

Time for Governance Quality Assurance at the ICC Assembly of States Parties?

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1. State-Party Governance: An Obligation?

The Assembly of States Parties ('ASP') to the Statute of the International Criminal Court ('ICC') is not a passive depository of the Court's founding instrument. It is, in the precise language of Article 112, the Court's governance and management oversight organ.¹ That characterization carries normative weight.² The obligation to govern the ICC with competence, care and procedural integrity is not aspirational.³ It is structural.⁴ It derives from the architecture of the ICC Statute itself, which charges the ASP with responsibility for the governance of the Court *via* the adoption of any necessary legislative instruments, including amendments to the ICC Statute and Rules of Procedure and Evidence ('Rules of Procedure'). When States Parties or their Bureau act in an oversight capacity, they do so as organs of a multilateral institution with duties commensurate with that role.⁵

That foundational premise is the prism through which the current investigation into the Court's Prosecutor must be assessed. In May 2024, multiple members of the Court's staff filed formal complaints of workplace harassment and sexual misconduct against the Prosecutor.⁶ Following sustained civil-society pressure, media coverage, and internal deliberation, the Bureau of the ASP determined, in November 2024, to commission an external investigation, delegating the fact-finding function to the United Nations Office of Internal Oversight Services ('OIOS').⁷ This decision was itself procedurally novel: the ICC Statute's own supervisory architecture makes no provision for the delegation of oversight functions to an external organ, and the Independent Oversight Mechanism ('IOM'), established under Article 112(4) precisely to conduct investigations involving alleged wrongdoing by elected officials, was deliberately bypassed.⁸

In the period that followed, the process accumulated procedural layers of considerable complexity. The OIOS completed its investigation in late 2025 and submitted its report to the Bureau.⁹ Confronting the legal mismatch between the United Nations' ('UN') internal administrative framework and the ICC's Rules of Procedure, the Bureau then appointed an *ad hoc* panel of three independent judicial experts, tasked not with conducting independent fact-finding but with characterizing the legal implications of the OIOS' findings within the ICC Statute framework.¹⁰ The panel's mandate was twice extended, with the final report allegedly concluding the Prosecutor was in no breach of conduct.¹¹ The Bureau, at the time of writing, did not confirm or deny the media reports indicating that the *ad hoc* panel found no legal characterization possible within the ICC Statute legal framework deeming the sanction or removal of the Prosecutor.¹²

The process, in its totality, is unprecedented. It is also the product of a succession of improvised governance decisions, each of which generated further complexity rather than resolution. The three substantive areas of concern this brief examines follow directly from that trajectory. The first concerns the quality and competence of the Bureau's governance conduct. The second concerns the legal framework of the Court and the Bureau's visible unpreparedness to apply it with consistency. The third concerns the 'integrity standard',¹³ the very norm the process is ostensibly designed to vindicate, and the degree to which the handling of the investigation has honoured or undermined it.

2. Institutional Governance as the Challenge

Effective institutional governance of an international criminal tribunal demands more than the formal assumption of an oversight role. It demands substantive competence: the analytical capacity to map the applicable legal framework, the organizational readiness to constitute appropriate processes, and the communicative discipline to manage public expectations with precision and consistency.¹⁴ Assessed against these

¹ Rome Statute of the International Criminal Court, 17 July 1998, Article 112 ('ICC Statute') (<https://www.legal-tools.org/doc/7b9af9/>).

² Ezequiel Jimenez Martinez, *Governing the International Criminal Court: The History and Practice of the Assembly of States Parties to the Rome Statute*, Brill, Leiden, 2026, p. 14.

³ See generally, Sergej Vasiliev and Niels Blokker (eds.), *Governance of International Courts and Tribunals: Institutions, Practices, and Norms*, Oxford University Press, 2026.

⁴ See Niels Blokker, "The Governance of International Courts and Tribunals", in Andreas Follesdal and Geir Ulfstein (eds.), *The Judicialization of International Law: A Mixed Blessing?*, Oxford University Press, 2018, pp. 26 ff.

⁵ See Morten Bergsmo *et al.*, "ICC State-Party Governance in Times of Disunity", Policy Brief Series No. 146 (2023), Torkel Opsahl Academic EPublisher, Brussels, 2023, pp. 1–4 (<https://www.toaep.org/pbs-pdf/146-governance/>).

⁶ ASP, "Annual Report of the Head of the Independent Oversight Mechanism", ICC-ASP/23/18, 16 October 2024, p. 8 (<https://www.legal-tools.org/doc/0j3u2v6q/>).

⁷ ASP, "Statement by the President of the Assembly of States Parties on Investigation into Alleged Misconduct by an ICC Elected Official", Press Release, 11 November 2024 (<https://www.legal-tools.org/doc/tbbu2679/>).

⁸ Ezequiel Jimenez Martinez, "The Independent Oversight Mechanism: Procedural Questions into the External Investigation of the Prosecutor", in *Opinio Juris*, 6 January 2025.

⁹ ASP, "Statement by the ASP Presidency Concerning the Receipt of the OIOS Fact-finding Report on Alleged Misconduct by the ICC Prosecutor", Press Release, 12 December 2025 (<https://www.legal-tools.org/doc/du5xq90h/>).

¹⁰ ASP, "Statement by the ASP Presidency Concerning the Receipt of the External Judicial Expert Panel Report on Alleged Misconduct by the ICC Prosecutor", Press Release, 10 March 2026 (<https://www.legal-tools.org/doc/q8zr5mvd/>).

¹¹ Sondas Asem, "Exclusive: Judges Clear ICC's Karim Khan Over Sexual Misconduct Claims", *Middle East Eye*, 21 March 2026.

¹² ASP, "The ASP President Expresses Concern Over Recent Media Reports Regarding the Ongoing Disciplinary Process Involving the ICC Prosecutor", Press Release, 23 March 2026 (<https://www.legal-tools.org/doc/y6elfd86/>).

¹³ Morten Bergsmo and Viviane E. Dittrich, "Integrity as Safeguard Against the Vicissitudes of International Justice Institutions", in Morten Bergsmo and Viviane E. Dittrich (eds.), *Integrity in International Justice*, Torkel Opsahl Academic EPublisher, Brussels, 2020 (<https://www.toaep.org/nas-pdf/4-bergsmo-dittrich/>).

¹⁴ ASP, "Independent Expert Review of the International Criminal Court and the Rome Statute System: Final Report – 30 September 2020", ICC-ASP/19/16, 9 November 2020, p. 11 (<https://www.legal-tools.org/doc/yq4r48em/>).

criteria, the Bureau's management of the external investigation into the Prosecutor reveals a series of governance failures that, taken individually, might be attributed to the novelty of the situation. Taken collectively, however, they describe a pattern of institutional unpreparedness that has materially compromised the quality of the process.

The initial decision to externalize the investigation to the UN deserves scrutiny. The OIOS is an organ of the UN Secretariat; its jurisdiction, procedures, and applicable standards are calibrated to the internal administrative framework of the UN system. The ICC operates under a distinct treaty-based legal order, with its own Rules of Procedure and Staff Rules and Regulations that establish the relevant thresholds for misconduct and the procedures for their application. The Bureau's delegation of fact-finding to the UN was not accompanied by any published legal analysis explaining why the IOM mandate was insufficient or why the applicable evidentiary and procedural standards of the OIOS were considered compatible with the requirements of the ICC Statute framework. The result, foreseeable at the time of the decision, was that the eventual UN report could not itself provide a legally operative characterization of the facts within the ICC Statute system, necessitating the subsequent creation of the *ad hoc* panel of judicial experts.

The constitution of the *ad hoc* panel raises distinct governance concerns. The panel was not drawn from any pre-established roster or governed by any published terms of reference at the time of its appointment. Even when this evolution in the internal accountability of the ICC was proposed by the Independent Expert Review, it took more than five years and a crisis of safeguarding for the ASP to rush the required amendments to the legal framework adopting the *ad hoc* formula.¹⁵ Assuming the *ad hoc* panel in the situation of the Prosecutor follows that of the amended Rules of Procedure, the terms ultimately provided to it narrowly constrained its function: it was authorized to review the factual findings in the UN report and to characterize those findings legally, but not to conduct any additional fact-finding or to reopen the investigation. This creates an epistemically constrained exercise. If the OIOS report is, as characterized by multiple well-placed sources,¹⁶ evidentially weak, and if the panel is prohibited from remedying those evidentiary deficiencies, the legal characterization it produces is necessarily contingent on the reliability of an investigation it cannot examine.

The Bureau's public communication throughout this process has compounded these structural problems. At no point has the Bureau issued a comprehensive public account of the procedural pathway it elected to follow, the legal basis for each significant decision, or the timeline and nature of the determinations still outstanding. States Parties have primarily been informed through diplomatic channels rather than through institutionalized transparency mechanisms. The result is an information environment in which States Parties are required to make decisions of significant consequence, including, potentially, the removal of the Prosecutor, without access to the full evidentiary and legal record. The Bureau appears to have concluded that such information asymmetry is operationally acceptable. That conclusion is difficult to defend as a matter of either due process or democratic accountability within treaty-based and multilateral governance.

The governance quality of the Bureau's decisions must also be assessed in temporal terms. The investigation was announced following a period of sustained pressure. The appointment of the OIOS was accompanied by no published procedural framework, and the *ad hoc* panel was constituted even as the OIOS report's anticipated completion was severely delayed without an explanation, with the panel's mandate itself extended as well. This serial improvisation, each step a response to the inadequacies of the previous one, is not the governance standard expected of the oversight body of a permanent international criminal court. It reflects a Bureau that has approached an unprecedented situation with reactive rather than anticipatory governance, and that has paid insufficient attention to the cumulative institutional costs of that approach. The specific challenge for the governance of international criminal justice is that the Court operates in a political environment in which its legitimacy

is permanently contested, externally and internally.¹⁷ The Bureau's conduct of this process has not been calibrated to that reality.

A Bureau that is seen to manage an internal accountability crisis without transparency, procedural consistency, or demonstrable legal expertise does not merely risk a poor outcome in a single case. It contributes to a broader delegitimization of the ASP governance function at a moment when that function is under acute external pressure. Moreover, the absence of institutionalized review mechanisms limits the capacity for internal correction. Unlike judicial proceedings, which incorporate appellate review, governance decisions within the Assembly lack equivalent safeguards. This increases the risk of error and inconsistency. Fragmentation within the Assembly is a foreseeable consequence. Divergent interpretations of procedural requirements may lead to competing legal positions among States Parties, undermining consensus. This is particularly problematic in a multilateral setting where legitimacy depends on collective endorsement. At a time of external contestation, including challenges to the Court's jurisdiction and political resistance by major powers,¹⁸ internal coherence is essential. Governance failures that generate division or uncertainty weaken the Court's resilience.¹⁹

3. Lacking Governance Quality Assurance?

The ICC Statute is not a constitutional text that reserves interpretive discretion to political organs.²⁰ Its provisions are specific, its supervisory mechanisms defined, and the relationships between those mechanisms and the organs of the Court carefully delineated. The Bureau's management of the current investigation reflects an insufficient engagement with the legal framework of the Court, and that deficiency carries institutional consequences that extend well beyond the immediate case.

Article 112(4) of the ICC Statute provides that the ASP shall establish an independent oversight mechanism for the inspection, evaluation, and investigation of the Court, in order to enhance its efficiency and economy. The IOM was created pursuant to this mandate in 2009 and its operational framework developed progressively over subsequent sessions of the Assembly.²¹ It is explicitly the institutional body designated to undertake investigations of alleged wrongdoing by Court officials. In the current investigation, the Bureau elected not to deploy the IOM as the primary investigative body, notwithstanding that the complaints at issue concern the most senior elected official of the Court. The legal basis for that decision was never formally published. The Bureau's apparent rationale, that the IOM lacked the investigative capacity or independence required for a case of this magnitude, may or may not be well-founded.²² But the absence of a published legal opinion on the question may in itself be perceived as a governance failure. The IOM's mandate, as defined in the relevant Assembly resolutions, does extend to investigations of elected officials. If the Bureau concluded that this mandate was, in practice, insufficient, the appropriate response was arguably either to seek a formal amendment to the mandate through the Study Group on Governance or to publish a legal opinion demonstrating why the UN delegation was consistent with the ICC Statute framework. Neither course was followed. The result is that a central governance decision in the most consequential internal accountability process in the Court's history rests on a legal foundation that has never been submitted to the Assembly for deliberation.

¹⁷ See Sergey Vasiliev, "The Crises and Critiques of International Criminal Justice", in Kevin Jon Heller *et al.* (eds.), *The Oxford Handbook of International Criminal Law*, 2nd ed., Oxford University Press, 2020, pp. 626 ff.

¹⁸ ASP, "The Presidency of the Assembly of States Parties Stands Firmly by the International Criminal Court, its Elected Officials, and its Personnel", Press Release, 20 May 2023 (<https://www.legal-tools.org/doc/0awoi2/>).

¹⁹ Ayelet Berman and Ramses A. Wessel, "The International Legal Form and Status of Informal International Lawmaking Bodies: Consequences for Accountability", in Joost Pauwelyn, Ramses A. Wessel and Jan Wouters, (eds.), *Informal International Lawmaking*, Oxford University Press, 2012, p. 43.

²⁰ See Leila Nadya Sadat and Jarrod M. Jolly, "Seven Canons of ICC Treaty Interpretation: Making Sense of Article 25's Rorschach Blot", in *Leiden Journal of International Law*, 2014, vol. 27, no. 3, pp. 755 ff.

²¹ ASP, Decision Concerning an Independent Oversight Mechanism, ICC-ASP/7/Decision 1, 13 February 2009, p. 17 (<https://www.legal-tools.org/doc/4f7928/>); ASP, Independent Oversight Mechanism, ICC-ASP/12/Res.6, 27 November 2013 (<https://www.legal-tools.org/doc/64eb6b/>).

²² Ezequiel Jimenez Martinez, "Failing the Institution? The Assembly of States Parties' Management of the Investigation into the Prosecutor", in *Opinio Juris*, 23 October 2025.

¹⁵ ASP, Resolution on Amendments to the Rules of Procedure and Evidence of the International Criminal Court, ICC-ASP/24/Res.1, 5 December 2025 (<https://www.legal-tools.org/doc/qkzrtgkn/>).

¹⁶ Amanda Taub and Jeanna Smialek, "Sexual Misconduct Report Leaves I.C.C.'s Path Ahead Unclear", *New York Times*, 25 March 2026.

The downstream quality assurance implications of this decision are significant. The UN investigation, conducted under its administrative law rather than the ICC Statute framework, including its relationship with the International Labour Organization's Administrative Tribunal, produced findings that the Bureau itself acknowledged could not be directly transposed into the ICC Statute's misconduct categories without further legal characterization. The *ad hoc* panel was constituted to supply that characterization. But the panel operates distinctly removed from the facts. It relies on an investigation conducted under a different legal system, by investigators without primary expertise in the ICC Statute legal framework and its internal accountability procedures, producing findings that the panel cannot independently verify. This is not a quality assurance architecture.²³ It is a sequence of compensatory mechanisms, each designed to address the inadequacy of the previous one, back against the wall.

The quality assurance concern deepens when attention shifts to the Assembly itself. States Parties are the ultimate governance body of the Court, the ultimate formal decision-maker. They hold, under the ICC Statute and the Rules of Procedure, the power to remove the Prosecutor in cases of serious misconduct or serious breach of duty.²⁴ The decision to remove a sitting Prosecutor is one of the most consequential determinations an international treaty body can make. It requires that States Parties have access to complete information. The amended Rules of Procedure and the equally amended Rules of Procedure of the Assembly contemplate access to underlying documentation. If the Bureau determines to recommend the removal of the Prosecutor by disregarding the non-binding advice of the *ad hoc* panel,²⁵ there is a risk that some States Parties may only focus on a summary of the investigation, rather than the primary documentation. The logical structure of accountability requires that the body exercising the accountability function have access to the evidence on which it is asked to act.

At a broader systemic level, the governance failures identified here carry particular weight at a moment when the Court faces serious, foreseeable external pressure. The United States and Russia have imposed targeted sanctions on Court officials, including the Prosecutor and several judges. The Assembly and the Bureau have noted this adverse situation and have even called for engagement with non-State Parties to seek an understanding of the critical role the Court plays in the global accountability process.²⁶ But given the substantive attention to the external investigation, the Bureau has not been able to engage in its task of defending while governing.²⁷ In this environment, the coherence of States Parties' governance conduct is not a peripheral concern: it is a precondition for the Court's institutional resilience. A fragmented Assembly – one in which States Parties hold divergent, poorly-informed views about a contested removal process because the Bureau has failed to ensure adequate information sharing – is also poorly positioned to present a unified front against external threats. The governance quality of the current process is not merely an internal matter.²⁸ It is a factor in the Court's geopolitical survivability; more so, taking into consideration the organizational and governance maturity reasonably expected of an institution now in its third decade.²⁹

4. Integrity

The unfortunate irony at the centre of the current investigation is not difficult to identify. The process has been convened to assess whether the Prosecutor has deviated from the statutory 'integrity standard' required

²³ See generally, Morten Bergsmo and Carsten Stahn (eds.), *Quality Control in Fact-Finding*, 2nd ed., Torkel Opsahl Academic EPublisher, Brussels, 2020 (<https://www.toaep.org/ps-pdf/19-bergsmo-stahn-second>).

²⁴ ICC Statute, Article 46, see *supra* note 1.

²⁵ Sergey Vasiliev and Cuno Tarfusser, "ICC States Should not Ignore Judicial Experts' Conclusions in Khan's Case", *Al Jazeera*, 29 March 2026.

²⁶ ASP, Declaration of the Assembly of States Parties at the Twenty-Fourth Session of the Assembly, ICC-ASP/24/Decl.1, 3 December 2025 (<https://www.legal-tools.org/doc/vamf2em8/>).

²⁷ See Bureau of the ASP, Fourth Meeting, 4 March 2026.

²⁸ See Centre for International Law Research and Policy, "Quality Control in the Practice of Criminal Justice and Fact-Finding" (<https://www.cilrap.org/quality-control>).

²⁹ See generally, Carsten Stahn and Rafael Braga da Silva (eds.), *The International Criminal Court in its Third Decade: Reflecting on Law and Practices*, Brill, Leiden, 2023.

of the Court's staff and senior officials: the judges, prosecutor and deputy prosecutors must be "persons of high moral character" to be elected; and the staff, of "the highest standards of [...] integrity" to be appointed.³⁰ It is the responsibility of States Parties to ensure respect for this legally-binding requirement in elections of officials and, indirectly, appointments of staff. And it becomes their problem when they fail to do so, as we have seen with the debilitating revelations and critique of prosecutors and judges since 2003. Integrity remains at the heart of the crisis of trust that the Court faces.

It is therefore important that the current process is conducted in ways that do not undermine respect for integrity.³¹ The standards that govern the conduct of States Parties' delegates, including the basic norms of procedural fairness, impartiality, and transparency, are not foreign to international institutional law.³² They are implied by the structure of the ICC Statute and subsequent governance decisions like ASP resolutions. An oversight body that manages an accountability process must do so with the procedural integrity that accountability requires. The current record does not fully satisfy that requirement. Several specific features of the process warrant attention.

First, the recusal question. The Prosecutor's legal representatives sought the recusal of the Bureau President, a Bureau Vice-President, and at least one other elected member of the Bureau's governing structure on grounds of actual or apparent bias.³³ Those applications appear to have been rejected without a published decision setting out the reasoning. Recusal applications in the context of quasi-judicial proceedings involving serious professional consequences for an individual are not procedural technicalities. They go to the structural fairness of the determination. Their lack of acknowledgement in public, albeit in a reserved way, and an alleged subsequent rejection without explanation, does not satisfy the due process standard that the current situation may demand.

Second, the information environment within which this process has operated has been characterized by persistent, asymmetric leaking. Information about the OIOS investigation, its findings, and the legal characterizations under consideration has appeared selectively in media and civil-society channels throughout the process, in ways that appear prejudicial to the process. The Bureau has not issued any public statement acknowledging or addressing this problem besides a shallow preoccupation.³⁴ Controlled release of partial information to selected interlocutors is not consistent with the procedural integrity of an accountability process. It creates an adjudicative environment in which reputational harm accrues ahead of any formal determination, and in which the evidentiary record is effectively pre-interpreted for public and diplomatic audiences. This issue applies with respect to the alleged victim and the Prosecutor.

Third, the conduct of diplomatic briefings in the margins of the process has, by multiple accounts, served as a vehicle for political signalling rather than legal information.³⁵ This differential information-environment has predictable institutional consequences: it accelerates political positioning before any formal determination has been reached, reduces the likelihood of a deliberated and evidence-based outcome, and shifts the effective locus of decision-making from the Assembly to informal diplomatic networks.

Fourth, the interests of affected staff, the complainants who initiated this process, have been procedurally marginalized throughout. The Court's Administrative Instruction on harassment and prohibited conduct establishes clear standards for the treatment of complainants, including the right to procedural fairness and adequate communication about the status of their complaints.³⁶ There is limited public evidence that these

³⁰ ICC Statute, Articles 36(3)(a), 42(3) and 44(2), see *supra* note 1. For the leading publication on the topic, see Bergsmo and Dittrich, 2020, see *supra* note 13.

³¹ Janet H. Anderson, "What Do We Know About the Investigation Against Khan?", in *JusticeInfo.net*, 9 March 2026.

³² Jan Klabbens, "International Courts and Informal International Law", in Pauwelyn, Wessel and Wouters (eds.), 2012, p. 224, see *supra* note 19.

³³ Anderson, 2026, see *supra* note 31.

³⁴ ASP, 23 March 2026, see *supra* note 12.

³⁵ Sondos Asem, "ICC Bureau to Pursue Case Against Karim Khan Despite Judges' Ruling", *Middle East Eye*, 2 April 2026.

³⁶ ICC, The Registry, "Administrative Instruction: Addressing Discrimination, Harassment, Including Sexual Harassment, and Abuse of Authority", ICC/Al/2022/003, 6 April 2022 (<https://www.legal-tools.org/doc/qz5p2lft>).

standards have been observed throughout the Bureau's management of the process. The institutional tendency to subordinate the interests of individual complainants to the exigencies of political management is a known pathology of accountability processes in international organizations, and the current case does not appear immune to it.³⁷

Taken together, these features describe a process that has not been governed by the integrity concern it is designed to vindicate. That is not merely a procedural observation. It has substantive consequences. If the eventual determination, whatever its content, is reached through a process that cannot withstand scrutiny against basic due process norms, the legitimacy of that determination will be contested regardless of its legal accuracy.

5. Implications for the Future

The current investigation into the Prosecutor is, in the precise sense of the term, *sui generis*. No comparable process has occurred in the history of the ICC Statute system or other comparable international tribunals. That singularity, however, does not insulate it from institutional learning. The governance failures documented in this brief are not exclusively functions of the case's novelty. They reflect structural deficiencies in the Assembly's governance architecture, deficiencies that will persist after the current case is resolved, and that will recur if not addressed through deliberate institutional reform. A striking feature of the current crisis is not only that the Bureau has managed it poorly, but that it did so when some evidence for learning from the Independent Expert Review was available to them. While there was no systematic comparative study of how analogous misconduct and removal proceedings have been conducted in other international judicial institutions, the review process did provide an empirical audit of how the ICC Statute's internal accountability framework has functioned over time. The Bureau's lack of applied learning or leaning to expertise is in itself a governance failure, and it demands a response distinct from the procedural reforms that are otherwise necessary.

In reflecting on some areas of improvement for the future, the first and most urgent policy option is the commissioning of a governance learning audit on this matter. The Assembly, as in previous institutional cases,³⁸ should mandate the Bureau and the Study Group on Governance to conduct a structured review of how removal and serious misconduct proceedings involving senior elected officials have been managed in comparable international institutions, for example at the International Court of Justice, the International Tribunal for the Law of the Sea, the *ad hoc* international criminal tribunals, and the hybrid tribunals. That audit should focus specifically on procedural design leading to governance decisions: how investigative functions were allocated, what due process standards were applied, and how information was managed between the investigating body and the plenary governance organ. Its outputs would provide the Assembly with an evidence base it currently lacks. In a sense, it would reclaim the spirit of the Review Mechanism.³⁹

A second option is the establishment of a permanent legal advisory function for the Bureau, structurally independent of the Registry and embedded in the ASP Secretariat. The Bureau currently has no standing access to independent legal counsel, and the Secretariat's capacity is not set

³⁷ International Federation for Human Rights, Women's Initiatives for Gender Justice and Global Justice Center, "Exposing the Misogyny in the Handling of the Sexual Misconduct Allegations Against the ICC Prosecutor", 30 March 2026 (<https://www.legal-tools.org/doc/ff0sk8z1/>).

³⁸ ASP, "Report by the Facilitators on the Third Election of the Prosecutor of the ICC – Lessons Learnt", ICC-ASP/21/16, 25 October 2022 (<https://www.legal-tools.org/doc/ilxyoy7/>).

³⁹ See ASP, "Review of the International Criminal Court and the Rome Statute System – Review Mechanism" (available on its web site).

up structurally or resource-wise to absorb this mandate. Bureau members are diplomats, not always lawyers. The current case has demonstrated the cost of that gap. A standing legal adviser to the Bureau, akin to the external audit function of the Court, with a published mandate and the authority to issue written opinions on governance questions, would not prevent political misjudgment. It would, however, ensure that legal misjudgment was at least avoidable.

A third option is the creation of a regular governance quality assurance peer review mechanism, modelled on instruments used in comparable international institutional settings. Under such a mechanism, the Bureau's management of significant governance processes would benefit from periodic external peer review by peer institutions. Such a review exercise would publish observations and recommendations without binding authority. Its value would lie not in coercive oversight but in institutional learning: the sustained, documented assessment of governance quality across successive Assembly sessions, building a record that States Parties, civil society, and future Bureau members could draw upon.

Finally, the Assembly should develop and enforce a code of conduct for State Parties' delegates, especially if taking a leadership position in the Bureau and other subsidiary bodies. Such a code of conduct must make clear how the integrity standard applies to every stakeholder in the ICC Statute system. Diplomatic silence on the integrity standard is no longer viable.

Each of these options has a research dimension that the academic and policy communities have not yet adequately addressed.⁴⁰ While the governance quality of international criminal tribunals has been examined in normative terms, what is largely absent is empirical, comparative, process-focused scholarship: work that examines how governance decisions are actually made, what institutional factors shape their quality, and whether the formal accountability frameworks of international courts function as designed under conditions of political stress. The current case is, among other things, a research opportunity for quality assurance or control of international judicial institutions' governance. Thus, States Parties and the broader interested community should treat the ongoing case not only as a governance crisis to be resolved but as evidence to be analysed, with a view to building the knowledge-base that makes future crises more manageable.

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⁴⁰ Jimenez Martinez, 2026, see *supra* note 2; Vasiliev and Blokker, 2026, see *supra* note 3.



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