounts, applying this step consistently across all candidates is essential for fairness and for identifying who is genuinely fit for a position of trust.

Multiple allegations and formal cases involving several elected officials over the past years underscore the need to continue strengthening the vetting and election processes. They highlight the importance of procedures that can reliably assess a candidate's conduct and suitability for senior leadership, fostering confidence in the institution as a whole. Expanding due diligence into a full vetting process would provide a fuller understanding of a candidate's judgement, leadership style, and capacity to contribute to a safe and respectful working environment, rather than merely a narrow confirmation that a candidate is free of complaints.

EXTERNAL INVESTIGATION OF ICC PROSECUTOR FOR ALLEGED MISCONDUCT

18 OCT. 2024

IOM submits its annual report to the ASP, including details about being informed on 3 May 2024 about an elected official allegedly violating the Court's harassment policy, but the alleged affected individual declined to pursue a formal complaint so the IOM determined that no investigation was necessary at this stage.

24 OCT. 2024

ASP President confirms: reports of alleged misconduct by the ICC Prosecutor; that following a conversation with the alleged victim, the IOM was not in a position to proceed with an investigation at that stage; and that the Court has a "zero-tolerance policy" towards prohibited conduct, including sexual harassment and abuse of authority. The Prosecutor denies the allegations and "would always encourage any victim of harassment to raise their voice and come forward with such accounts wherever they may occur."

28 OCT. 2024

The ICC Prosecutor requests the IOM Head to open an immediate investigation into the allegations.

11 NOV. 2024

ASP President announces she is seeking an external investigation of alleged misconduct by the ICC Prosecutor.

22 NOV. 2024

FIDH and WIGJ call for an impartial, independent and comprehensive external investigation into the allegations, and for Prosecutor Khan's immediate temporary suspension until the conclusion of the external investigation.

16 MAY 2025

Prosecutor Khan announces he will go on leave until the conclusion of the OIOS process (it is unclear at what stage the process is considered concluded), which FIDH welcomes as the only responsible decision.

18 MAY 2025

ASP Presidency takes note of the ICC Prosecutor's decision to take leave and for the first time publicly refers to the fact that the external investigation is being conducted by the OIOS.

19 MAY 2025

Deputy Prosecutors Nazhat Shameem Khan and Mame Mandiaye Niang assume leadership, management and administration of the Office, following Prosecutor Khan's decision to take a leave of absence.

28 MAY 2025

FIDH and WIGJ publish an Explainer on critical gaps in the Court's regulatory framework with proposed measures to ensure a credible, impartial process.

4 JUNE 2025

ASP Bureau agrees to establish an ad hoc Panel of three external judges, with gender and regional diversity.

2 JULY 2025

ASP Bureau confirms the Panel's mandate and composition and finalises its Terms of Reference, agreeing that the Panel will have an advisory role in relation to the Bureau and focus strictly on the legal characterisation of facts in the OIOS report, and not on fact-finding. Panel members represent African, Caribbean, and European nationalities, and both genders are included.

17 JULY 2025

ASP Bureau confirms that the Panel's judges have received their consultancy contracts and stands ready to begin work.

3 SEPT.2025

Bureau confirms that the Terms of Reference for the panel are complete and estimates that the OIOS report will be complete by the end of October.

8 OCT.2025

Bureau makes proposals on the procedures to be followed upon receipt of the report of the OIOS fact-finding investigations, still expected at the end of October.

NOVEMBER 2025

OIOS indicates that more time is needed to complete the investigation and deliver a report. No new update on a timeline has been provided.

7 NOV. 2025

For over a year, the situation has received a flood of media coverage, intensified by the protracted external investigation. A recent Guardian piece reports that the complainant was targeted by private intelligence firms allegedly acting on behalf of a Qatari unit, seeking to undermine her credibility. The ICC Prosecutor's lawyers continue to "categorically deny" that he mistreated any individual. The complainant describes the alleged covert operation as "disturbing" and voices her disillusionment: *"Where does this end and how much will be allowed? If this is what international justice looks like, it is not the system that I have dedicated my life to serving."*

The decision to appoint an external ad hoc Panel marks progress in addressing accountability and regulatory gaps identified by civil society. However, important questions remain and must be addressed by States Parties and the Court to ensure the integrity of this and future processes.

FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

Recommendations to ICC States Parties

In a year of escalating attacks on the ICC and the Rome Statute system, States Parties must show unity and resolve. The following recommendations identify concrete actions that states can take at ASP24 to defend the ICC's independence, uphold victims' rights, strengthen cooperation and complementarity, and promote accountability within the institution itself.

FIDH calls on states to:

Stand for the ICC or Bow to US Sanctions: A Critical Test for States Parties

Publicly defend the ICC and denounce all sanctions

- **Condemn all sanctions targeting the ICC, its officials, and partners**, including civil society organisations supporting its work.
- **Coordinate regional and cross-regional statements** affirming the Court's independence and the illegality of coercive measures, including during the General Debate at the upcoming ASP24, which will specially focus on concrete measures to strengthen the ICC.
- **Engage diplomatically with the US and other actors** to prevent further designations and interference.

Explore all mechanisms to ensure the survival of the ICC and its partners

- **Explore all mechanisms to enable the ICC and its partners including CSOs to continue operations,** such as supporting transitions to European service providers.
- **Provide clear written guidance** to banks, insurers, and service providers to prevent over-compliance with sanctions.
- **Enforce and strengthen the EU Blocking Statute and similar national measures** to shield banks, insurers, and service providers from secondary sanctions.

Fulfil legal and political obligations under the Rome Statute

- **Continue full financial and operational cooperation with the Court**, including arrest and surrender of suspects.
- **Ratify and implement the APIC** to protect Court officials and staff.
- **Reject political and economic pressure** that undermines the ICC's independence and the rule of law.

Deliver on Commitments to Victims' Rome Statute Rights

Drive forward the Victims' Strategy Revision

- **Require regular public reporting on the Strategy's implementation** with measurable benchmarks, such as outreach, participation rates, and legal aid disbursement.
- **Support direct and sustained survivor-led consultation** in revising the Strategy, including the VRWG-facilitated ASP side event on 1 December 2025.
- **Ensure the Registry's compliance with Chambers' orders on outreach,** through regular reporting.

Adopt a victim-centred funding model and KPI framework

- **Allocate predictable, long-term funding for outreach and participation** from the earliest stage of proceedings.
- **Establish key performance indicators that measure victims' access to rights** rather than administrative output.
- **Publish detailed budget lines for outreach and participation** to ensure transparency and accountability.

Remove operational barriers to participation

- **Guarantee timely disbursement of legal aid allocations and flexible budgeting** reflecting case complexity.
- **Ensure equal treatment of victims' and defence counsel**, by ending taxation disparities through the re-negotiation of APIC and interim measures pending reform.
- **Ensure the immediate release of early-stage allocations under the LAP** to guarantee timely and equitable support for victims' counsel.

Strengthen Cooperation and Fulfil Complementarity Obligations: Implement the Rome Statute, Arrest ICC Suspects, and Prosecute Atrocities Domestically

Ensure the execution of ICC arrest warrants and end the culture of non-cooperation

- **Domesticate the Rome Statute** through comprehensive national legislation that provides a complete framework for Part 9 cooperation obligations, including clear procedures for arrest, surrender, and judicial assistance.
- **Promptly execute ICC arrest and surrender requests** through clear domestic procedures.
- **Complete the Registry's updated cooperation questionnaire which now includes arrest procedures, and conduct national simulation exercises** to test cooperation systems and address technical gaps.

- **Ensure adequate funding for the ICC's tracking and coordination mechanisms** to improve arrest and surrender operations.
- **Use the new standing ASP session on non-cooperation** to apply concrete consequences, including issuing public findings, limiting leadership roles, and applying coordinated diplomatic pressure.

Uphold the principle of equality before the law by rejecting immunity claims and politicisation of ICC arrest warrants

- **Reject the double standards created when some suspects are protected while others are arrested**, and reaffirm that Rome Statute obligations apply equally across all situations and cases.
- **Issue consistent public statements affirming that immunities are not a bar to the Court's jurisdiction** regardless of a suspect's official capacity, including as head of state.
- **Ensure that national implementing legislation fully incorporates Article 27,** by clearly affirming that immunities do not bar the execution of ICC arrest warrants.
- **Coordinate diplomatic responses to non-execution of arrest warrants**, including collective public statements supporting the ICC and the full application of international law.

Fulfil complementarity obligations and prosecute domestically

- **Meaningfully investigate and prosecute international crimes at the national level,** including on the basis of universal or other extraterritorial jurisdiction, recognising that most cases must be handled domestically.
- **Monitor and report on national proceedings** through transparent, time-bound complementarity reviews to ensure they are genuine and meet international standards, and formally include civil society in complementarity monitoring structures.
- **Accelerate ratification of the Ljubljana-The Hague Convention** to enhance mutual legal assistance and extradition.
- **Publish clear OTP criteria for complementarity assessments** to ensure consistency, transparency, and credibility in decision-making.

Advance a Healthy and Accountable Workplace Culture at the ICC

Evaluate and strengthen the ICC's workplace culture framework

- **Establish a dedicated working group to develop a time-bound action plan** addressing harassment, fear, and leadership accountability.
- **Ensure the IOM is adequately resourced and mandated to evaluate at least one office or policy annually**, publishing time-bound recommendations.
- **Introduce 360-degree managerial evaluations** to improve leadership accountability and morale.

Ensure accountability and transparency in misconduct cases involving elected officials

- **Guarantee due process, confidentiality, and non-retaliation for all parties, with specific interim protection measures for complainants, witnesses, and whistle-blowers,** and ensure the Bureau has authority to impose temporary suspension when serious misconduct is substantiated.
- **Ensure that future reviews and revisions of the ad hoc panel's terms of reference embed gender-responsive and victim-centred safeguards**, and require completion of investigations even if the elected official resigns.
- **Require time-bound investigations and Bureau and ASP decisions, and publish anonymised summaries** of confirmed findings and punitive measures to reinforce transparency and trust.

Reinforce a culture of integrity through election and vetting reforms

- **Strengthen the permanent due diligence procedure into a comprehensive vetting process for all ICC elections**, assessing not only integrity risks but also candidates' managerial competence, leadership style, emotional intelligence, and ability to foster a safe and respectful working environment, including through mandatory reputational interviews.
- **Increase staffing and resourcing for the IOM so it can effectively carry out its investigation, evaluation, and inspection mandates**, including implementation of the new permanent due diligence procedure for all future elections.
- **Ensure transparent, merit-based elections** by prohibiting vote-trading, political endorsement, and other practices that undermine independence and credibility.

At ASP24, States Parties must reaffirm their collective commitment to the ICC and the Rome Statute. Defending the Court against sanctions, delivering on victims' rights, strengthening cooperation and complementarity, and reinforcing internal integrity are mutually reinforcing priorities. Sustained political courage, coordinated action, and accountability at every level are essential to preserve the ICC as a cornerstone of international justice.

2025
FIDH'S INTERNATIONAL JUSTICE HIGHLIGHTS

17 December 2024

FIDH, alongside member organisations including the Ligue des droits de l'Homme (LDH) file a civil party complaint in France against a Franco-Israeli soldier accused of, and being complicit in, war crimes, crimes against humanity, genocide, and torture committed against Palestinians in Israeli custody.

15–16 January 2025

FIDH and the Global Initiative Against Impunity (GIAI) are official partners of the first World Congress on Enforced Disappearances, held in Geneva. FIDH supports 12 representatives from member organisations across Africa, Asia, Europe, and Latin America, to attend and advocate.

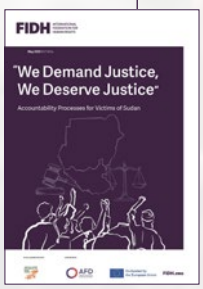
20 March 2025

FIDH and five other CSOs submit an Article 15 communication to the ICC OTP on alleged crimes against humanity committed by the Belarusian authorities against part of the Belarusian civilian population.

8 April 2025

Release of the 2025 Universal Jurisdiction Annual Review.

21 May 2025



FIDH and its member organisation, the African Centre for Justice and Peace Studies (ACJPS), launch a joint report offering a comprehensive review of accountability efforts in Sudan, along with recommendations.

23 May 2025

On the EU Day Against Impunity, the GIAI, a consortium led by FIDH , launches MakingJusticeWork.org, a digital, collaborative, and survivor-centred platform to support stakeholders in the fight for justice.

28 May 2025

FIDH and WIGJ publish an explainer outlining the gaps in the ICC's regulatory framework on misconduct investigations of elected officials.

The Paris Criminal Court sentences Majdi Nema to 10 years in prison for complicity in war crimes in France's first universal jurisdiction trial related to Syria, following the complaint filed by FIDH and its members the Syrian Center for Media and Freedom of Expression (SCM) and LDH on 26 June 2019.

16 June 2025

FIDH joins a group of amici, convened by WIGJ, in submitting observations in the Al Hassan reparations proceedings before the ICC.

25 July 2025

The French Supreme Court rules, in a case involving the former governor of the Syrian Central Bank, that state officials accused of international crimes cannot claim functional immunity, endorsing the arguments put forward by FIDH and its member, SCM, acting as civil parties.

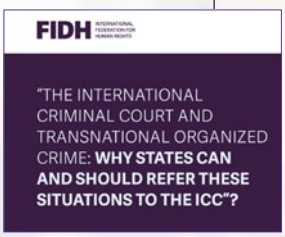
2 July 2025

The VRWG, co-led by FIDH and REDRESS and hosted by CICC, releases a briefing paper aimed at strengthening outreach and victim participation at the ICC with actionable recommendations, particularly in the context of the Court's ongoing review of its strategy on victims.

1 July 2025

FIDH, alongside Palestinian and French member organisations and the Association France Palestine Solidarité (AFPS), files a civil party complaint before the War Crimes Unit of the Paris Tribunal against two French-Israeli snipers who participated in Israel's military operation in Gaza.

9 September 2025



FIDH hosts an in-person meeting with diplomats in The Hague to present a note (available upon request), which explains why such acts may amount to crimes against humanity and calls on States to request the ICC Prosecutor to investigate such crimes.

22 September 2025

CICC convenes a webinar to examine the landmark case against former Philippines President, Rodrigo Duterte, at the ICC. Among the speakers were representatives of FIDH and its member organisation Philippine Alliance of Human Rights Advocates (PAHRA).

FIDH joins partners in taking a stand as threats of US sanctions against the ICC intensify through the launch of the "Save the ICC" campaign. To date, the campaign has received more than 220 signatures.

3 December 2025

FIDH and Redress will launch a joint briefing paper on immunities of heads of states before the ICC, "Ending Immunity, Ending Impunity: Advancing Accountability for Heads of State at the International Criminal Court", drafted in collaboration with students from The Hague University of Applied Sciences.

27-31 October 2025

The FIDH 42nd Congress takes place in Bogotá, bringing together over 200 human rights defenders, academics, and other experts. One key session focuses on strengthening the growing forms of civil society engagement with the ICC, international investigative mechanisms, and national judicial authorities.

FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

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The ICC under Attack: Defend the Court, Support Victims & Ensure Accountability

FIDH Recommendations to the ICC Assembly of States Parties

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FIDH INTERNATIONAL FEDERATION FOR HUMAN RIGHTS

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A global federation of nearly 200 organisations in more than 115 countries working together to protect, support and raise the voices of human rights defenders and victims through investigation, prosecution and advocacy.

UNITING THOSE FIGHTING FOR A FAIR AND JUST WORLD.

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