AMNESTY INTERNATIONAL

‘Defending the ICC ‘brick by brick’: protection not concessions’

AMNESTY INTERNATIONAL RECOMMENDATIONS

25th SESSION OF THE ASSEMBLY OF STATES PARTIES TO THE ROME STATUTE, 30th Nov. – 7 Dec. 2026

At this 25th Assembly of States Parties session, the International Criminal Court (ICC) is facing perhaps the most existential threat in its history.

In October this year, the United States sanctioned the Court as an institution as part of US Secretary of State Marco Rubio's campaign to dismantle the Court ‘brick by brick’. The campaign has been characterised by egregious sanctions and pressure on states parties to withdraw from the Rome Statute.

By April 2027, the Court will face severe restrictions in accessing essential financial and other services necessary for its continued functioning. Failure to act will leave the Court unable to operate effectively across all situations before it. These US measures are intended to force fundamental changes to the Court's mandate, jurisdiction and operations through a ‘dialogue’ between the US and States Parties to the ICC.

The threat is immediate. States Parties have been given what amounts to a 180-day ultimatum to comply with the demands of the US.

The United States’ attack on the Court is an attack on victims everywhere. Victims should not be forced to pay the price for geopolitical power struggles. Measures designed to weaken the Court inevitably 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 Sudan (Darfur), Libya, the Philippines, Palestine, Ukraine and Venezuela.

US demands are an assault on the effective functioning of the Court

The US has advanced demands that would fundamentally alter the Rome Statute system itself and are fundamentally incompatible with the object and purpose of the Rome Statute, and would require State Parties to abandon core principles on which the Court is founded Those crippling demands are:

- Removing ICC jurisdiction over nationals of non-States Parties when they commit crimes in the territories of States Parties;
- abandoning investigations and arrest warrants relating to the situation in the State of Palestine;
- recognising immunity for heads of state (and possibly other State officials) within the Rome Statute.

The United States’ demands are not capable of diplomatic compromise or negotiation:

- they concern foundational principles of the Rome Statute and the Court's ability to operate independently and impartially;
- they would undermine one of the Rome Statute's foundational principles: that no-one is above the law;

- they would establish a two-tier system of international justice in which powerful states and their nationals enjoy impunity;
- they would require abandoning a core territorial jurisdiction principle of the Rome Statute;
- they would create an unprecedented impunity carve-out for powerful non-member states;
- they would accept direct political interference in the Court's independent judicial processes.

No dialogue without protection

Amnesty International is deeply concerned by a strategy of **'constructive dialogue'** with the United States as the principal response to sanctions. While dialogue with non-States Parties is not inherently unwelcome, Amnesty International is deeply concerned that, in the current context – effectively blackmail - and on basis of the United States' egregious demands of the Assembly and ICC, meaningful dialogue is impossible.

What is being proposed is not ordinary diplomatic engagement between states. It is a process taking place under conditions of coercion, in which sanctions and threats against the Court are being used to extract concessions on foundational elements that lie at the core of the Rome Statute framework.

At this Assembly session, states must therefore focus on **one overriding and immediate priority**: protecting the Court, as well as its officials and all those who support its work, from the effects of US sanctions and other coercive measures.

States Parties should not allow discussions regarding dialogue with the United States to divert attention, resources or political and diplomatic efforts away from the urgent need to protect the Court and those who support its work.

Any dialogue that does take place, or may take place, after this Assembly session must be subordinate to states parties' primary responsibility and objective to protect the Court.

In addition, states must reject a false choice between protection or dialogue. **There must be no dialogue without protection**, and any efforts towards 'dialogue' must not delay urgent protection measures. Protection is not a confidence-building measure that should accompany dialogue. It is a precondition for any dialogue conducted on an equal footing. Fundamentally, protection must not come at the cost of concessions that undermine the Rome Statute, weaken the Court's independence, interfere with ongoing proceedings or carve-out impunity exceptions for the United States or other power non-states parties.

RECOMMENDATIONS

States Parties must:

1. Send an unequivocal message that the response to sanctions on the ICC and threats to international justice will be protection, not concessions:

- Urgently ensure that the ICC and its staff will have access to financial, insurance and IT services from April 2027;
- On the national and regional level, 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' must be immediately implemented, protecting a state's operators from the extra-territorial application of third country sanction laws.

2. Maintain a robust and collective opposition to sanctions imposed by the USA and any other actions by powerful states to undermine the Court.

- 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;
- Call on the US government to rescind the sanctions against the Court, as well as individual designations of ICC judges and OTP officials, Palestinian human rights organisations and the UN Special Rapporteur on the Occupied Palestinian Territories;
- 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;
- 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 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;
- 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;

3. Publicly commit that the following are not open to 'dialogue' or 'negotiation' with the United States:

- The Rome Statute's provisions on territorial jurisdiction;
- The Court's independence and the independence of its judges and Prosecutor;
- Ongoing investigations, prosecutions, arrest warrants and judicial proceedings;
- Immunities for heads of state and other state officials;
- Obligations of states parties to arrest all those subject to ICC arrest warrants;

4. Ensure that any 'dialogue' with the United States is consistent with the Rome Statute and reject any proposal that would undermine the Rome Statute framework or the Court's independence:

- Make clear that any 'concerns' regarding the Rome Statute or the Court's activities cannot and must not be resolved through sanctions or other coercive measures;
- Reaffirm that matters concerning investigations, prosecutions and judicial proceedings, as well as the interpretation of the Rome Statute's provisions, lie exclusively within the Court's independent legal processes; the Rome Statute does not allow for political declarations or clarifications of its provisions, including on immunities or cooperation obligations.
- Ensure that, at such a time when appropriate contact or dialogue with the United States is possible, it is pursued on behalf of the Assembly, in a manner which is not fragmented, but coordinated and streamlined. Any appropriate dialogue process or Assembly body undertaking such dialogue must be representative of the Assembly as a whole. Dialogue must not lead to any proposals being adopted without the whole Assembly's involvement, or in a way that might

circumvent the Rome Statute and its legal frameworks – particularly as these relate to amendments or other Assembly decision-making requirements.

5. Call on those states who have announced withdrawals from the Rome Statute to reconsider and rescind their withdrawals; and support states who may be pressured to withdraw from the Rome Statute due to pressure from the United States and other non-states parties:

- 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.

Appeasement will not protect the Court. Any concessions extracted under coercive pressure today will only lead to further demands tomorrow, whether from the United States of from other powerful states seeking immunity and impunity for themselves, their officials or their allies.

Concessions regarding the ICC will embolden and certainly not stop future threats and sanctions to other international courts (such as the International Court of Justice) or organizations.

At stake is not only the future of the ICC, but the broader principle that international law and human rights organizations must not be pressured, sanctioned or threatened into changing their interpretation of the law, abandoning their work and investigations or exempting powerful actors from accountability.

Justice for all. Impunity for none.