



H.E. Mr Sidiki Kaba

President of the Assembly of States Parties

13 November 2015

Excellency,

The Principals of the International Criminal Court have the honour to address this letter to your kind attention with regard to the preparation of the agenda for the forthcoming 14th session of the Assembly of States Parties (“Assembly”).

The Court notes with great concern that a number of issues have been proposed for discussion at the Assembly which relate to matters falling clearly within the judicial and prosecutorial competence of the Court. Additionally, as your Excellency will be aware, some of these matters are under active consideration before the Chambers of the Court, and hence *sub judice*.

The independence of the Court in the conduct of its judicial and prosecutorial functions is a fundamental tenet of the Rome Statute framework, as reflected in, *inter alia*, articles 40(1), 42(1) and 119(1) of the Statute.

The Court notes and fully recognises the role of the Assembly in providing “management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court”, in accordance with article 112(2) (b) of the Rome Statute. The Court further notes the power of the Assembly to adopt amendments to the Statute and certain other legal instruments such as the *Rules of Procedure and Evidence* and the *Financial Regulations and Rules*.

It must equally be stressed that issues relating to the application, implementation and interpretation of the Court’s legal instruments within the context of an active case/proceedings fall strictly within the judicial functions of the ICC to be determined by the independent and impartial Judges of the Court, in accordance with the legal framework governing the Court’s judicial proceedings.

It is respectfully submitted that in accordance with the role of the Assembly within the ‘constitutional framework’ and separation of powers of the Rome Statute system, the Assembly must refrain from any action that interferes with the ICC’s judicial independence in this respect, or

gives the perception thereof. The appropriate forum to discuss and contest judicial matters is in the judicial proceedings before the Court.

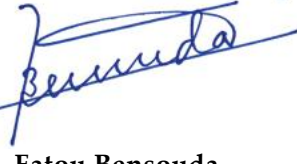
The Court takes this opportunity to reiterate the importance of States Parties, as custodian of the Rome Statute, to robustly continue to safeguard the independence of the ICC's judicial process. This is vital to the integrity of the Rome Statute system and to the ultimate goals of the Court.

It is in this context that the Principals of the Court jointly urge you, Mr President, and through you, the States Parties to the Rome Statute, to ensure that the Court's judicial and prosecutorial independence is not undermined, or perceived to be undermined, by proceedings of the Assembly.

Please accept, Your Excellency, the assurances of our highest consideration.



Silvia Fernández de Gurmendi
President



Fatou Bensouda
Prosecutor



Herman von Hebel
Registrar