

**Statement by the International Criminal Court Committee of the  
American Branch of the International Law Association  
April 6, 2026**

The International Criminal Court's handling of the harassment allegations against Prosecutor Karim Khan has undermined confidence in the Court at a time when its work is more vital than ever.<sup>1</sup>

In October 2024, public reports began to emerge that Prosecutor Khan had been accused of sexual misconduct by a member of his staff. Prosecutor Khan, who was elected Prosecutor in 2021, has consistently denied the allegations. After much criticism for remaining in his post under the cloud of allegations, Prosecutor Khan voluntarily took a leave of absence in May 2025. The ICC's Assembly of States Parties (ASP) determined that the allegations would be investigated externally by the United Nations Office of Internal Oversight Services (OIOS). According to [media reports](#), the OIOS investigators interviewed numerous witnesses, including the complainants, and assembled over 5,000 pages of evidence. OIOS produced a 150-page report on the matter, which concluded that Prosecutor Khan had engaged in "[non-consensual sexual contact](#)" with the complainant. OIOS then provided this report to an *ad hoc* [panel of external judges](#) appointed by the Bureau of the ASP (the criteria for their selection have not been made public) to review the report, make a legal characterization of the facts found by the OIOS investigators, and make recommendations to the ASP. According to [media reports](#), the *ad hoc* panel of judges decided that OIOS investigation did not establish, beyond a reasonable doubt, that Prosecutor Khan had engaged in misconduct. [Further reports](#) suggest that *ad hoc* panel of judges noted that it was unable to make a proper characterization of the facts because the OIOS report failed to resolve a number of factual disputes. The *ad hoc* panel of judges provided its report to the Bureau of the ASP on March 9. Subsequent [media reports](#) stated that the Bureau voted to continue with disciplinary proceedings by a margin of 15 to 4 with two abstentions.

Since the apparent leaks to journalists and others of the OIOS report and the conclusions of the independent panel, there has been much debate about whether the investigation was sufficiently thorough, whether the OIOS investigators or the *ad hoc* panel of judges applied the appropriate standard of proof, and a number of other issues. The procedural issues are important, but it is also important to consider the potential harms to the ICC unless it undertakes real reform.

As early as 2020 [an independent expert review](#) of the ICC found significant problems with the internal culture of the ICC. That report noted that the problems were especially severe in the Office of the Prosecutor. The experts found widespread accounts of bullying behavior, and sexual harassment and discrimination targeting women in the office. The allegations against Prosecutor Khan, found credible by the OIOS investigators based on interviews with witnesses, strongly suggest that the culture of the Office of the Prosecutor did not improve after 2020. There are [allegations](#) that before he temporarily stepped aside, Prosecutor Khan [retaliated against](#) those who

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<sup>1</sup> One member of the Committee did not join in endorsing this statement.

had made misconduct allegations against him or had criticized his handling of the matter. The OIOS report also [found evidence](#) that Khan retaliated against two officials who reported the staff member's allegations to court oversight [bodies](#). More recently, the apparent leaks of the findings are deeply problematic, as media reports suggest that the only individuals with access to the *ad hoc* panel report were the Prosecutor and his legal defense team, the Bureau of the ASP, and the *ad hoc* panel itself.

There are two separate but related problems. The first is that the allegations against Prosecutor Khan have undermined his credibility, and the credibility of the ICC. At times, Prosecutor Khan has faced criticism for some of his legal decisions, deservedly or otherwise. But his apparently unprofessional conduct, as found by the OIOS investigators, makes it more difficult for him to maintain credibility even when his legal decisions are entirely legitimate. International prosecutors, like prosecutors around the world, have enormous power. Article 42(3) of the ICC Statute requires the ICC Prosecutor to be an individual of high moral character. The Prosecutor is charged with delivering impartial justice, without favor toward any group. Any Prosecutor must be able to credibly and convincingly communicate the reasons for his or her legal decisions. When a Prosecutor faces credible allegations of misconduct in the workplace, the Prosecutor's credibility is undermined. This has been weaponized in this case in particular with partisans of the Prosecutor arguing that removing him will harm the Palestine investigation; whilst others have argued that in fact he only issued arrest warrants in the Palestine situation to distract from the allegations of sexual misconduct. The failure to quickly, transparently, and clearly address the allegations has fed media speculation and undermined the standing of the OTP.

Equally importantly, the entire office of the Prosecutor—not simply the Prosecutor himself—has a vitally important role in discharging the Office's mandate. The nature of the ICC's work demands that its decisions are – and are perceived to be – motivated solely by its legal mandate and the strength of the evidence in each case. If the professionals in the OTP, who work under enormous pressure simply because of the nature of their work, are faced with the additional pressure of a deeply unhealthy working environment, their work may suffer. In fact, a [group of staff has written](#) to the ASP Bureau that the reported OIOS findings are “incompatible with continued confidence in the prosecutor's leadership.” Additionally, the disjointed and protracted nature of the investigations into Prosecutor Khan's alleged misconduct risks leaving staff members with uncertainty around whether they can safely report misconduct and whether such reports will be taken seriously and without retaliation. The process used to investigate the allegations in this case was confusing, lacked transparency, and was completely *ad hoc*.

What is particularly unfortunate in this case is that the inquiry has been litigated extensively in the media. (The Committee notes that we have not seen any of the investigative materials or reports, beyond what is in the media, and offer no opinion about the substance of the allegations.) This has included deeply personalized attacks deployed against the Prosecutor as well as deploying [misogynistic attacks](#) on the victim, rather than centering on the institutional protections that the Rome Statute contains to protect the Court from misconduct not just by this prosecutor, but by *any* prosecutor in the future. The ability to remove the Prosecutor or another Court official under

Article 46 is a fundamental feature of the ICC Statute, intended to ensure that individuals entrusted with carrying out their functions are able to do so properly. Article 46 envisages removal in three cases: (1) serious misconduct, (2) serious breach of duties, and (3) inability to exercise the functions required by the Statute. Given that the ASP is an inherently political body, and that it is the ASP that makes the decision to remove a Prosecutor, it seems clear that the Statute does not envisage removal as a *criminal* trial, but as an evidence-based process carried out by a political body.

To address the current situation and to help restore its credibility, we call on the ICC to do the following:

First, the Bureau of the ASP should not base its decisions regarding removal or other disciplinary action solely on the basis of the *ad hoc* panel of judges. [Media reports](#) suggest that the *ad hoc* panel of judges concluded that it could not determine, beyond a reasonable doubt, that Prosecutor Khan had engaged in actionable misconduct, in large part because the OIOS had not made the necessary factual findings. The problem is that the *ad hoc* panel [did not itself examine any witnesses](#). Reviewing bodies, like the *ad hoc* panel of judges, are not in a good position to decide such matters. If the OIOS report lacked the factual findings or credibility determinations the *ad hoc* panel needed to fulfill its mandate, the panel should have sent the report back to the OIOS investigators and instructed them to make the necessary findings. The Bureau of the ASP should not rely on the flawed report from the *ad hoc* panel in such an important matter. Article 46 of the Statute clearly vests responsibility for oversight of the Prosecutor in the ICC ASP – a political body of 125 member States. It is the ASP that is charged with taking the momentous decision to remove a Prosecutor – not the *ad hoc* Panel or the OIOS, and given its non-judicial nature, and the many situations one could envisage that might lead it to consider a future Prosecutor’s removal, could not possibly be bound to a criminal trial standard of “beyond a reasonable doubt” although it is clear that the process must be fair and evidence-based.

Second, the ASP must regularize and publicize the process by which it will address misconduct allegations. The adoption of the [new rules](#) in December 2025 is a positive step forward, but those rules do not address many of the difficulties demonstrated in addressing this case, which was handled in a confusing, opaque, and largely improvised manner. That should never happen again. The ASP should create clear guidance regarding how misconduct complaints should be handled, including the ground rules for such an investigation, who will make the relevant findings, and the relevant standard of proof. This process must contain [robust protections](#) against retaliation for anyone who lodges a complaint or provides information relating to complaints. It should also specify when and under what circumstances a person facing a complaint should step away from his or her duties. Finally, it must also specify how the ASP – a political body – is to conduct the removal process.

Third and finally, the ASP should take steps to ensure that problems like the allegations against Prosecutor Khan do not happen again. During the last ASP there was a [side event](#) on workplace culture, but that is insufficient. The ASP should once more review the Court’s workplace culture,

including the OTP, to ensure that the Court's workplace culture allows all staff to do their best work. It is beyond the scope of this statement to specify the process, but a good place to begin would be to implement the [2020 independent expert report](#).

*This Statement reflects the views of the International Criminal Court Committee of the American Branch of the International Law Association, but does not represent the official position of the American Branch as a whole.*

For the International Humanitarian Law Committee's Statement on the ICC sanctions by the United States, read [here](#).