



KEY RECOMMENDATIONS

23rd SESSION OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE

2-7 DECEMBER 2024

CENTRE FOR INTERNATIONAL JUSTICE
hrij.amnesty.nl Twitter : @AmnestyCIJ

This paper sets out Amnesty International's **key recommendations** for the 23rd session of the Assembly of States Parties to the Rome Statute ('ASP') which we urge all states parties to consider and the Assembly to address. The recommendations focus on the general debate and other topics on the Assembly's agenda, and we urge states to reflect the following points in their interventions and participation at the Assembly.

GENERAL DEBATE

The Assembly and its members states should make strong high-level statements in support of the International Criminal Court (ICC). In particular states should:

- Affirm their commitment to strengthen the Rome Statute *system* and the International Criminal Court within it;
- Affirm that a cornerstone principle of the Rome Statute is that no one is above the law, including heads of state sought for arrest, such as Vladimir Putin or Benjamin Netanyahu, as confirmed in ICC jurisprudence¹ which is binding on all member states;
- Recognize that as the ICC progresses investigations into situations involving powerful states and/or states which oppose the ICC, the Court and its staff will be increasingly attacked and threatened. In 2025, it is apparent that powerful non-states parties may present serious challenges to the Court. States parties must not be silent in the face of these threats - they must defend the ICC's ability to exercise its independent mandate;
- Recognize that a collective and resilient Assembly of supportive states parties can serve as a staunch defender and protector of the ICC from existing and future threats to the Court's independent mandate and activities;
- Recognize that the legitimacy of the Rome Statute system and the ICC, as well as the rules-based international order risks being undermined by a selective approach to international justice;
- Underscore that the selective opposition of states to certain ICC investigations undermines the trust in, and values of, international law and contributes to cementing a selective system of international justice, which prioritizes the interests of powerful states and their allies over the interests of justice for victims of crimes under international law.
- Call on states who have opposed the ICC's investigations in certain situations, including the situation in Palestine, to reconsider their positions and offer their full political and practical support, including offering full cooperation with the Court;
- Urge states to publicly distance themselves from the positions of states parties or non-states parties who have sought, or may seek to undermine the ICC's mandate;
- Call for *all* investigations to receive the same high standard of treatment at the ICC, so that all victims of international crimes have equitable access to justice and reparations at the Court;
- Confirm expressly, including through high-level statements, the acceptance of the legal duty under the Rome Statute to carry out an arrest warrant should a respective situation arise and proactively affirm, including when asked, that all persons subject to ICC arrest warrants will be arrested and surrendered to the Court;
- Call on all states parties to arrest and surrender to the Court, those subject to ICC arrest warrants and commit to supporting other states parties who may have opportunity to arrest indicted persons;

¹ <https://www.icc-cpi.int/news/al-bashir-case-icc-appeals-chamber-confirms-jordans-non-cooperation-reverses-decision>

- Recognize that cooperation and complementarity within a broader system of international justice are prerequisites for comprehensive accountability, where states parties must ensure genuine investigations and prosecutions of all persons suspected of committing crimes under international law;
- Commit to ratifying the 'Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of Genocide, Crimes against Humanity, War Crimes and other International Crimes' which fills a significant gap in the international justice framework and; urge states to support the ongoing work towards a Crimes Against Humanity Convention – both initiatives which should complement and mutually reinforce the ICC's work², and strengthen the crucial role that national-level investigations and 'universal jurisdiction' initiatives must play in a comprehensive international justice system;
- Underscore that all international justice processes must be survivor-centred and fully realize the rights of all victims to justice, truth and reparation as a fundamental component of meaningful and effective justice;
- Recognize the fundamental role of civil society and human rights defenders as integral participants in the Rome Statute system, in particular at the national-level, and as critical stakeholders to the ICC's effective and meaningful functioning;
- Recognize that the International Criminal Court and its states parties must also ensure the highest standards of human rights compliance at the ICC, particularly in relation to fair trial and due process rights of accused and acquitted persons, as well as in the realization of the rights of victims;
- Recognize that universality of the Rome Statute remains crucial, and urge all states who have not yet fully ratified or acceded to the Rome Statute to do so, without recourse to article 124 of Statute;
- Call on all permanent members of the United Nations Security Council to refrain from using their veto power, or threat of a veto to block referrals to the ICC Prosecutor;

THREATS TO THE ICC, INCLUDING TO THE COURT'S INDEPENDENCE

While attacks on the ICC and those who work with the Court are not new in their attempts to undermine the Court's mandate, developments in recent years indicate that individuals working in the Court, including senior officials, may increasingly be subjected to threats and intimidation, including threats of sanctions or arrest warrants by national actors. In addition, recent developments indicate that the ICC institution may also be subjected to attacks and threats of sanctions.

In addition, it must be urgently recalled that attacks on 'the Court' as an institution also incorporate attacks; threats; sanctions; and smear campaigns against a much broader constituency of organizations and individuals working to pursue international justice at the ICC, including human rights defenders, national-level NGOs, victims and survivors, potential witnesses, as well as external lawyers and legal representatives working before the Court. **States parties must not be silent in the face of these threats - they must defend the ICC's ability to exercise its independent mandate, as well as the ability of all stakeholders engaging with the ICC to undertake their work free from threats and attacks.**

In 2023, the ICC was subjected to a sophisticated and targeted cyber-attack, with the objective of espionage and to undermine the Court's mandate. This had led to a reconsideration of the Court's existing IT and other infrastructure, which should in turn ensure that the Court is better protected. However, such protection can only be assured if States Parties ensure that this year's and future annual budget appropriations are sufficient to enable the Court to maintain its increased IT security stance.

In May 2024, the Office of the Prosecutor published a statement, in the context of the State of Palestine situation, recalling that 'independence and impartiality are undermined, however, when individuals threaten to retaliate against the Court or against Court personnel should the Office, in fulfilment of its mandate, make decisions about investigations or cases falling within its jurisdiction. Such threats, even when not acted upon, may also constitute an offence against the administration of justice under Article 70 of the Rome Statute.'

In addition, in November 2024, arrest warrants were issued by a Russian court against Judges Haykel Ben Mahfoudh and Reine Alapini-Gansou, who were members of the ICC Pre-Trial Chamber which issued arrest warrants against Russian political and military leaders. These warrants are in addition to the baseless arrest warrants issued by the

² <https://www.amnesty.org/en/documents/IOR40/8247/2024/en/>

Russian Investigative Committee in 2023, against the ICC Prosecutor and six ICC Judges, including the (then) ICC President and First Vice-President.

In June 2024, the 'Illegitimate Court Counteraction Act (H.R. 8282)' was passed in the United States House of Representatives, following the announcement by the ICC Prosecutor of his intent to seek the arrest of Israeli Prime Minister Benjamin Netanyahu and (then) Defense Minister Yoav Gallant on charges of war crimes and crimes against humanity. Law H.R. 8282 provides for 'sanctions with respect to the International Criminal Court engaged in any effort to investigate, arrest, detain, or prosecute any protected person of the United States and its allies' and includes sanctions against potentially wide-ranging foreign individuals who have, among others, 'directly engaged in or otherwise aided any effort by the International Criminal Court to investigate, arrest, detain, or prosecute a protected person'. Although in September 2024 the United States Senate Foreign Relations Committee cancelled a scheduled meeting at which it was to consider Law H.R. 8282, it is likely that a similar such law, imposing sanctions on the ICC and/or those engaging with it, may be reconsidered in the near future³, or that an Executive Order, similar to Executive Order 13928 enacted in 2020 by (then) President Trump, which imposed sanctions against senior ICC staff, may be ordered in the future, in light of the recent ordering of arrest warrants⁴ in the State of Palestine situation against Benjamin Netanyahu, Yoav Gallant and Mohammed Diab Ibrahim Al-Masri.

In Amnesty International's view, it is readily apparent that, as the ICC opens and progresses investigations into individuals in situations involving powerful states, including non-states parties and their allies, and states which oppose the ICC, that the Court and its staff will be increasingly attacked and threatened. For example, in 2024, media reports detailed at length a decade-long surveillance operation⁵ by the Israeli government against ICC officials and Palestinian human rights workers, as part of a secret operation to thwart ICC investigations into crimes committed in Palestine. Further, in light of the Prosecutor's ongoing investigation in the State of Palestine situation, and the recent arrest warrants against senior Israeli and Palestinian leaders, it is very likely that powerful non-states parties will continue to present serious challenges to the Court in the immediate future and longer-term. The 2020 sanctions enacted by the Trump U.S. administration effectively constituted a demand that the U.S. government be granted a political carve out of impunity for certain nationals accused of having committed crimes under international law.

In our view, such covert threats, as well as overt threats of severe individual or institutional sanctions, should be seen as brazen attacks against international justice, international human rights, and the international rules-based system. Of course, sanctions similar to those imposed by the U.S. in 2020 are incredibly damaging to individuals working in or with the ICC, as well as having dire consequences for the organization of the Court's work and fulfilment of its mandate. For example, potential administrative measures or sanctions aimed at individuals, or the institution's financial systems, or which may affect the Court's corporate service-providers, will have drastic consequences for the Court's day-to-day operations.

However, in 2024, it is clear that a number of lessons have been learned from previous experiences of sanctions against the ICC, and the Court is likely more resilient and prepared for potential sanctions or other measures which may be enacted in the near future. Nonetheless, it is also clear that states parties and the Assembly as a whole must also be similarly prepared to proactively and robustly respond to threats, including potential sanctions by third states.

In this regard, in Amnesty International's view, a strong, united, and resilient Assembly, which is willing and able to fully support the Court and its staff in all their work is imperative to counter-act and weather increasingly hostile threats to the Court's work and threatened sanctions in 2025. In practical terms, states parties must ensure that the Court has adequate resources in terms of robust security for its work. On the national level, states parties can consider enacting laws and measures which would mitigate or 'block' the effect of any sanctions on the Court within their national jurisdiction. In this regard, so-called 'blocking statutes' should be considered, which would protect a state's operators from the extra-territorial application of third country sanction laws. Similar 'blocking statutes' have

³ See, for example 22 November 2022: <https://mikejohnson.house.gov/news/documentsingle.aspx?DocumentID=1485>

⁴ <https://www.amnesty.org/en/latest/news/2024/11/israel-opt-netanyahu-gallant-and-al-masri-must-face-justice-at-the-icc-for-charges-of-war-crimes-and-crimes-against-humanity/>

⁵ See, for example, <https://www.972mag.com/icc-israel-surveillance-investigation/>

previously been adopted on a regional basis, including by the European Union⁶, and should be urgently considered in the present situation involving the ICC.

In addition, states parties must also be willing to politically support the ICC – in relation to all of its investigations and activities – and to take firm diplomatic stances against states who threaten the Court. In this regard, Amnesty International warmly welcomed the expression of ‘unwavering support’ to the ICC as an independent and impartial judicial institution, by 94 states, in a joint statement⁷ in June this year, which pledged to uphold the principles of the Rome Statute and protect the court’s integrity from political pressure, as well as committing to defend the court and protect its integrity from any political interference with the court, its officials and collaborators. Beyond such support, states parties must also be willing to support the Assembly as well as other states parties who may be pressured as a result of their membership of the Court, for cooperating with it. For example, states may be pressured to domestically implement sanctions enacted by third states, or pressured not to fulfil their Rome Statute obligations, for example regarding cooperation with the ICC, including fundamental obligations to arrest indicted persons (see section ‘Arrests and Cooperation’). Indeed, it is not unfeasible that states may even be pressured to consider withdrawal from the Rome Statute, or to resurrect a practice of inter-state bilateral immunity agreements, for example. Such calls which may be made by states who (often selectively) oppose the Court’s operations, must be opposed by all states parties, and by the Assembly as a whole.

Finally, Amnesty International strongly reminds the Assembly that threats also continued to be made against civil society and human rights defenders for their engagement with the Court⁸ and the Assembly of States Parties. **In light of the crucial role that civil society and human rights defenders play in the Rome Statute system and at the national level as integral stakeholders in the ICC’s work in situation countries, states parties should commit to support and protect civil society and human rights defenders in their work.**

In particular, at the upcoming Assembly session, states parties should:

- Strongly condemn all threats against the ICC, its staff, and those who are threatened for their work on the ICC and the Rome Statute, recognizing that such threats are flagrant assaults on international justice;
- Support, in the context of the ‘omnibus’ resolution, the inclusion of proposed language which condemns any attempt to implement sanctions or measures of a similar effect, against the Court, its personnel or those cooperating with it;
- Commit to cooperating with the Court and providing an increase in resources to address growing security risks faced by the Court, for example as a result of cyber-attacks and other security threats which aim to incapacitate the Court and obstruct individuals working in, or with the institution;
- Urge states parties to respond to threats against the Court through the timely issuance of high-level statements expressing support to the Court and its staff, as well as other relevant practical measures;
- Commit to considering and enacting national laws and measures, including so-called ‘blocking statutes’ which would mitigate or block the effect of any sanctions on the Court within their national jurisdiction;
- Further consider how the Assembly could address attacks against human rights defenders and civil society working within the Rome Statute system, including in line with the ASP’s strategy for responding to attacks on the Court by all states, including by non-states parties;
- Provide political and other support to states who may be pressured not to fulfil their obligations under the Rome Statute, including the execution of arrest warrants and other requests for cooperation;
- Recall that the Agreement on Privileges and Immunities (APIC) provides protection to Court staff and call upon states parties and relevant non-states parties who have not done so, to ratify the Agreement;
- Recognize that arbitrary budgetary cuts and non-cooperation by states parties present threats to the Court’s effective functioning, as well as to the ability of the ICC to protect itself from diverse threats and actors;

⁶ See, The [European Union’s blocking statute](https://finance.ec.europa.eu/eu-and-world/open-strategic-autonomy/extraterritoriality-blocking-statute_en) (Council Regulation (EC) No 2271/96), https://finance.ec.europa.eu/eu-and-world/open-strategic-autonomy/extraterritoriality-blocking-statute_en

⁷ See Joint Statement in support of the International Criminal Court (ICC), available at <https://buildingtrust.si/joint-statement-in-support-of-the-international-criminal-court-icc/>

⁸ See, for example <https://www.amnesty.org/en/documents/amr53/8415/2024/en/>

- Recognize that well-funded and effective public information on the Court's activities serves to counter misinformation and powerful narratives which threaten the Court.

OPPOSING DOUBLE STANDARDS AND SELECTIVITY

Amnesty International strongly opposes double standards in international justice and urges states parties to recognize that the legitimacy of the Rome Statute system and the ICC risks being undermined by a selective approach to justice. In our view, all victims must be able to access their rights to justice, truth and reparations and all victims, investigations and situations at the ICC must receive the same high-standard of treatment by the Court, as well as by states parties.

Among other situations, Amnesty International remains deeply concerned by statements and positions adopted by a number of states, including states parties, which oppose the ICC's investigations in certain situations, for example in the situation in the State of Palestine. The selective opposition of states parties and non-states parties undermines the trust in, and values of, international law and contributes to cementing a selective system of international justice, which would prioritize the interests of powerful states and their allies over the interests of justice for victims of crimes under international law.

In our view, it is not too far to say that the positions adopted by states in relation to the ICC and international justice in the coming years will serve to demonstrate whether they are willing to defend and support universal values and principles of international law, as well as human rights and justice, or whether the global rules-based order will be significantly undermined. In this regard, overt or selective opposition to the Court by states parties (or non-states parties), or other actions by states which demonstrate hypocrisy or double standards, such as supporting ICC arrest warrants in certain situations, while 'rejecting' them in others, will actively damage not only the Court and its operations, but also – ultimately – universal regimes of international (criminal) law and adherence to the rules-based international order.

The ICC's legitimacy and effectiveness also depend on the OTP demonstrating – without fear or favour – that it will pursue accountability equally in all situations, including situations where perhaps only its intervention will ensure that certain crimes, perpetrators or situations are investigated.

At this ASP session:

- Amnesty International calls on states parties to ensure that *all* investigations receive the same high standard of treatment at the ICC, so that all victims of international crimes have equitable access to justice and reparations at the Court;
- States parties must provide robust and non-selective support to the Office of the Prosecutor so that all investigations can be pursued without distinction: into all perpetrators of atrocities, without fear or favour, and no matter how great the political or economic power of certain actors, including those who oppose the ICC's investigations;
- States parties must re-commit to comply with their Rome Statute treaty obligations, whether or not they agree with the ICC's independent judicial and prosecutorial decisions. This includes fully executing all requests for cooperation with the Court's investigations; and carrying out all arrest warrants against all individuals indicted for crimes within the Court's jurisdiction and proactively affirming, including when asked, that all persons subject to ICC arrest warrants will be arrested and surrendered to the Court if they find themselves within that states' jurisdiction (see also section 'Arrests and Cooperation');
- The Assembly must ensure that states are not able to use the allocation of resources and selective cooperation as tools to influence which situations (and parties) are effectively investigated;
- States parties should urgently consider that an ongoing voluntary approach to the Court's resourcing may allow states parties to support only those situations which align with their interests – exacerbating the risk of selective justice and leaving the Court vulnerable to being influenced by powerful states.

PROPOSED BUDGET 2025

In the proposed budget for 2025, the ICC has requested €202.61 million (excluding the 'host state loan') or an increase of 10.4% from its 2024 approved budget. The Committee on Budget and Finance ('CBF') has recommended that the court's proposed budget could be cut to €195.9 million, which would represent an increase of 6.7% from the 2024 approved budget of €183.49 million. However, after considering inflationary increases in 2024, approval of the CBF recommended budget would nonetheless mark a barely imperceptible real-terms increase.

In light of expected and necessary costs that the ICC has to bear in 2025, including related to increasing security measures it has to implement, as well those borne out of conducting investigations in often exceptionally challenging environments, it is clear – if states decide to adopt the CBF's recommendations, or even cut away from these recommendations even further – that the Court will not be in a position to fulfil its mandate as fully, effectively or efficiently as required. Indeed, state parties' long-standing calls for the Court to demonstrate tangible results, while understandable, stand in stark contrast to their willingness to provide the Court with resources it would require to do so. As Amnesty International has provided at many ASP sessions, the impact of chronic underfunding and budget appropriations which do not align with the demands on the ICC will continue to adversely affect the Court's delivery of justice. Ultimately, the cost of chronic underfunding falls not only on the Court but on victims who look to the ICC for redress. Underfunding the ICC's investigations allows cycles of impunity to continue, with the cost of any future ICC intervention multiplying with every cycle.

Furthermore, Amnesty International is acutely aware that states who do not want the ICC to investigate certain situations may seek to weaken the Court through an inadequate budget allocation. With the Court's major funders having in the past expressed opposition to the State of Palestine investigation for example, and with the pressure that non-states parties will undoubtedly increase on states parties not to properly fund the Court in light of the recent arrest warrants in this situation, we remain deeply concerned that political considerations will affect the work of the Court and the OTP, and cannot underscore more strongly that the continuing imposition of arbitrary financial restrictions will leave victims of international crimes with reduced prospects for justice, and the Court exposed to allegations of double standards. With this in mind, states parties who claim to support universal justice must firmly resist arbitrary limits on the Court's resources as unacceptable infringements on the ICC's ability to carry out its independent mandate.

In our view, the impact of the Assembly's structural underfunding of the ICC continues to be a very significant issue, leading to chronic underfunding of the Court's organs, including the OTP, with the impact of under-resourced and less-efficient proceedings and investigations, and – in turn – more limited investigative outcomes. In terms of impacts on the Court's victims' rights mandate, chronic underfunding which impacts ICC units focussed on victims' rights, including those related to public information and outreach require staff, translation and other assistance to victims, will continue to affect the meaningful and effective participation of victims.

In relation to 'voluntary funding', Amnesty International remains concerned about a voluntary approach to the Court's resourcing⁹. While voluntary contributions can be an important source of additional funds for the ICC, they are not a reliable or sustainable source of funding, as apparent when certain costs covered by voluntary funding have to be subsumed into the regular court budget. In this regard, Amnesty International reiterates its long-held position that the regular budget of the Court should make provision for all the budgetary resources required for the Court to undertake its work and activities.

With this in mind, states parties should:

- Commit to providing the Court, at a minimum, with a 2025 budget of €195.9 million as recommended by the CBF – rejecting any possible attempts at further arbitrary cuts to the Committee's recommendations;

⁹ Amnesty International, Voluntary Contributions – Solution to the ICC's Funding Crisis or Threat to its Independence and Effectiveness? <https://hrij.amnesty.nl/voluntary-contributions-solution-to-the-iccs-funding-crisis-or-threat-to-its-independence-and-effectiveness/>
23rd session of the Assembly of States Parties: Key recommendations 27 November 2024 AI Index: IOR 53/8787/2024

- Recognize that demands on the ICC and for international justice continue to grow, and commit to providing the Court with an increased budget in 2025 to enable it to fulfil its independent functions effectively, while also committing to further investment which is necessary in the coming years to address the Court's structural capacity crisis;
- Recognize that annual arbitrary restrictions of the Court's budget by the ASP have severely hampered the OTP and other ICC organs' activities in many situations; which has severely affected the potential impact that the Court could have had in situations which continue up to the present to be marked by cycles of impunity;
- Highlight the threat to the Court's independence and impartiality if states are to use their resources and cooperation as tools to influence which situations (and parties) are effectively investigated;
- Recall the crucial importance that all investigations receive the same principal standard of treatment, including in resource terms, so that all victims of international crimes have equal access to justice and reparations at the Court;
- Urgently consider the sustainability and consequences of a voluntary funding approach as an insufficient response to the Court's chronic capacity crisis and for the long-term effective functioning of the Court;
- Take immediate steps to ensure full transparency regarding the receipt and assessment of voluntary contributions and how the money received is spent.

ARRESTS AND COOPERATION

Arresting all those subject to ICC arrest warrants is a clear and fundamental obligation of states parties. A cornerstone principle of the Rome Statute is that no one is above the law, including heads of state sought for arrest, such as Vladimir Putin or Benjamin Netanyahu. This has been confirmed by the ICC Appeals Chamber in a decision¹⁰ which is binding on all states parties.

Amnesty International recalls that states must stop at nothing to ensure that all persons subject to ICC arrest warrants are arrested and surrendered to the Court. This obligation extends to the arrest of heads of state who are subject to ICC warrants. Indeed, in 2023, following litigation in which Amnesty International was an *amicus curiae*¹¹ ('friend of the Court') in South Africa, following President Putin's expected travel to attend a BRICS summit, an agreed declaratory order¹² in that case provided that the ICC had confirmed that all states parties are obligated to arrest President Putin in terms of the ICC's arrest warrant and requests for cooperation. Such confirmation reaffirms the 2019 ICC Appeals Chamber decision concerning Jordan's non-arrest of (then) President Al Bashir, which provided that article 27(2) of the Rome Statute, which stipulates that immunities are not a bar to the exercise of jurisdiction, reflects the status of customary international law. The Appeals Chamber concluded that there is no Head of State immunity under customary international law vis-à-vis an international court. This decision is binding on all states parties, and provides that all states parties are unequivocally obliged to arrest all persons, up to and including sitting heads of state, and regardless of whether they agree with or oppose a particular decision of the OTP or ICC in a particular situation.

At this Assembly session, with a number of suspects remaining 'at large' and their whereabouts unknown, states parties must urgently consider their own performance shortcomings and how they can properly and fully meet their obligations in the Rome Statute as they relate to arrests and cooperation. Indeed, while states parties, including in the context of budget discussions, frequently urge the Court to demonstrate tangible 'results', it should be recognized that states parties themselves must assume significant responsibility for the lack of progress in cases where indicted persons have not yet been arrested.

On the part of the ICC, the tracking and arrest of suspects who are sought by the Court is a core function within the mandate of the OTP. However, insufficient allocations have meant that this key OTP function remains under-resourced. In this regard, the 2025 proposed budget provides that the OTP is currently insufficiently able to support

¹⁰ https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_02593.PDF

¹¹ See, <https://www.amnesty.org/en/latest/news/2023/07/south-africa-amnesty-international-joins-putin-arrest-warrant-case-as-an-amicus-curiae/>

¹² See, <https://mg.co.za/politics/2023-07-21-court-order-confirms-south-africa-must-respect-icc-warrant/>; <https://amnesty.org.za/south-africa-government-must-continue-to-lead-the-fight-for-international-justice/>



the tracking of suspects at large and their arrest. This remains a critical gap in the OTP's operational capacity and a severe strategic risk. In our view, therefore, it is imperative that the Assembly in particular commits to properly funding this area of OTP capacity, which is central to the progression of the judicial process and ultimately to victims realizing their rights at the ICC.

In 2025, it is expected that persons subject to ICC arrest warrants may further seek to travel to states parties without being arrested, as part of a strategy of seeking to undermine the Court and the warrants issued against them¹³. It is imperative that the Assembly considers how to counter such strategies, and urgently considers the effective implementation of procedures related to non-cooperation, which it had adopted in 2011¹⁴. These procedures provide for formal and informal responses to non-cooperation, including outlining possible proactive Assembly and state party responses to instances 'where there are reasons to believe that a specific and serious incident of non-cooperation, including in respect of a request for arrest and surrender of a person (article 89 of the Rome Statute), is about to occur or is currently on-going and urgent action by the Assembly may help bring about cooperation'. Further, where a states party fails in its obligation to arrest, and following a referral to the ASP by an ICC judicial decision, the ASP must consider the effective implementation of its procedures which set out Assembly responses to judicial findings of non-cooperation.

On the national level, states parties must ensure that their domestic laws and procedures allow for the prompt arrest and surrender of persons to the ICC, whilst ensuring full respect for the human rights of accused persons.

Beyond arrests, timely and full cooperation with the ICC goes to the heart of states parties' obligations within the Rome Statute. As the demands on the ICC continue to increase, the cooperation of states is critical to ensure: efficient and effective investigations and prosecutions; fair and expeditious trials for accused persons; and the effective and meaningful participation of victims and affected communities in the Court's work. Increasingly complex security situations also require enhanced cooperation from states parties (for example to assist the OTP in obtaining evidence from vulnerable witnesses), and the ever increasing recourse to digital evidence requires the cooperation of many actors.

States parties should:

- Recognize that the arrest and surrender to the Court of all persons subject to ICC arrest warrants is a fundamental and unequivocal obligation of all states parties;
- Commit to and urge other states – including non-states parties – to cooperate promptly and fully with the ICC, including in the execution of all outstanding arrest warrants;
- Urgently consider the effective implementation of procedures related to non-cooperation, which the Assembly had adopted in 2011;
- Commit to providing the OTP with necessary funding and resource capacity for the tracking of suspects subject to ICC arrest warrants;
- Commit to strengthening the Court's capacity to effectively investigate and pursue the identification, freezing and seizure of assets including for reparations as provided in Article 75(4) of the Rome Statute and Rule 99(1) of the Rules of Procedure and Evidence;
- Urgently discuss the strengthening of cooperation as it relates to defence matters, which remain largely overlooked by the Assembly, as well as the need for states parties to enter into voluntary agreements with the Court in matters relating to accused persons and acquitted persons - recognizing that such agreements are necessary for the Court to comply with its fair trial and other human rights obligations;
- Call on states parties to consider the rights of acquitted persons, and how they can be fully realized, including through the entering into of acquittal agreements;

¹³ <https://www.amnesty.org/en/latest/news/2024/09/mongolia-putin-must-be-arrested-and-surrendered-to-the-international-criminal-court/>

¹⁴ Assembly Procedures relating to non-cooperation, ICC-ASP/10/Res 5, as amended by ICC-ASP/17/Res 5, Annex II, available at https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP17/RES-5-ENG.pdf#page=24

- Commit to and urge other states to promptly ratify or adhere to - without making any reservations – the Agreement on Privileges and Immunities (APIC), recognizing that the APIC allows the Court and its staff to fulfil their mandate in any territory subject to the jurisdiction of states parties.