AMNESTY INTERNATIONAL

‘Sanctions must be opposed, not appeased’

KEY RECOMMENDATIONS

24th SESSION OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE

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This paper sets out Amnesty International’s **key recommendations** for the 24th 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 protect and strengthen the Rome Statute system and the International Criminal Court within it;
- Firmly condemn and oppose the sanctions imposed on the Court by US Executive Order 14203
    - Strongly commit to supporting the ICC, including through engaging with the Court and designated persons to mitigate the effects of the sanctions, so that it can fully continue to execute its independent and impartial mandate and operations;
    - Call on the US government to rescind the sanctions and individual designations of ICC judges and OTP officials; Palestinian human rights organizations and; the UN Special Rapporteur on the Occupied Palestinian Territories;
    - Maintain a robust and collective Assembly opposition to sanctions imposed by the USA and oppose any engagement or concessions with the USA on the basis or purported rationale of US Executive Order 14203 - which is founded on the USA’s opposition to the Court’s independent and impartial mandate to conduct investigations where it has territorial jurisdiction. Any engagement on such concessions in the interests of lessening the attacks facing the Court now or in the future would be deeply misguided. Further recognise that an apparent willingness to consider such concessions or engagement could very seriously undermine the Rome Statute and the foundational principles of an independent and impartial ICC.
    - Firmly commit to enacting laws and measures at the national and regional level which would block the extraterritorial effects of the US sanctions law – so called ‘blocking statutes’ (see annex I)
- Recognise that human rights to truth, justice and reparations are the bedrocks for peace, and individual accountability for crimes under international law is non-negotiable in any efforts towards negotiated peace or conflict-resolution outcomes;
- In 2026, it is apparent that powerful non-states parties will 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 and pursue individual accountability, especially with respect to those who are most powerful and would otherwise enjoy the prospect of impunity for crimes under international law;

- Recognise 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;
- Call on those states who have announced withdrawals from the Rome Statute (Mali, Niger, Burkina Faso and Hungary) to reconsider and rescind their stated withdrawals:
    - Recognize that where genuine concerns exist, where appropriate, these should be considered within the Assembly of States Parties;
    - Recall that states shall not be discharged, by reason of their withdrawal, from the obligations arising from this Statute while they were a parties to the Statute. Withdrawals shall also not affect any cooperation with the Court in connection with criminal investigations and proceedings in relation to which the withdrawing state had a duty to cooperate and which were commenced prior to the date on which the withdrawal becomes effective, nor shall withdrawal prejudice in any way the continued consideration of any matter which was already under consideration by the Court prior to the date on which the withdrawal becomes effective.
- Recognise that the legitimacy of the Rome Statute system and the ICC, as well as rules based international order, risks being undermined by a selective approach to international justice, including selectivity in fulfilling obligations arising from the Rome Statute on arrests and cooperation;
- 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 standard of treatment at the ICC, so that all victims of international crimes have equitable access to justice and reparations at 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;
- Recognise 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 will complement the ICC's work 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 realise the rights of all victims to justice, truth and reparation as a fundamental component of meaningful and effective justice;
- Recognise 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;
- Recognise 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 realisation of the rights of victims;

- Recognise 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 of situations where crimes within the Rome Statute are committed.

SANCTIONS AND THREATS TO THE ICC

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 the ICC and individuals working in the Court, including senior officials, are increasingly subjected to threats and intimidation, as well as individual sanctions or national-level arrest warrants.

However, it must also 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 organisations 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.

US SANCTIONS

On 6 February 2024, United States President Trump enacted an Executive Order 'Imposing Sanctions On The International Criminal Court'. The Executive Order was motivated in response to the ICC's issuance of arrest warrants in November 2024 against Benjamin Netanyahu, Prime Minister of Israel; Yoav Gallant, former Israeli Minister of Defence and al-Qassam brigades commander Mohammed Diab Ibrahim Al-Masri, known as Deif, for charges of war crimes and crimes against humanity. The Executive Order has been described as 'a sweeping attack on the Court that will harm the ability of witnesses, survivors, court officials, tech companies, and others from close U.S. allies to support justice, far beyond the specific ICC investigations that the U.S. government opposes.' The ICC Prosecutor, two Deputy Prosecutors and six ICC judges, as well as Palestinian human rights organisations (Al Haq, Palestinian Centre for Human Rights, and Al Mezan) have been designated as sanctioned by the order, alongside the UN Special Rapporteur on the Occupied Palestinian Territories.

The US government's attack against the ICC seeks to damage the Court's independent pursuit of international justice. The sanctions issued will harm accountability, a crucial ingredient to global and long-term security. They will negatively impact the interests of all victims globally and those who look to the Court for justice in all the countries where it is conducting investigations, including Darfur, Libya, the Philippines, Palestine, Ukraine and Venezuela.

In Amnesty International's view, the increasing threats facing the Court, including as a result of President Trump's Executive Order, should be considered as existential to the ICC. Individual or even institutional sanctions should be seen as brazen attacks against international justice, international human rights, and the international rules-based system. President Trump's Executive Order is incredibly damaging to individuals working in or with the ICC, as well as having dire consequences for the Court's fulfilment of its mandate for all the situations in which it operates. For example, potential administrative measures or sanctions aimed at individuals, or which may affect the institution's financial systems or the Court's corporate service-providers, will have drastic consequences for the Court's day-to-day operations.

The ASP and individual States Parties must ensure that the Court is protected, prepared and resilient in the face of sanctions or other measures which may be enacted in the near future. The ASP must also be prepared to proactively and robustly respond to sanctions and to mitigate their effect. This includes offering support to the Court to ensure that its operations can continue, including through ensuring that the court can continue to access services related to finance and IT, for example, and has adequate resources to ensure robust security for

its work. In this regard, 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 sanctions and increasingly hostile threats to the Court's work.

It is abundantly clear that for states such as the USA who have sanctioned the Court, the price for the removal of its egregious sanctions would be for the Court to halt its work in the situation in the State of Palestine, and potentially to obtain assurances from states parties related to the Court's jurisdiction over non-states parties' nationals. Such concessions are sought based on the USA's fundamental opposition to certain provisions of the Rome Statute that endow the Court with full independence and impartiality, including the foundational principle that the ICC has jurisdiction over non-state parties' nationals when they commit crimes under international law on the territory of a state that has – through a sovereign act - accepted the ICC's jurisdiction pursuant to article 12(1) of the Rome Statute.[1] **Accordingly, the ASP must maintain a robust and collective opposition to sanctions imposed by the USA and any other actions by powerful states to undermine the Court. States parties must not indicate to the USA that the ASP is willing to consider the issues raised by the USA in its opposition to the Court. In Amnesty International's view, any engagement on such concessions in the interests of lessening the attacks facing the Court now or in the future would be deeply misguided.**

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. 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 not to fulfil their Rome Statute obligations, for example regarding cooperation with the ICC, including fundamental obligations to arrest indicted persons.

On the national and regional level, states parties should enact laws and measures which would mitigate or 'block' the effect of any sanctions on the Court within national and regional jurisdictions. 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 previously been adopted on a regional basis, including by the European Union, and should be urgently considered in the present situation involving the ICC (see Annex I).

Ultimately, **all states, but perhaps particularly states parties to the Rome Statute, 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.**

Finally, Amnesty International strongly reminds the Assembly that sanctions have been enacted against Palestinian civil society organisations, and globally, human rights defenders continue to be threatened for their engagement with the Court and pursuit of international justice. 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:

[1] See, *Prosecution's consolidated response to observations by interveners pursuant to article 68(3) of the Rome Statute and rule 103 of the Rules of Procedure and Evidence*, 23 August 2024, "Pursuant to article 12(1), a "State which becomes a Party to this Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in article 5. Thereafter, under article 12(2) of the Statute […] the Court's jurisdiction is defined by the two classical and universally accepted bases of jurisdiction under general international law—territoriality under article 12(2)(a) and nationality under article 12(2)(b). The territorial principle as a basis of jurisdiction, in this sense, refers to the plenary competence of States to regulate persons, conduct, and events on their territory. It is an inherent aspect of sovereignty, with its scope defined by customary international law."

- Make high-level statements condemning and opposing the imposition of sanctions on the ICC and its officials, with practical commitments to protect and support the Court and those sanctioned by the US administration;
- Strongly condemn all threats against the ICC, its staff, and those who are threatened for their work on the ICC and the Rome Statute, recognising that such threats are flagrant assaults on international justice;
- Firmly condemn and oppose the sanctions imposed on the Court by US Executive Order 14203:
    - Strongly commit to supporting the ICC, including through engaging with the Court and designated persons to mitigate the effects of the sanctions, so that it can fully continue to execute its independent and impartial mandate and operations;
    - Call on the US government to rescind the sanctions and individual designations of ICC judges and OTP officials; Palestinian human rights organisations and; the UN Special Rapporteur on the Occupied Palestinian Territories;
    - Maintain a robust and collective Assembly opposition to sanctions imposed by the USA and oppose any engagement or concessions with the USA on the basis or purported rationale of US Executive Order 14203 - which is founded on the USA's opposition to the Court's independent and impartial mandate to conduct investigations where it has territorial jurisdiction. Any engagement on such concessions in the interests of lessening the attacks facing the Court now or in the future would be deeply misguided. Further recognise that an apparent willingness to consider such concessions or engagement could very seriously undermine the Rome Statute and the foundational principles of an independent and impartial ICC.
    - Firmly commit to enacting laws and measures at the national and regional level which would block the extraterritorial effects of the US sanctions law – so called 'blocking statutes' (see annex I)
- 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;
- Recognise that leaders and officials from ICC member states must not participate in undermining the ICC through meeting with ICC fugitives, including high-level officials such as Vladimir Putin or Benjamin Netanyahu who are wanted by the Court;
- 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;
- Recall that the Agreement on Privileges and Immunities (APIC) provides protection to Court staff and call upon states parties and non-states parties who have not done so to ratify the Agreement;
- Recognise that non-cooperation by states parties presents threats to the Court's effective functioning;
- Recognise that well-funded and effective public information on the Court's activities serves to counter misinformation and powerful narratives which threaten the Court.

PROPOSED BUDGET 2026

In the proposed budget for 2026, the ICC has requested €193,963 million euros (excluding the 'host state loan') or an increase of 1.1% from its 2025 approved budget. The Committee on Budget and Finance ('CBF') has recommended that the court's proposed budget could be cut to €193.26 million, which would represent an increase of 0.7 percent from the 2025 approved budget of €191,896 million euros.

Early indications are that discussions on the 2026 budget are likely to be close to resolution at the commencement of the Assembly session. While this development may allow states and stakeholders to focus on other pressing matters on the Assembly's agenda, Amnesty International is concerned that the possibility of an early resolution of the Court's 2026 budget has in no small part been achievable due to the willingness of the Court to acquiesce to state parties' demands that any budgetary increase should be kept to an absolute

minimum or otherwise would not be acceptable. Therefore, while the Court has presented a budget close to that approved in 2025, in light of the demands placed on the Court, including to investigate and prosecute in ever-increasingly challenging and complex situations, Amnesty International remains concerned that the Court's willingness to accept essentially zero-growth in its budget will harm the possibility of the Court to effectively meet the demands placed upon it.

Indeed, in a context in which the ICC, the multilateral system and the rules-based order is under attack and pressure from certain states, the Court's decision to acquiesce to the pressures which are being applied through financial means to multilateral organizations, with the aim of impacting their effectiveness and that of the international-rules-based system, is deeply troubling. As the organization has stated for many years, Amnesty International is acutely aware that states who do not want the ICC to investigate certain situations or wish to severely impact the court's ability to undertake its mandate effectively 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, non-states parties will undoubtedly increase pressure on states parties not to properly fund the Court in light of the its progress, including arrest warrants in certain situations. Accordingly, we remain deeply concerned that political considerations and cocomitant financial pressures being applied on the Court will affect the work of the Court and the OTP. Indeed, the continuing imposition of arbitrary financial restrictions by states, and the Court's willingness to accommodate these in its proposed budget requests, is likely to leave victims of international crimes with reduced prospects for justice. With this in mind, the ICC and states parties should firmly resist arbitrary limits on the Court's resources as unacceptable infringements on the ICC's ability to carry out its independent mandate.

Amnesty International also notes that this year, the CBF has recommended that the notional level of the Contingency Fund be raised to its original level of €10 million euros. This vital recommendation should acted upon by states at the upcoming Assembly, especially in light of the possibility that the Contingency Fund will need to be utilised – as it was in 2025 - to cover costs incurred by the Court in light of the US sanctions placed upon it. In this regard, the increase of the Contingency Fund's notional level by €3 million euros would serve to increase the Court's ability to withstand the difficulties placed upon it in mitigating and responding to the US sanctions.

With this in mind, states parties should:

- Commit to providing the Court, at a minimum, with a 2026 budget of €193.26 millions as recommended by the CBF – rejecting any possible attempts at further arbitrary cuts to the Committee's recommendations;
- Counter the threat to the Court's independent and impartial functioning by refusing to allow states to use the potential reduction in resources and cooperation as tools to influence which situations (and parties) are effectively investigated;
- Recognise that demands on the ICC and for international justice continue to grow and that adequate resources are required for it to fulfil its independent functions effectively;
- Recognise that demands on the Court to present close to zero-growth proposed budget increases are likely to severely harm the Court's ability to fully and effectively fulfil its mandate and that previous annual arbitrary restrictions of the Court's budget by the ASP have severely hampered the OTP and other ICC organs' activities in many situations, including in situations which continue, up to the present, to be marked by cycles of impunity;
- Recall the crucial importance that all investigations receive the same principal standard of treatment, including in resources, so that all victims of international crimes have equal access to justice and reparations at the Court.

ARRESTS AND (NON-)COOPERATION

Arresting all those subject to ICC arrest warrants is a clear and fundamental obligation of states parties.

In this regard, 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, including President Vladimir Putin and Prime Minister Benjamin Netanyahu who are subject to ICC warrants. The ICC Appeals Chamber has concluded that there is no Head of State immunity under customary international law vis-à-vis an international court.[2] 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.

In 2025, three persons subject to ICC arrest warrants travelled to states parties without arrest. In January, Libyan suspect Osama Njeem travelled to Italy and was subsequently released back to Libya; in April, Benjamin Netanyahu travelled to Hungary without arrest; and in October Vladimir Putin was on the territory of Tajikistan where he was also not arrested and surrendered to the Court. These instances of non-cooperation must be met by condemnation and concerted responses at the upcoming Assemly session. Indeed, in our view, high-level suspects' travel to states parties, without arrest, should be seen as part of a strategy of seeking to undermine the Court and the warrants issued against them. It is imperative that the Assembly demonstrates that the non-arrest of ICC suspects is not acceptable: failure to do so would allow a strategy towards erosion of the Rome Statute's obligations to succeed.

At this ASP session, a standalone session on non-cooperation has been included on the Assembly's agenda. This is a very welcome step, and the opportunity it presents should be used to consider how to counter and react to strategies and instances of non-cooperation which fly in the face of the one of the Rome Statute's fundamental obligations and seek to undermine the Court. In this regard, the ASP should urgently consider the effective implementation of procedures related to non-cooperation, which it had adopted in 2011[3]. Indeed, where a state party fails in its obligation to arrest, and following a referral to the ASP by an ICC judicial decision, the ASP must respond, and effectively implement the 2011 Assembly procedures. In addition, the ASP should further consider its implementation of formal and informal responses to non-cooperation, including outlining possible proactive Assembly and states 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'. The standalone session also provides an opportunity for states to discuss their national-level readiness or even experience in enforcing arrest warrants, as well as discussing how their own 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.

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

[2] In 2023, following litigation in which Amnesty International was an amicus curiae ('friend of the Court') in South Africa, following President Putin's expected travel to attend a BRICS summit, the consent order 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.

[3] 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

should be recognised that states parties themselves must assume significant responsibility for the lack of progress in cases where indicted persons have not yet been arrested.

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 meaningul 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:

- Recognise 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;
- Provide clear and concerted responses to instances of non-cooperation which took place in 2025; and effectively implement the 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;
- Commit to and urge other states to promptly ratify or adhere to - without making any reservations – the Agreement on Privileges and Immunities (APIC), recognising that the APIC allows the Court and its staff to fulfil their mandate in any territory subject to the jurisdiction of states parties.

WITHDRAWALS

In 2025, four ICC states parties announced their withdrawal from the Rome Statute: Hungary, Niger, Mali and Burkina Faso. These announced withdrawals are an affront to victims and survivors of the most serious crimes and to all people fighting against impunity in these countries and worldwide. Indeed, once any withdrawal takes effect, it would significantly harm the prospect of victims and survivors of future war crimes, crimes against humanity or genocide from these countries from being able to pursue justice at the ICC.

The reasons cited by the three Sahel states were concerns related to selectivity of the Court. In Amnesty International's view, genuine concerns that these states may have about selectivity of the ICC should be raised as states parties through dialogue and constructive engagement within the Assembly of States Parties. Withdrawals will not serve to address selectivity concerns or others, but rather will only remove the prospect of justice for victims and the protections they are provided by the Rome Statute.

In this regard, it is recalled that any withdrawal would only take effect in one year after the formal notice of withdrawal is deposited. In the case of Mali, its withdrawal will not affect the ICC's ongoing investigation into the

situation in Mali, nor the state's obligations to the Court, including to cooperate with that investigation, which covers all crimes committed on the territory of Mali since January 2012 to the date that its withdrawal would take effect.

Concerning Hungary's withdrawal, this took place on the occasion of Prime Minister Netanyahu's visit to Hungary without arrest. Hungary's withdrawal from the ICC should therefore be seen as part of a brazen and futile attempt to evade international justice obligations and to stymy the ICC's work. Indeed, Hungary's cynical announcement did not change the fact that Hungary still breached its fundamental obligation to arrest and surrender Benjamin Netanyahu.

Despite the deeply unfortunate withdrawals, Amnesty International urges the Assembly to call on these states to reconsider their withdrawals. Universality of the Rome Statute and its protections should remain an integral objective of the Assembly.

OPPOSING DOUBLE STANDARDS AND SELECTIVITY

Amnesty International strongly opposes double standards in international justice and urges states parties to recognise 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 truth, justice and reparations and all victims, investigations and situations at the ICC must receive the same 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 'rules-based international 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 so-called "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 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.

ANNEX I

National Level Blocking Statutes and EU Blocking Statute

Recommendations

- States should adopt national-level blocking statutes in response to the US Executive Order imposing sanctions on the ICC.
- EU member states should call on the European Commission to activate the EU blocking statute and, if necessary, ensure that the statute is capable of protecting EU persons and ensuring enforcement against EU persons, including companies and EU operators.

National-level Blocking Statutes

A practical measure that states should urgently take at the national level to prevent the application and counter the effect of the US Executive Order imposing sanctions on the ICC is to enact laws and measures which would mitigate or 'block' the effect of any sanctions on the Court within their national jurisdiction. These so-called 'blocking statutes' should protect a state's operators from the extra-territorial application of third country sanction laws.

At the national-level, 'blocking statutes' have been adopted to protect and allow the continuation of trade with sanctioned countries, rather than the protection of individuals and international organisations such as the ICC. For example, the Foreign Extraterritorial Measures Act is an example of a blocking statute adopted on the national level by Canada. The Act was enacted in an attempt to block the extraterritorial application of United States anti-Cuba sanctions ('Helms-Burton') to Canadian corporations. Similar blocking measures were adopted in the UK, Mexico and Argentina.

If ICC states parties were willing and able, on the national-level, to explore and implement measures which would mitigate the effects of the US Executive Order, the availability of such states would be of significant practical benefit to the ICC and those affected by the Executive Order, as well as demonstrating, in a practical way, a state's commitment to the ICC and international justice.

Practically, 'blocking statutes' would:

(i) Protect companies and CSOs in a state's jurisdiction from the extraterritorial effect of US sanctions on the ICC;
(ii) Indemnify persons for damages suffered as a result of their non-compliance (due to the blocking statute) with the US sanctions order;
(iii) Prohibit companies and other persons in a state's jurisdiction from complying with the US Executive Order;
(iv) Provide that a State's legal and judicial entities will refuse to recognize and comply with US court rulings or administrative determinations based on the US sanctions;
(v) Provide that breaches of a blocking statute are offences.

Key elements from existing blocking statutes

With reference to existing national level blocking statutes from UK, Mexico, Argentina and Canada, the following key elements can be drawn out:

A. Protection from extraterritorial effects

The intention of the legislation is to protect a state's persons from the extraterritorial effect of proscribed sanctions (UK).

Foreign sanctions laws shall not be applicable or generate legal effects of any kind in the national territory (Argentina).

The state may declare sanctions laws or any measures concerning persons designated under such laws not to be recognized or enforceable (Canada).

B. Prohibition on compliance with foreign sanctions laws

Compliance with the proscribed sanctions, both directly and indirectly, is prohibited (UK)

Natural or legal persons, public or private, who are in the national territory, those whose acts occur or take effect totally or partially in said territory, as well as those who are subject to the state's laws, are prohibited from carrying out acts when such acts are a consequence of the extraterritorial effects of foreign sanctions laws. (Mexico)

No person may invoke rights, execute or demand the execution of acts, or be forced to obey or observe, either actively or by omission, measures, directives, instructions or indications that are a consequence of the extraterritorial application of the foreign sanctions law. (Argentina)

C. Prohibition on recognition of foreign judgments or judicial compliance with foreign tribunals or other administrative decisions related to the foreign sanctions laws

Public, judicial or administrative authorities must refrain from providing information that is required of them by foreign courts or authorities based on the foreign sanctions law. (Argentina)

It is forbidden for persons to provide any information, by any means, that is required by foreign courts or authorities, based on the foreign sanctions laws. (Mexico)

The national courts will deny the recognition and execution of judgments, court orders or arbitration awards, issued based on the foreign sanctions laws (Mexico).

Judges must refrain from recognizing or enforcing judgments, payment orders or arbitration awards issued on the basis of the foreign sanctions law. (Argentina)

Where a foreign sanctions law has been enacted, the state may prohibit or restrict:

a. The production before or the disclosure or identification to, or for the purposes of, a foreign jurisdiction or tribunal of records that, at any time while the order is in force, are in the state or are in the possession or under the control of a state's citizen or a person resident in the state;

b. The doing of any act in the state, in relation to records that, at any time while the order is in force, are in the state or are in the possession or under the control of a state's citizen or a person resident in the state, that will, or is likely to, result in the records, or information as to the contents of the records or from which the records might be identified, being produced before or disclosed or identified to, or for the purposes of, a foreign jurisdiction or tribunal;

c. The giving by a person, at a time when that person is a state's citizen or a resident of the state, of information before, or for the purposes of, a foreign jurisdiction or tribunal in relation to, or in relation to the contents or identification of, records that, at any time while the order is in force, are or were in the state or under the control of a state's citizen or a person resident in the state. (Canada)

Where a foreign tribunal has given a judgment in proceedings instituted under a foreign sanctions law or a provision of a foreign sanctions law, the recognition or enforcement of the judgment in the state has adversely affected or is likely to adversely affect significant interests in the state, the state may

(a) in the case of any judgment, by order, declare that the judgment shall not be recognized or enforceable in any manner in the state; or

(b) in the case of a judgment for a specified amount of money, by order, declare that, for the purposes of the recognition and enforcement of the judgment in the state, the amount of the judgment shall be deemed to be reduced to such amount as is specified in the order. (Canada)

D. Recovery of damages

The blocking statute allows the civil claim and recovery of damages arising from the application of the sanctions legislation imposing the proscribed sanctions. (UK)

Those who have been ordered to pay compensation by judgment or award issued on the basis of foreign sanctions laws will have the right to sue in federal courts, the payment by the plaintiff of the trial in a foreign country: (i) By way of damage and as the main lot, the amount established in the foreign judgment or award, and (ii) The damages caused, as well as the respective legal expenses and costs. (Mexico)

E. Breaches of the state's blocking statute are offences

Breaches of the blocking statute legislation are criminal offences in the state (UK)

Every person who contravenes an order pursuant to the blocking statute that is directed to the person and that has been served on the person in accordance with the blocking statute is guilty of an offence and liable: (a) on conviction on indictment, in the case of a corporation, to a fine not exceeding $1,500,000, and in the case of an individual, to a fine not exceeding $150,000 or to imprisonment for a term not exceeding five years, or to both; or (b) on summary conviction, in the case of a corporation, to a fine not exceeding $150,000, and in the case of an individual, to a fine not exceeding $15,000 or to imprisonment for a term not exceeding two years, or to both. (Canada)

Without prejudice to the civil, criminal or other liabilities that may arise from the violation of Articles 1, 2 and 3, the Ministry of Foreign Affairs may impose the following administrative sanctions on the offender: (i) A fine of up to 100,000 days of general daily minimum wage, in force in the Federal District. (ii) a fine of up to 50,000 days of general daily minimum wage, in force in the Federal District (iii) For violation of Article 3, with warning. If it is the second infraction, a fine of up to 1,000 days of general daily minimum wage, in force in the Federal District. In case of recidivism, a fine of up to twice the maximum limit of the corresponding sanction will be applied. (Mexico)

F. Protected persons (UK)

A protected person is:

- a state's national resident
- a non-national resident in the state
- any legal person incorporated in the state
- any other natural person physically present within the state, including within its territorial waters or air space, or in any aircraft or on any vessel under the jurisdiction or control of the state acting in a professional capacity

G. Application of blocking statute (UK):

- Nationals resident outside of the state, including e.g. in the US, remain subject to the blocking statute legislation.
- Subsidiaries of US businesses incorporated in any part of the state are considered that state's legal persons and are subject to the provisions of the blocking statute legislation. Their parent businesses are not a state's legal persons and therefore are not subject to the blocking statute legislation.

- Branches of US businesses in a state are not considered to have distinct legal personality from their parent company. They are not considered a state's legal persons and therefore are not subject to the blocking statute legislation.
- US subsidiaries of a state's businesses are subject to the law under which they are incorporated. The blocking statute legislation only applies to legal persons incorporated in the state.

European Union Blocking Statute

The European Union has also adopted 'blocking statutes'. Adopted in 1996, the EU Blocking Statute aims to protect EU operators against extraterritorial sanctions adopted by third countries, that is, against sanctions affecting the operations of the EU operators despite not having a nexus to the country imposing the sanctions.

The EU Blocking Statute counters sanctions imposed by a third country by

> (1) prohibiting EU operators from complying, directly or indirectly, with any requirements or prohibitions resulting from the sanctions or actions based thereon or resulting therefrom;
>
> (2) nullifying the effects in the EU of foreign court rulings or administrative decisions based on the sanctions imposed by the third country; and
>
> (3) allowing EU operators to recover damages caused by sanctions.

In terms of procedure, the EU Commission can propose – on its own initiative - to activate the EU blocking statute. Following such an activation, as long as there is no objection from EU member states (via qualified majority voting) or from the EU Parliament within 2-months, the blocking statute can proceed.