



Amnesty International Intervention Cooperation Plenary – ASP20 – 8 December 2021

Thank you for the opportunity to address this Assembly session on the issue of cooperation with the ICC.

Amnesty International believes that the Assembly's annual standalone session on cooperation provides an excellent opportunity to discuss practical solutions to the cooperation challenges the Court is facing. This year, discussions on the seizing and freezing of assets provide an excellent opportunity to discuss how assets of convicted persons can be used for the benefit of victims through reparations awards.

In a similar manner, it is important that states recognize that the term 'voluntary' cooperation is perhaps an unfortunate misnomer, in its implication that such cooperation is not essential to the proper functioning of the Court.

In fact, the Court can only function if states parties are willing to enter into 'voluntary' agreements with the Court, and we continue to urge states parties to do so.

One area of significant concern surrounds the lack of willingness of states parties to enter into voluntary agreements with the Court in relation to **defence matters**, or to matters relating to accused and acquitted persons.

In our ASP 20 [statement](#) entitled '*States must consider the impact of their current decisions on the future of the ICC*', Amnesty International raises the concerning situation of Mr. Charles Ble Goudé, who is unable to leave the Netherlands, indeed The Hague, after his acquittal.

We urge states to urgently consider the issue of acquittal relocation agreements and we call on The Netherlands to consider obligations it may necessarily incur as the Host State of the ICC, as it relates to cooperation and acquitted persons.

We note that in the final report of the Independent Expert Review, the Experts highlighted the negative impacts of a lack of states parties' cooperation on the Court's operations. Unfortunately, and in keeping with the Experts' seeming unwillingness to critique states parties, the Experts did not provide substantive recommendations to the Assembly on how cooperation could be improved.

However, it is worth recalling the Experts' findings within the report, and in particular critical findings in relation to cooperation in the contexts of preliminary examinations, the tracking and arrest of Court fugitives, ICC investigations, and defence-related matters – which we highlight also in Amnesty International's [Recommendations](#) for this Assembly session and in our ASP20 statement.

Amnesty International urges the Assembly to pay close attention to the Experts' report and to consider its own performance shortcomings in oversight and governance – and the impact these have had on the Court's performance and the fulfilment of its mandate.

In relation to the Court's investigations, we note from the Prosecutor's statement of 27 September in relation to the Afghanistan situation that [i]n relation to those aspects of the investigation that have not been prioritised [that is to say investigations into the Afghan National Security Forces, as well as the CIA and US military] that the OTP 'will remain alive to its evidence preservation

responsibilities, to the extent they arise, and promote accountability efforts within the framework of the principle of complementarity.’

Cooperation and complementarity must go hand-in-hand.

We call on the Assembly of States Parties to pursue how the OTP can share - with states parties - information or evidence it has preserved of crimes under international law in the Afghanistan situation, including crimes committed by the ANSF, CIA and US military.

Indeed, states parties must cooperate with the Court and assess how their national authorities can operationalise any information or evidence gathered by the OTP in the Afghanistan situation.

States parties have the obligation and capacity to ensure investigations into the heinous crimes committed in the Afghanistan situation and are yet to do so – we note for example that the OTP had specifically examined CIA black-sites in states parties Lithuania, Poland, and Romania.

Ultimately, if the ICC is to be seen as part of a broader Rome Statute or international justice *system*, states parties must cooperate with the Court and step-up to ensure investigations of *all parties and persons* suspected of committing crimes under international law, including those traditionally seen as allies.

Thank you.