

# **INTERNATIONAL CRIMINAL COURT BAR ASSOCIATION (ICCBA)**



**ANNUAL REPORT  
2020 - 2021**

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## ASSOCIATION INFORMATION

<b>Executive Council</b>	Peter Haynes QC, <i>President</i> Megan Hirst, <i>Vice-President for Victims</i> Jennifer Naouri, <i>Vice-President for Defence</i> Anand Ajay Shah, <i>Secretary</i> Victor Baiesu, <i>Treasurer</i>  Haydee Dijkstal Aidan Ellis Kate Gibson Julie Goffin Jim Hodes Dragan Ivetic David Jacobs Jad Khalil Ibrahim Yillah
<b>CSSC Observer</b>	Michael Rowse
<b>Executive Director</b>	Dominic Kennedy
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## **INTRODUCTION BY THE PRESIDENT – SUMMARY OF ACTIVITIES OF ICCBA**

21 September 2021

I am delighted to present this Annual Report on behalf of the Executive Council of the ICCBA.

The Report gives an overview of the activities of the ICCBA during the 2020-2021 term.

I would like to take this opportunity to thank all elected officials of the ICCBA, the members of specially appointed ICCBA Working Groups, ICCBA regional and national focal points, and the entire membership of the ICCBA, for your hard work and dedication. Your continued involvement and support are essential to the success of the association.

The Executive Council has met on a monthly basis and has communicated regularly via email correspondence.

Despite the challenges which have been faced over the course of the last year, the ICCBA continues to work on matters for the benefit of its membership and I would like to take this opportunity to provide you with the below overview of the current work and activities of the ICCBA.

### **Independent Expert Review**

Throughout the last year, the ICCBA engaged with the Independent Expert Review which was undertaken at the request of the Assembly of States Parties. The mandate of the Independent Expert Review was to identify ways to strengthen the International Criminal Court and the Rome Statute system in order to promote universal recognition of their central role in the global fight against impunity and enhance their overall functioning. The [Independent Expert Review's Final Report](#) was published in September 2020. Subsequently a Review Mechanism has been established to follow-up on the recommendations made by the Independent Experts. The ICCBA is actively engaging with the Review Mechanism and has participated in various meetings and will continue to work with the Review Mechanism to represent the interests of defence and victims' team members and the wider ICCBA membership.

### **Office Space at the ICC Permanent Premises**

In April 2021, the ICC Registry provided the ICCBA with a provisional office at the permanent premises. The office space will provide a physical space for ICCBA staff and officials to work from when they are at the seat of the Court and also a place to meet members. Although it has been indicated that the office space is currently provisional, it is anticipated that a permanent office will be provided in the near future.

## **Legal Aid and Taxation**

A matter which remains of most concern to many members is that of taxation of defence and victims' team members in the Netherlands. The Independent Expert Review indicated that this is an issue which needs to be resolved and therefore the ICCBA Legal Aid and Taxation Working Group is currently working on a strategy to engage fully with the Review Mechanism on this issue. Members of the Working Group have met with the newly appointed Legal Aid Facilitator and will continue constructive dialogue over the coming months. I understand that this matter has been ongoing for some time and the uncertainty it gives for legal team members but unfortunately, due to the political and financial nature of the issue, it could still take some time to resolve but it remains a key priority for the ICCBA.

## **Insurance for Legal Team Members on Mission**

The ICCBA has been in discussions with the Registry of the Court regarding the matter of insurance for legal team members who travel on mission. Currently the ICC does not provide insurance coverage to members of defence and victims' teams and this could potentially leave these individuals in an untenable situation should there be instances where there may be medical emergencies or need for evacuation. The ICCBA has been in discussions with representatives of the Registry to discuss what options could be made available and I will keep the membership updated on any developments.

## **Services for Legal Representatives of Victims**

The ICCBA is in ongoing discussions with the Registry regarding services which it provides to legal representatives for victims. Many of the issues relate to the preliminary examination and investigation phases of proceedings. Victims' representation entails unique aspects in this regard, which do not arise in respect of defence. For victims, among the most crucial phases of proceedings are those at which it is determined whether an investigation will be opened; and which, if any, cases will be initiated. Article 68(3) of the Rome Statute clearly envisages that victims may participate at all stages of proceedings, and participation at these early stages is well-established in the jurisprudence of the Court. The ICCBA has requested further services in relation to mission related assistance, access to basic IT resources, access and provision of workspaces at the ICC premises, notification and receipt of filings and security and protection for legal representatives for victims. A meeting recently took place with the Registry and the ICCBA will keep members updated of any developments.

## **Working Group on Gender Parity, Equality and Welfare**

In January 2021, the Working Group on Gender Parity, Equality and Welfare sent an updated letter to all lead counsel of defence teams and legal representative of victims' teams at the ICC on Workplace Harassment. The letter outlines the ICCBA's position on Workplace Harassment and the measures which the ICCBA will be implementing to address this issue. The ICCBA takes staff well-being seriously and has engaged on a number of initiatives and taken various steps to help ensure that legal team members are aware of their obligations and behave collegiately, and fairly with each other.

The Working Group is also in active discussions with the Registry regarding the draft Administrative Instruction on Harassment which is currently being prepared by the Court and whether this could apply to legal team members.

The Working Group continues to work on establishing a confidential hotline where legal team members can seek advice on workplace harassment or working conditions generally. A survey is also being prepared with the Counsel Support Staff Committee which will be sent to all legal team members on working conditions and harassment.

### **Affiliation with the Bar of Rome and the Conseil national des barreaux (CNB)**

In September 2020, the ICCBA signed an [affiliation agreement](#) with the Conseil national des barreaux (CNB) and in March 2021, the ICCBA and the Ordine Avvocati di Roma signed an [affiliation agreement](#). The agreements provide for collaboration between the organisations on knowledge sharing, training and promoting the work of the ICC. These agreements are the latest to be signed and brings the total agreements which have been signed to seven. Other agreements have been signed with the African Bar Association, The Federation of European Bars, Advocats.be, the International Association of Lawyers (UIA), and the Kuwait Bar Association.

### **Nineteenth Session of the Assembly of States Parties**

In December 2020, the ICCBA submitted a [report on its activities to the ASP](#) and I was invited to provide a [video address](#) to the Nineteenth Session. The ICCBA also held a virtual side event at the ASP on 'How to implement the Independent Experts' Report meaningfully: A discussion with the ICCBA'. The video of the side event is available [here](#).

### **Training**

In March 2021, the ICCBA assisted in organising the annual ICC Counsel Seminar with the Counsel Support Section of the ICC and many members of the ICCBA participated in the training as either presenters or participants.

The Training Committee also plans to organise online training seminars for members later this year.

## **Summary of ICC Disciplinary Decisions**

In April 2021, the ICCBA Professional Standards Advisory Committee published a [Summary ICC Disciplinary Decisions](#) which provides information on all the disciplinary cases which have been conducted against counsel and legal team members at the ICC.

## **Summary of ICC Amicus Curiae Filings**

In July 2021, the ICCBA Amicus Committee published an updated [Summary ICC Amicus Filings](#) which provides information on all amicus briefs and applications which have been filed in ICC proceedings.

I would like to take this opportunity to renew my thanks to all the committee members of the ICCBA and all other members for their invaluable support of both me and the ICCBA as a whole.

It has been an honour and pleasure to serve as the President of the ICCBA during the last two-terms and I wish my successor all the best for the coming term.

Best wishes,



Peter Haynes QC  
President  
ICCBA

## **I. AIMS AND OBJECTIVES**

The objectives of the ICCBA are:

1. To support the functions, efficiency and independence of Counsel practising before the ICC;
2. To promote and uphold the highest professional standards and ethics of Counsel, relevant to their duties, responsibilities and obligations pursuant to the Rome Statute, the Rules of Procedure and Evidence, the Code of Professional Conduct for Counsel, and all related directives and regulations;
3. To promote and facilitate the proficiency and competence of Counsel in the field of advocacy, procedural and substantive international criminal law and information technology systems relevant to their function before the ICC;
4. To facilitate Counsel in having the necessary support, assistance and information from the Organs and Offices of the ICC to enable them to provide effective legal representation;
5. To enhance the quality of justice at the ICC required under the provisions of the Rome Statute and other recognized texts;
6. To assist in resolving legal issues impacting Counsel;
7. To ensure independent representation of the interests of Counsel and their Support Staff;
8. To advocate for the enhancement of the rights of clients and Counsel before the ICC;

9. To establish channels of communication and hold consultations with the Registrar on matters related to Counsel and their staff in the performance of their duties before the ICC.
10. To consult with the Registrar on any developments or amendments which are proposed to the Code of Professional Conduct;
11. To promote equality of arms between the parties before the ICC;
12. To represent the interests, concerns of Members and the aims of the ICCBA before the Assembly of States Parties (“ASP”);
13. To assist in resolving incidents between its Members and between Counsel and the Organs and Offices of the ICC, as appropriate;
14. To liaise with the national Bars of ICCBA members as required;
15. To engage with counsel at other international, internationalized or hybrid courts or tribunals, or with a bar or association of counsel which has been established at such a court or tribunal on professional matters of mutual benefit and concerns;
16. To provide any other reasonable and necessary services as a Bar might provide to its members.

<p><b>DEFENCE COMMITTEE</b> <b>Committee Members</b></p> <p>Jennifer Naouri (Co-Chair) Geoff Robert (Co-Chair) Aidan Ellis Jim Hodes Diallo Moriba Mikolaj Pietrzak Ana Tuiketei</p> <p><b>Annual Report</b> See Annex A</p>	<p><b>VICTIMS COMMITTEE</b> <b>Committee Members</b></p> <p>Julie Goffin (Chair) Mamadou Lamine Diarrassouba Haydee Dijkstal Megan Hirst Stella Omiyi Idenyeminh Elisabeth Rabesandratana Elke Zipperer</p> <p><b>Annual Report</b> See Annex B</p>
<p><b>COUNSEL SUPPORT STAFF COMMITTEE</b> <b>Committee Members</b></p> <p>Dov Jacobs (Chair) Sarah Marinier Doucet Gabriel Juan del Prado Alvarez Sandrine De Sena Fiana Gantheret Michael Rowse</p> <p><b>Annual Report</b> See Annex C</p>	<p><b>PROFESSIONAL STANDARDS ADVISORY COMMITTEE</b> <b>Committee Members</b></p> <p>Van Hampton (Chair) Dragan Ivetic Chad Mair Elisabeth Rabesandratana Anand A. Shah</p> <p><b>Annual Report</b> See Annex D</p>
<p><b>LEGAL ADVISORY COMMITTEE</b> <b>Committee Members</b></p> <p>Gregory Townsend (Chair) Harihara Arun Somasankar G Prof. Kenneth Gallant David Jacobs Thomas Obhof</p> <p><b>Annual Report</b> See Annex E</p>	<p><b>MEMBERSHIP COMMITTEE</b> <b>Committee Members</b></p> <p>Ingo Klaus Wamser (Chair) Kurt Kerns Stella Omiyi Idenyeminh Ana Tuiketei</p> <p><b>Annual Report</b> See Annex F</p>

<p><b>TRAINING COMMITTEE</b> <b>Committee Members</b></p> <p>Marie-Hélène Proulx (Chair)  Harihara Arun Somasankar G  Dov Jacobs  Thomas Obhof  James Onalaja</p> <p><b>Annual Report</b>  See Annex G</p>	<p><b>AMICUS COMMITTEE</b> <b>Committee Members</b></p> <p>Chad Mair (Chair)  Dimitri Debord  Cécile Lecolle  Roger Luyckx  James Onalaja</p> <p><b>Annual Report</b>  See Annex H</p>
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## **II. FINANCIAL UPDATE**

### **A. Accounts Receivable**

The ICCBA has been successful in collecting Membership Dues. From 11 September 2020 to 28 September 2021 a total of € 29,351.50 has been received in membership fees.

The ICCBA has a total membership of 274 and the following in each membership category:

- 169 Full Members
- 38 Associate Members
- 67 Affiliate Members

### **B. Balance Sheet**

The ICCBA currently has assets in the bank account amounting to €18,937.74

*See attached Annex I.*

### **C. Profit and Loss**

A full account of the income and expenditure for the year from 11 September 2020 to 28 September 2021, please see Annex J.

### **D. Proposed Budget 2021-2022**

Annex K contains a budget proposal for 2021-2022 based on an estimation of income and predicted expenditure.

**ANNUAL REPORT 2020-2021**

**ICCBA DEFENCE COMMITTEE**

**I. Introduction**

1. This Annual Report is submitted to the General Assembly of the International Criminal Court Bar Association (ICCBA) in accordance with the provisions of article 5-3-c of the ICCBA Constitution. It sets out the activities of the Defence Committee for the period from 14 September 2020 to 30 September 2021.
2. The Defence Committee is composed of the following members:
  - Ms. Jennifer Naouri, Co-Chairperson
  - Mr. Geoff Roberts, Co-Chairperson
  - Mr. Aidan Ellis
  - Ms. James Hodes
  - Mr. Diallo Moriba
  - Mr. Mikolaj Pietrzak
  - Ms. Ana Tuiketeti

**II. Mandate of the Defence Committee**

4. The Defence Committee is mandated to take into consideration the interests of suspects and accused and, through a commentary, provide proposals to the Legal Advisory Committee and advise the Executive Council and the General Assembly on all matters affecting the Defence.

**III. Working sessions**

5. The Defence Committee has met regularly to discuss and reflect on Defence issues. Its members have also been in touch by phone and email. Various members of the Committee reside in The Hague for professional reasons, but due to the restrictions caused by covid, all meetings have been held by Zoom. We have also communicated regularly by email.

#### **IV. Work plan for the year 2020-2021**

6. At the request of the ICCBA Executive Council, the Defence Committee submitted a proposed Work plan outlining the main objectives that the Committee members have set for the period of their mandate. This Work plan was a continuation of the efforts deployed by the members of the Defence Committee during the previous years but it also touched on new topics. It was approved by the EC in November 2020.
7. The Defence Committee set out its main objectives, namely:
  - A. Legal Aid Policy (LAP)
    - The Committee will act as a focal point for the Defense on LAP issues.
    - The Committee will collaborate with other Committees of the ICCBA, in particular the Support Staff Committee, and with Defense teams on these issues.
    - The Committee will lobby to be included in all debates concerning the proposed “new legal policy” and to be concretely associated to any debate.
    - The Committee proposes concrete improvements of the LAP and will provide comments on the draft of the new LAP on a rolling basis.
    - Organize meetings with the Counsel Support Section of the Registry in order to discuss the practical approach they have taken in administrating the legal aid funds and to lobby for more transparency on their part, namely concerning the decision on Legal Aid they take on behalf on the Registrar.
  - B. LAP & taxation
    - The Committee will act as a focal point for the Defense concerning taxation issues of members of Defense teams.
    - The Committee will collaborate with other Committees, in particular the Support Staff Committee, and Defense teams on taxation issues.
    - The Committee will lobby to be included in all discussions concerning taxations issues, whether they are taking place in the context of the reform of the LAP or in other contexts.
    - The Committee proposes concrete avenues to address taxation issues.
  - C. Meetings with Defense teams.

The Committee believes it is crucial to meet with representatives of Defense teams not only to discuss LAP issues and taxation issues but also to touch upon other matters they want to

raise to representatives of the ICCBA. As these meetings unfold, the workplan of the Defense Committee might evolve.

The Committee also decided to evaluate the need to put into place a new platform of communication with members of active Defense teams. Indeed, it seems that the previous platform, the “Email Watch Group” isn’t active anymore and had some flaws, which the DC would like to learn from to build a better platform of communication. The idea is not only to foster relationships between the DC and members of Defense teams but also create an environment where members of Defense teams can exchange amongst each other.

#### D. Outreach.

The Committee discussed improving outreach concerning the work of Defense Counsel and Defense teams both within the ICC and towards the general public. The Committee decided that it would put effort into making outreach videos and organize events (adapting to the COVID-19 situation).

#### E. List Counsel & training.

The Committee considers that training of Counsel that are on the list should be improved. The Committee is going to contact the training Committee of the ICCBA to propose collaboration. In the same vein, the Committee is contemplating collaboration with the Registry, especially concerning the annual training of Counsel.

On this point, Counsel intervening before the Court their support staff and collaborated with the Registry during the annual training of counsel registered on the list of Counsel and the DC was represented by one of its Chairs during the training.

#### F. Working languages at the ICC.

The Committee is going to propose a plan of action in order for them to lobby on the issue of the representation of the two working languages of the Court concerning Defense work. This issue is important as most active Defense team have to be able to work both in English and French and that the translation/interpretation services are crucially lacking.

### **IV- Assessment of activities of the Committee**

10. Due to the continuing restrictions caused by the Covid-19 pandemic and the resulting closure of the ICC, the Defence Committee was unfortunately unable to fulfil the objectives set out above. While there has been a positive spirit of cooperation and

discussion amongst the members of the Committee it has simply been impossible to achieve what had been hoped. In particular the zoom fatigue that has set in this year significantly reduced the appetite for remote training and outreach.

11. Further, while attempts were made to contact and consult with the Defence Counsel and teams on active cases at the ICC in March 2021, the limited responses and difficulties caused by the pandemic significantly reduced any consultation. Similarly, while the DC has been available to assist and lobby on behalf of the Defence, little progress appears to have been made by the Court in relation to Legal Aid and taxation. It is hoped that greater progress is made next year on this issue and others relevant to the Defence.
12. It is noted that the Committee has responded, on an ongoing basis, to the requests of the Executive Committee and that it has played an active role in the discussion of certain policies of the detention center such as the organization of videoconferences for prisoners. inmates.

**ANNUAL REPORT 2020/2021 OF THE ICCBA VICTIMS COMMITTEE**

Forthcoming

**COUNSEL SUPPORT STAFF COMMITTEE**  
**Annual Report 2020-2021**

During this year's mandate, despite the continued effects of the pandemic, the CSSC built on efforts of previous years in order to promote the interests of support staff and ensure that their voice be heard, both within the ICCBA and outside. The Committee elected Dov Jacobs as its Chair and Michael Rowse as its observer within the Executive Council.

CSSC members were involved in a number of crucial ICCBA working groups (*i.e.* business plan; tax working group; Gender Parity, Equality and Welfare), interacted regularly with the Executive Council through its observer and interacted on an *ad hoc* basis with other committees, such as the Defence Committee.

More particularly, the CSSC strove to continue its pursuit to secure human and labour rights equivalent to ICC Staff, such as adequate remuneration (including through solving the taxation issue of Defence and Victims team members), guaranteed vacations, sick leave and parental leave, and to ensure that Defence and Victims team members are not subject to bullying, gaslighting, harassment or sexual harassment. This process is a slow and bureaucratic process and will need to continue in the coming year. These are crucial questions that not only affect the wellbeing of the dedicated members of Defence and Victims team members but ultimately affect the fairness of the proceedings, because of the fundamental lack of equality of arms between the Defence, Victims representatives and their counterparts in the office of the Prosecutor.

The CSSC also contributed to constructive remarks to the ICCBA comments in response to the IER report. This is an important process, which can only be successful if the ICCBA is fully involved in all consultations on the implementation of the report and if the concerns expressed by the support staff are taken into account.

One major achievement this year is that the CSSC got the amendment guaranteeing support staff representation on the Executive Council passed. This means that, starting with this election, support staff will have four representatives on the Executive Council and these representatives will be able to directly raise concerns to the Executive Council, thus increasing the efficiency of the process. It will be important that good lines of communication be established between the Support Staff representatives and the CSSC next year, in order to ensure that key issues of concern to the support staff are effectively put on the agenda of the Executive Council.

The next CSSC should endeavor to support the Executive Council in its continued efforts to resolve the tax issue and push for a legal aid policy that treats Defence and Victims teams on an equal footing with others doing roughly comparable work in the Court and should continue to be active on various committees relating to welfare taxation and gender equality. The CSSC should continue to be a hub to discuss support staff issues and be an open space where all support staff at the Court can come and share their concerns, which will guarantee the continued relevance of the input that the CSSC can provide to the ICCBA moving forward on the challenges ahead.

**PROFESSIONAL STANDARDS ADVISORY COMMITTEE**

Members: Van Z. Hampton, Chair; Dragan Ivetic; Chad Mair; Anand Shah; Elisabeth Rabesandratana

**ANNUAL REPORT TO THE GENERAL ASSEMBLY, 2021**

This report is prepared and presented pursuant to Article 5, part 3.b. of the ICCBA Constitution. The composition and duties of the PSAC conform to Article 19 and Article 20 of the ICCBA Constitution and this annual report is submitted to the General Assembly to inform the members of the activities and work product of the PSAC during the year prior to the report.

**I. Working Plan 2020-2021:**

The PSAC submitted a Working Plan that was approved on November 18, 2020. It included four items to address, as stated below:

- a. Examine issues identified in the Victims Committee document entitled “Ethical Problems Arising in the Context of Victims’ Representation” dated April 13, 2018.
- b. Review ICC Disciplinary proceedings and publish a summary of the decisions on the ICCBA website.
- c. Review Professional Standards of ICCBA members and, pursuant to Articles 32 and 33 of the ICCBA Constitution, the PSAC will coordinate with the Membership Committee to recommend to the Executive Council a procedure whereby the Membership Committee may address Professional Misconduct of members.
- d. Identify matters not adequately addressed in the Code of Conduct.

**II. Work Product:**

The following is a summary of the work product of the PSAC regarding each of the items above. The PSAC benefitted from the appointment of a fifth member, Elisabeth Rabesandratana, in November, 2020. She is a member of the ICC Victims committee and current counsel in the ICC. The PSAC met

by Zoom video connection two times per quarter and communicated by email among the members and with the EC as well as the Membership Committee and ended the current ICCBA term acknowledging lack of completion of the items in the working plan but clearly identified issues that may be addressed by the PSAC in the next term:

- a. Regarding the Victims Committee document, the PSAC was unable to improve upon the statement issued by the Victims Committee but confirmed the problems identified constitute an initial list to include in the fourth item in the Working Plan, in subsection (d.). Admittedly there is more to be done to address discrimination and other concerns that require additional time and attention and the PSAC intends to include this item in the 2021-22 Working Plan.
- b. The PSAC did in fact produce a summary of all disciplinary decisions of the ICC and published that summary on the ICCBA website for all members.
- c. The PSAC did coordinate with the membership committee regarding a recommendation for a procedure but in the process realized a constitutional problem that requires additional attention as is discussed below.
- d. The matters not adequately addressed in the Code of Conduct include those issues addressed in the Victims Committee document dated April 13, 2018 together with the lack of a process for addressing member discipline (other than removal by the Membership Committee). This item also requires inclusion in the 2021-22 Working Plan.

### **III. Structural challenge to creating a procedure for disciplinary actions.**

The ICCBA Constitution, in Part IX, Addressing the PSAC, includes Article 19 addressing composition of the PSAC and Article 20 which sets out the Duties. However, Article 20 expresses the duties for creating a procedure for discipline of members are invested in the ICCBA, not specifically the PSAC. There is also an inherent conflict with the provisions of Article 32 and Article 33 which invests authority in the Membership Committee for discipline of members but does not address the conflict with Article 20. This leaves uncertainty about the authority of the PSAC in creating the

procedures. The catchall provision in Article 20, paragraph number 5 may be sufficient to allow the ICC or ASP to assign to the PSAC the additional duty of approving a grant of authority to the Membership Committee for formulating and administering the Disciplinary Procedures. This could be approved by way of a resolution passed by the General Assembly. This “work around” would cure the constitutional ambiguity and should be the focus of further efforts in the Working Plan for 2021-22.

#### **IV. Advisory opinions pursuant to Article 20(4)**

Article 20(4) of the ICCBA Constitution mandates PSAC to provide advisory opinions at the request of counsel and support staff on the ICC Code of Professional Conduct for Counsel, the ethical and conduct code of the ICCBA, and all related directives and regulations. The PSAC did not receive any requests for advisory opinions during the current term.

**Respectfully submitted:**

**/s/ Van Z. Hampton, Chair**  
Professional Standards Advisory Committee

**Legal Advisory Committee  
Annual Report 2020-2021**

1. The ICCBA Legal Advisory Committee (LAC) submits this annual report for the 2020-2021 year. This year, the LAC is composed of five members: (1) Gregory Townsend (Chair); (2) Harihara Arun Somasankar (Secretary); (3) David Jacobs; (4) Kenneth Gallant, and; (5) Tom Obhof, who were all notified of their election on 13 September 2020. At its first meeting on 23 October 2020, Gregory Townsend was elected as chair and, at a subsequent date, Harihara Arun Somasankar was elected as secretary. This term ran from the announcement of election results on 13 September 2020 until the election in September 2021, roughly one year, and the term altered from June dates in previous years as a result of the coronavirus pandemic.
2. During the course of the 2020-2021 term, the LAC met five times online, via Skype or Zoom. Other discussions within the LAC have been held via email. The meeting frequency reduced as a result of the coronavirus pandemic throughout this term. LAC meetings were held on 23 October 2020, 18 December 2020, 9 February 2021, 3 July 2021 and 30 August 2021. On numerous other dates, the work of the LAC was done remotely via email communications.
3. The LAC worked on the basis of its approved work plan. The LAC was available throughout the year to advise the ICCBA EC, other committees, and the membership on legal issues.
4. On 30 November 2020, Gregory Townsend (LAC Chair) and Ina Jasini, editors of “Advancing the Impact of Victim Participation at the International Criminal Court: Bridging the Gap Between Research and Practice,” published by Oxford University Faculty of Law and ICCBA, presided over a book launch and webinar, which included remarks delivered by ICCBA President Peter Haynes.
5. On 14 December 2020, the LAC members contributed to and attended an ICCBA IER side event (at 13:00 – 14:30) to the Assembly of States Parties on “How to implement the Independent Experts' Report meaningfully: A discussion with the ICCBA.”
6. The LAC members had an exchange of emails in December 2020 in advance of the extraordinary plenary held on 18 December 2020, and met again on 9 February 2021. This included an update on the activity of the Advisory Committee on Legal Texts

(ACLT), on which Gregory Townsend serves. With respect to the 18 December 2020 special general assembly meeting of the ICCBA to vote on amendments proposed by the Counsel Support Staff Committee, the LAC was not tasked to give its view on such amendments.

7. On 9 February 2021, in its quarterly report, the LAC noted that it was not seized of any draft constitutional amendments at that time. There was a discussion among the members of the LAC on 9 February 2021 of a what may end up being a proposed amendment to make public the Executive Committee's minutes (which the LAC understands remains pending as of this report).

8. On 15 April 2021, the LAC received and subsequently reviewed the "Overall Response of the ICC to the Independent Expert Review Final Report" and opted not to submit any views on said response to the EC.

9. On 26 May 2021, the EC indicated to the LAC and PSAC that organs of the Court are considering draft amendments to the Code of Professional Conduct for Counsel to incorporate the standards of conduct in the revised ICC Administrative Instruction on Harassment. While consideration was given to draft amendments independently, the view was taken that commenting on the ICC's draft, once further developed and shared with the ICCBA for purposes of wider consultations, would be a more prudent course of action. This was even more the case considering that at this point in time the LAC understood that a draft would be forthcoming from the Registry in summer 2021.

Following several rounds of communication between LAC and PSAC, the LAC dispatched its view to the EC on 28 August 2021, which read as follows. The LAC is of the view that it cannot provide any firm advice absent an actual draft "Administrative Instruction (AI) on Harassment" from the ICC Registry on which to comment. I understand that a draft AI is still not available to ICCBA for comment/consideration. From the email traffic, one can see LAC and PSAC are in contact on this. Ken Gallant also suggested the "ICCBA Working Group on the issue of Gender Parity, Equality and Welfare" might as well be well placed to comment, in due course.

10. On 28 August 2021, the LAC, after review of the relevant documentation and some delay, responded to two queries previously posed by the EC. The first query related to a request from EC for the LAC's view if an update was required to the 30 January 2018 memo from the then-constituted LAC entitled "Legal Analysis: ICC Internal Accountability Mechanism and Policies." The LAC noted that it is of the view that the legal analysis done by the former LAC in 2018 appears still to be valid. The question of whether the ICC President has issued (or not to date, based on the information

available) a “presidential” or “procedural” direction to internally promulgate the ASP’s resolution for the establishment of the IOM appears to remain a live issue.

The second query related to a request from EC for LAC’s advice on whether the IOM could have a role in reviewing which the quality of legal representation at the ICC. The LAC noted, as to the review of “the quality of legal representation,” that the LAC is of the view that the IOM should NOT have such a role, based, inter alia, on the potential to infringe on attorney-client privilege and protected confidential information (though we note a client can waive this privilege and such privilege does not generally apply to so-called future crimes). There already exists a Disciplinary Board for counsel. The Counsel Support Section admits counsel to the list based on a set of criteria. The CSS and ICCBA makes training available to list counsel. Moreover, the LAC notes, that per the email from EC, the “The Head of the IOM indicated to the ICCBA that there was no intention of asking victims about the quality of their legal representation” and “there would be no inclusion of such information in the final evaluation,” which reduces the LAC’s concern as to this issue.

11. The LAC, in its next term, as composed by the forthcoming elections, stands ready to provide any legal advice requested by the ICCBA.

12. In an aside to the work of this committee, LAC member Gregory Townsend, elected member of the ICC Advisory Committee on Legal Texts (ACLT) since 17 January 2019, takes this opportunity to update the ICCBA membership.

On 25 September 2020, in his role on the ACLT, CSS conveyed a message from Townsend to all list counsel about a proposed amendment (after clarifying that the proposal was not confidential) drafted by then judge Pangalangan before the ACLT with respect to removing references to evidence and extensive citations in the document containing charges.

On 30 September 2020, CSS conveyed a message from Townsend to all list counsel about the proposed amendment, soliciting comments, but a meeting for 2 October 2020 was cancelled, in part, as further internal discussions followed the detailed comments and track changes provided by Townsend on the proposed amendment to the ACLT.

It was not until 11 February 2021 that the Judges on the ACLT conveyed a meeting, shortly before the end of mandate of two of the three judges on the ACLT. Effectively, Townsend conveyed his views on behalf of list counsel and deliberations followed. The ACLT decided, in the absence of consensus and agreement between the

representatives of the pre-trial and appeals divisions, to not propose a concrete amendment to the Regulations of the Court, but rather send a confidential memo (which it eventually sent on 13 March 2021) outlining the issues and options for possible amendment to the plenary of judges, for it to be seized of it in the coming term. To date, it appears that no action has been taken on the proposed amendments of now former Judge Pangalangan.

If there are any meetings or developments in the remainder of the current term, Townsend will contact all list counsel via the ICC Registry, and he continues to welcome all ICCBA members to contact him with any proposals.

During this past term, Gregory Townsend requested and succeeded in establishing an institutional email address for the list counsel representative to the ACLT, namely [aclt.counsel@iccepn.org](mailto:aclt.counsel@iccepn.org).

An election for the ACLT is likely to take place in October 2021, according to information provided to all list counsel by ICC CSS.

Respectfully submitted by the LAC.

The Hague  
30 September 2021

**Membership Committee  
Annual Report 2020-2021**

**Chair**

Ingo Klaus Wamser

**Members**

Kurt Kerns

Idenyemih Stella Omiyi

Ana Tuiketui

**Framework:**

The Membership Committee is comprised of five Full Members who shall all be on the ICC List of Counsel. Members of the Membership Committee are elected by the General Assembly by majority vote (Art. 29 of the Statute).

The Membership Committee reviews and approves or denies membership applications (Art. 30.1 of the Statute), the suspension of the membership (Art. 31 of the Statute) or the termination of the membership (Art. 32 of the Statute).

According to section 5.1 of the Internal Directive for the Work of the ICCBA Committees ICCBA committees may interact directly with individual ICCBA members as required by the efficient performance of their duties including without limitation for consultation purposes.

**Report:**

Resulting from the last elections the Committee was only staffed with four members.

Following our election we get into contact and established lines of communication and agreed on English as our working language.

As the process of reviewing and approving membership applications is handled by the secretariat since 2018 the duties of the Committee were de facto limited to the suspension and the termination of membership. Fortunately no such case occurred within the last year.

According to the approved work plan the Committee drafted Rules of Procedure for requests of suspension or termination of membership and forwarded the draft to the Professional Standards Advisory Committee, the Executive Director and the Executive Council.

In addition members of the Committee engaged in individual outreach activities of the ICCBA like the attendance of events from national bar associations and academic events. Through individual contact with colleagues we were able to convince colleagues from the benefits of a membership and assisted them with the application process.

**Training Committee  
Annual Report 2020-2021**

**Final Report Submitted to the Executive Council on 16 September 2021**

The 2020-2021 Training Committee presents the following final report to the Executive Council:

1. CSS counsel training

The Committee cooperated with CSS in organising the annual List Counsel training. The training took place from 22-26 March 2021, and included many ICCBA representatives as speakers. The feedback received from participants to the training was overwhelmingly positive.

2. Training Committee trainings

Unfortunately, due to competing professional obligations of the members of the Committee, the Training Committee did not successfully organise any in-person or virtual training.

3. Training for the International Federation of Procurement Bar Association (IFPBA), Jakarta, Indonesia

The Training Committee signed a €10,000 contract with the above-mentioned organisation, with the objective to hold an online 3-day training from 20-22 May 2021. However, the project was put on hold due to the organisation's failure to put down the deposit as agreed in the contract. It was decided that new dates for the training would be set upon receiving said deposit.

Training Committee members:

- *Harihara ARUN SOMASANKAR G*
- Dov JACOBS
- *Thomas OBHOF*
- James ONALAJA
- Marie-Hélène PROULX

**ANNUAL REPORT: 2020-2021 TERM**

**1. Introduction**

The ICCBA Amicus Committee (“Committee”) submits this annual report for the 2020-2021 year.

**2. Composition of the Amicus Committee**

After the ICCBA elections in September 2020, the following ICCBA members were elected to participate in the Committee:

Committee Members :

Dimitri DEBORD

Cécile LECOLLE

Roger LUYCKX

Chad MAIR

James ONALAJA

Chad Mair was voted Chair.

**3. Activities of the Amicus Committee**

Throughout the past year, the Committee remained in regular contact through email and other methods on a variety of issues affecting the ICC, ICCBA, and Amicus Committee.

The Committee did not receive any requests for amicus curiae briefs, as permitted in Article 37(1)(a) and (b) of the Constitution. The Committee did not identify any situations in which it found it suitable for the ICCBA to seek leave to intervene as amicus curiae. Thus, the Committee did not submit any amicus curiae briefs during the past year.

In line with point 3 of the Amicus Committee Work Plan, on 7 December 2020, following the approval of the Executive Council, the Committee sent a letter to Defence and Victims teams at the ICC to introduce the committee and its mandate.

The Committee focused predominantly on 4<sup>th</sup> item on the Amicus Committee’s Work Plan, namely continuing the statistical and substantive analysis related to amicus interventions before the ICC. The Committee updated the spreadsheet listing applicants to intervene and briefs, including adding additional hyperlinks throughout the document. The spreadsheet is up to date through 15 September 2021. The Committee also updated the statistical analysis of amicus interventions. The Committee published the spreadsheet and statistical analysis on the ICCBA website in order to make it available to all ICCBA members.

Dated: 21 September 2021

## ICCBA-ABCPI

**Balance Sheet**

As of September 28, 2021

	<b>TOTAL</b>
▼ Assets	
▼ Current Assets	
ABN-AMRO Current Account	18,937.74
<b>Total Current Assets</b>	<b>€18,937.74</b>
<b>Total Assets</b>	<b>€18,937.74</b>

## ICCBA-ABCPI

## Profit and Loss

11 September, 2020 - 28 September, 2021

	TOTAL
Income	
Membership Dues / Cotisations	29,351.50
<b>Total Income</b>	<b>€29,351.50</b>
GROSS PROFIT	<b>€29,351.50</b>
Expenses	
Accounting Software	293.06
Bank charges	382.83
Consultancy Services	24,000.00
Email System	116.29
Events	
General Assembly	336.95
<b>Total Events</b>	<b>336.95</b>
Postage	0.96
Website	181.50
Zoom Subscription	184.76
<b>Total Expenses</b>	<b>€25,496.35</b>
NET EARNINGS	<b>€3,855.15</b>

## Annex K

							<b>Annex K</b>
<b>Provisional Budget 1 October 2021 - 30 September 2022</b>							
<b>Revenue</b>				<b>Expenditure</b>			
<b>Membership fees</b>				<b>Consultancy</b>			
	Members	Fee			Executive Director		€24.000
Full Members	160	€150	€24.000				
				<b>Organization costs</b>			
Associate Members	35	€90	€3.150		Accountancy Software		€400
					Banking Costs		€350
Affiliate Members	60	€50	€3.000		Email System		€200
					Video Telecommunications		€200
					Website		€200
				<b>Events</b>			
					General Assembly		€1.000
					ASP 2021		€750
<b>Total</b>			<b>€30.150</b>	<b>Total</b>			<b>€27.100</b>