



## **Discours – débat général ASP, 7 décembre 2023**

Madame la Présidente de l'Assemblée des États Parties,

Excellences,

Représentants des organisations internationales et non-gouvernementales,

C'est un honneur pour moi de m'adresser à vous encore cette année, en ma capacité de présidente de l'Association du Barreau près la CPI, et au nom des conseils externes représentant la défense et les victimes devant la Cour.

Je veux tout d'abord souligner le chemin parcouru depuis la dernière Assemblée. À cette date l'an dernier, le personnel d'appui aux conseils était en grève pour faire reconnaître leur droit à des conditions de travail minimales. Vous les avez entendus, et leur avez accordé des mesures intérimaires historiques. Aujourd'hui, la réforme de l'aide juridictionnelle tant attendue est à notre portée, et avec elle, la garantie, finalement accordée, de droits du travail de base. Des améliorations notables seront aussi apportées à la composition des équipes, alors que de nouvelles mesures permettront d'augmenter la représentation géographique des équipes. Pour cela, nous sommes reconnaissants.

However, we remain concerned by the number of unresolved issues pertaining to the implementation of the new Legal Aid Policy as well as by the persistent lack of recognition of the crucial role played by external Counsel in ICC proceedings.

Notably, the ICCBA is very worried by the unexplained, last-minute deletion, in the draft legal aid policy, of the undisputable principle of **equality** -- emphasizing that the work of external counsel is of equal importance, and requires commensurate skill, professionalism and responsibility in advancing fair proceedings, akin to their counterparts of the Court – and that as such, their remuneration should be comparable.

Maintaining equivalency is not only vital to retaining competent counsel who are willing to take on demanding and lengthy ICC cases, but it is also an essential condition of the fundamental right to equality of arms and fair trial.

When the ASP adopted the previous legal aid policy at its 11<sup>th</sup> Session, it recognized in plain terms, (and I quote) the “fundamental importance of the legal aid system to ensure the fairness of proceedings and the rights of the defendants and victims to quality and professional legal representation.” This must remain a core principle of the policy under consideration even now.

Ten years on, I urge you to reaffirm your commitment to these principles in the Legal Aid Policy to be adopted next week -- by re-instating the equivalency of external counsel with their counterparts of the Court. Counsel for the Defence and Legal Representatives of Victims are not just empty robes – they are essential partners in the international justice system and must be valued as such.

In 2024, the ICCBA will continue to vigorously advocate for improved conditions for external counsel, including by requesting adjustments to the remuneration scheme, to better reflect the importance of their contribution

to the justice process, and to take into account the increased cost of living in the Host State. Under the New Legal Aid Policy, Counsel will \*still\* be paid over 40% less than their counterparts at the Court – meaning that they are in fact working for free at least 4 months out of 12. This grave disparity is affecting the retention of staff in existing teams, and hindering the recruitment of new and experienced counsel going forward.

For the Court to uphold its ambition to remain a beacon of global justice, it must address the chronic underfunding of the legal aid. Failure to do so jeopardizes fulfilling its mandate to provide fair trial to suspects and accused, and meaningful participation of victims, as enshrined in the Rome Statute. This Assembly holds the authority to actualize the promises of the Rome Statute by respecting External counsel for Defence and Victims as integral partners of the justice process. The support of the Assembly on this important issue would be appreciated, as ultimately, the Court will not provide justice outwardly, if we are not just inwardly.

Thank You.