

Mrs. Fatou Bensouda
Prosecutor
International Criminal Court

CC: The Presidency of the ICC
Peter Lewis, Registrar of the ICC

Oslo 8 June 2018

Your reference: OTP2018/012802

Mrs. Fatou Bensouda, Prosecutor of the ICC,

We thank you for your letter of 22 May 2018, which responds to our letter of 12 March 2018 in which we referred to serious media allegations concerning professional and ethical misconduct by members of your Office as well as by the first Prosecutor of the International Criminal Court (ICC), Mr. Luis Moreno-Ocampo. We concluded that there is a need to appoint external experts to conduct an independent inquiry of the legacy of the first Prosecutor.

Your response letter details comprehensive measures taken to improve the functioning of the Office since June 2012. We do not doubt that you have "made every effort to learn from past experiences, improve the culture of the OTP [Office of the Prosecutor] ... and transform ... working methods to achieve success".

We note, however, that you fail to address the most serious allegations referred to in our letter, which implicate the first Prosecutor as well as his Chef de Cabinet at the time. An inquiry into possible misconduct by these persons who are no longer members of the ICC falls outside the mandate of the Internal Oversight Mechanism (IOM). This is why our letter argued for broader *external* inquiries.

On page 2 of your letter, third paragraph, you refer to recommendations made by a task force that you established on working climate within the OTP. We would like to ask whether these recommendations could be shared?

On page 3, second paragraph, you reiterate, from a statement to the Assembly of States Parties last year, that you are "continuing ... assessment of whether any further provisions or measures should be considered". A reference is made to the Coordination Council conducting a comprehensive review of the ICC's ethical rules and regulations on your initiative, "especially in relation to former staff

members and elected officials". It is, however, not clear to us whether you envision that "further measures" also could include fact-finding concerning the first Prosecutor and former staff members.

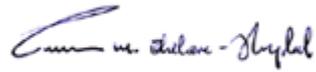
The point is important considering the jurisdiction Rome Statute Article 70 vests with the ICC to prosecute cases of offences against its administration of justice. The seriousness of the media allegations against the first Prosecutor imply that a criminal case for obstruction of justice could be brought against him before the ICC. It is in the interest of the ICC and its long-term standing, that you pro-actively contribute to measures aimed at finding out whether there are grounds for the allegations. That can credibly be done by authorising transparent and broad inquiries by external experts.

We assure you that the Norwegian Helsinki Committee remains supportive of your efforts to enhance accountability and deterrence as set out in the Rome Statute. We also, however, remain convinced that there is a need for the Court itself to be scrutinised – to ensure truth and accountability for possible past misconduct and deter future misconduct.

Sincerely yours,



Bjørn Engesland
Secretary General



Gunnar M. Ekelove-Slydal
Deputy Secretary General