

**Fifteenth session**

The Hague, 16-24 November 2016

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court**I. Introduction**

1. The Rome Statute provides that the International Criminal Court (“the Court”) shall ensure the highest standards of efficiency, competency and integrity, and shall have regard to fair representation of women and men for all positions, representation of the principle legal systems of the world for legal positions, and equitable geographical representation for positions in the professional category. The selection procedure is determined by the criteria set forth in articles 44(2) and 36(8) of the Rome Statute and resolution ICC-ASP/1/Res.10 of the Assembly of States Parties (“the Assembly”).

2. As decided by the Assembly, the system of desirable ranges applied by the Court is based on the system of the United Nations. The ranges are calculated on the basis of a State’s financial contribution to the budget of the Court and of a State’s population size, both criteria in relation to the total membership of the Rome Statute.

3. At its At its fourteenth session, the Assembly “recommend[ed] that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the fifteenth session of the Assembly.”¹

4. The present report is being submitted pursuant to the mandate granted by the Bureau of the Assembly to the New York Group on the issue of geographical representation and gender balance , and to the co-facilitators, Ms. Gina Guillón Grillo (Costa Rica) and Mr. Patrick Luna (Brazil) upon their appointment by the Bureau on 26 February 2016.

5. At the third meeting of the New York Working Group, held on 1 April 2016, the co-facilitators presented a work plan. Among other matters, the facilitation focuses on drawing attention to data on staff of the Court and providing updates in order to promote understanding by the Assembly of the changes in fluctuations of staffing at the Court, as well as on promoting the application of competent individuals from non and under-represented regions and genders. In addition, the co-facilitators held bilateral meetings with interested delegations, and provided specific information on statistics relevant to their respective States.

6. At its twenty-seventh session, the Committee on Budget and Finance made a number of observations regarding geographical and gender representation and

* Reissued for technical reasons.

¹ ICC-ASP/14/Res.4, annex I, para.12(c).

implementation by the ICC of the Committee's earlier recommendations in this area. The Committee recalled that the Court had adopted a range of measures to address long-standing imbalances in geographical representation and gender balance.²

7. The Committee took note of the ongoing recruitment process to fill vacancies as a result of the *ReVision* project within the registry and of the proposed conversion of a large number of GTA posts into established posts within the Office of the Prosecutor, which would have an impact on geographical distribution and gender balance within the Court. The Committee requested a report during its twenty-eighth session, in order to properly analyse the impact of the *ReVision* and the GTA conversion projects, and to make sure that these do not have an adverse impact on geographical distribution and gender balance.

II. Statistics on staff of the Court

8. It must be recalled that information on geographical representation and gender balance of the Court's professional staff is included as an annex to reports of the Committee on Budget and Finance.³ In addition, data has been made available to the Assembly, via the facilitator upon request.

9. As at 31 July 2016, the Court had 331 professional posts, comprised of 85 different nationalities (excluding elected officials and 33 language staff).

10. As at said date, female staff comprised 47 per cent of the Court's professional staff, a decrease of 1.1 per cent from 2015, while male staff comprised 53 per cent.⁴

11. The data illustrates also that while female staff constitute more than 50% at the P-1 (71%) and P-2 (61%) levels, female staff are severely under-represented at the higher levels: only one of eleven staff at the D-1 level is female, 12 of 32 at the P-5 level, 24 of 45 at the P-4 level, and 55 of 124 at the P-3 levels.⁵

12. With regard to the *ReVision* project and its impact on geographical distribution, by far the most affected regional group was WEOG, holding 17 P-level positions fewer in the new Registry structure compared to the previous structure, with all other regions being affected significantly less, in the -3 to 0 range. Of the total reductions, 73.91 percent concern WEOG. In spite of the fact that WEOG continues to be the most overrepresented regional group, it can be said that the reorganization has had a positive impact on geographical distribution, due to the reduction of the imbalance.⁶

13. In terms of the impact of the reorganization on gender balance, there has been a total reduction of Professional male staff members compared to female staff members. Of the total of 23 reduced positions, 69.56 per cent concern male Registry staff. Notably, at the P-5 level, the impact of the reorganization was neutral for female staff members, but led to three fewer positions for male staff members, who nevertheless were already over-represented and who remain over-represented despite the reduction in positions. Although female staff members were slightly more impacted at the P-4 level, if the P-3 to P-5 range is considered as a whole, there are 10 fewer male staff members compared to only two fewer female staff members. In other words, within the P-3 to P-5 range, male staff members were five times more negatively impacted; however, this had a necessary and positive effect on the female-male ratio among staff at these levels.⁷

14. Of 124 States Parties as of 31 July 2016, 85 nationalities were represented in the professional staff of the Court, of which 16 nationalities were in balance with its target, 29 nationalities were under-represented, 19 over-represented, and the remaining 60 nationalities were not represented. The remaining twenty-one nationalities of the professional staff corresponded to States not Parties to the Rome Statute.

² Report of the Committee on Budget and Finance on the work of its twenty-seventh session (ICC-ASP/15/15).

³ Ibid. and Report of the Committee on Budget and Finance on the work of its twenty-sixth session (ICC-ASP/15/5), annex II, updated as of 31 July 2016 via document CBF/27/11P01 "Geographical Representation of ICC Professional Staff".

⁴ Ibid.

⁵ Ibid.

⁶ Comprehensive Report on the Reorganization of the Registry of the International Criminal Court, August 2016, at para. 112. <https://www.icc-cpi.int/itemsDocuments/ICC-Registry-CR.pdf>.

⁷ Ibid. at para. 113.

15. In terms of absolute distribution, as of this date, 56 staff were nationals from the African region, 23 from the Asia-Pacific region, 28 from Eastern Europe, 26 from the Group of Latin American and Caribbean, and 198 from the Western and other States group.

16. The number of staff per post, per region, as of 31 July 2016, was as follows:⁸

(a) D-1: one from the African Region, one from Asia-Pacific, two from GRULAC, and six from WEOG, with Eastern European States not represented; with an over-representation of GRULAC and WEOG nationals.⁹

(b) P-5: five from the African Region, one from the Asia-Pacific region, three from the Eastern European region, one from GRULAC and 23 from WEOG; with over-representation of African and WEOG nationals.

(c) P-4: ten from the African region, six from the Asia-Pacific region, three from the Eastern European region, four from GRULAC, and 34 from WEOG; with African and WEOG nationals being over-represented..

(d) P-3: 21 from the African region, five from the Asia-Pacific region, seven from the Eastern European region, nine from GRULAC and 65 from WEOG; with WEOG being over-represented..

(e) P-2: 16 from the African region, eight from the Asia-Pacific region, eleven from the Eastern European region, nine from GRULAC, and 66 from WEOG; with African, Asia-Pacific and WEOG nationals over-represented..

(f) P-1: three from the African region, two from the Asia-Pacific region, four from the Eastern European region, one from GRULAC, and 4 from WEOG; with African and Easter European nationals over-represented..

17. As of 31 July 2016, 41 posts were vacant, 133 were under recruitment or had the recruitment completed, and 11 had been advertised.¹⁰

III. Conclusions

18. The variation of the geographical representation in comparison with data of the first semester of 2015 is not considerable and has remained somehow stable. This demonstrates the chronic nature of the imbalance representation in the Court in disfavour of countries and regions, in particular from Asia-Pacific and Latin American and the Caribbean.

19. While the latest official figures from the Registry's re-organization show that re-organization-related separations and recruitments have resulted in the increased representation of female staff at the P-3 to P-5 levels, and that the level of representation of the still most over-represented group was reduced, the ongoing recruitment process can still generate further correction of such imbalances.

20. The re-organization of the Registry, which entails the recruitment of a high number of positions which have remained vacant, continues to provide an important opportunity to improve the current imbalance in geographical representation and gender distribution. Efforts should thus be undertaken by the Court and by the Assembly to ensure the visibility of the employment opportunities and the application of qualified candidates from under and non-represented countries and regions. The proactive role of the States Parties in question remains crucial to supporting the Court in this endeavour, inter alia, by helping to reach a pool of qualified candidates from under- and non-represented countries.

⁸ Report of the Committee on Budget and Finance on the work of its twenty-sixth session (ICC-ASP/15/5), annex II, updated as of 31 July 2016 via document CBF/27/11P01 "Geographical Representation of ICC Professional Staff".

⁹ In this case, whether a region is over or under represented is determined by the percentage of individuals from a certain region who occupy the posts, compared to the percentage that human resources has determined as the target for the region.

¹⁰ Human Recourses standard statistics, contained in document CBF/27/11P01.

IV. Recommendations

A. To the Court

21. The chronic imbalance in geographical representation, as well as that of women in higher levels, require that the Court redouble its efforts in addressing this situation.

22. Further efforts should be undertaken to adopt strategies to identify and support the career advancement within the Court of key female performers who have the potential to advance to senior professional and higher levels.

23. Steps should be taken to bridge the gender gap by taking the necessary measures to identify, reach and recruit qualified women to fill senior positions.

24. Human Resources should prioritize outreach activities to ensure that candidates from developing countries or from underrepresented and non-represented regions are targeted. . In this regard, it would be useful that, as previously recommended by the Assembly:

(a) Information about underrepresented regions or non-represented nationalities be made more readily available on the recruitment page of the Court.

(b) Vacancy announcements, along with information about underrepresented regions and non-represented nationalities, should be provided by the Court to the Assembly for their dissemination through diplomatic representations in New York, The Hague, Geneva and Brussels, as well as through civil society organizations.

(c) Vacancy announcements should be circulated via periodicals and publications, in particular in those with circulation in countries or regions that are non or under-represented.

25. Efforts should be undertaken to promote the participation of nationals of developing countries from underrepresented regions or of non-represented developing States Parties in the internship, visiting professionals and JPO programmes at the Court, as participation from under-represented regions may increase the available pool of potential applicants to the Court's professional positions.

26. Information on geographical representation and gender balance of participants participating in the internship, visiting professionals and JPO programmes should be made available to the Assembly, as this information would allow States Parties to assess the impact of those programmes on addressing the level of representation and balance of available pools of potential applicants for the Court.

27. All personnel policies, procedures and hiring practices should remain under review and improvement, and the Court should continue to apply and strengthen its recruitment policies to foster the selection of qualified candidates from non and under-represented countries, in particular developing ones, including through the dissemination and full implementation of its Administrative Instruction on Staff Selection, which includes a provision granting qualified candidates from non-represented and under-represented States Parties priority for the purpose of short-listing.

28. The Court should continue gathering, monitoring, analysing and reporting data of female applicants and applicants from underrepresented regions, in particular from developing countries, in order to identify the challenges they face in successfully acquiring positions at the Court.

B. To the Assembly and States Parties

29. The chronic imbalance in geographical representation, as well as that of women in higher levels, require redoubled efforts by States Parties.

30. States Parties engaging with the Court with respect to JPO programmes should also consider providing financing for participants from underrepresented regions, in particular from developing countries.

31. States Parties should consider providing funding to cover stipends for participants from underrepresented regions, in particular developing countries, in the internship and visiting professional programmes.
32. Consultations amongst delegates from underrepresented or non-represented countries, in particular developing countries, should be undertaken in order to develop targeted strategies that will serve to support the dissemination of Court vacancies..
33. States parties should disseminate Court vacancies to their national institutions and organisations, as appropriate, including universities, professional associations and chambers and judicial institutions.
34. States from underrepresented regions may consider having a pool of qualified professionals from their country and should ensure they receive information on vacancies.
35. The Bureau should engage in consultations to identify partners that could promote capacity-building in underrepresented regions, in order generate pools of qualified applicants at the Court, and interested States Parties are encouraged to provide financial support to civil society and institutions undertaking such capacity-building.
36. States Parties are encouraged to use the Gender Balance and Geographical Representation facilitation as focal point to address any concerns in relation to staff representation and balance.

Annex

Draft provision for inclusion in the omnibus resolution

A. As provided in para. 53 of the 2015 omnibus resolution ICC-ASP/12/Res.8

Takes note of the Court's report on Human Resources, and encourages the Court to strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children, encourages further progress in this regard;

Stresses the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, and welcomes the report of the Bureau and its recommendations;

Urges States Parties to undertake efforts to identify and generate pools of qualified potential applicants to the Court's professional positions from State Parties from underrepresented regions, including through the financing by the Assembly of the Court's internship and visiting professional, and by States of JPO programmes, and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

B. Addition to the 2016 omnibus resolution, annex on mandates

With regard to recruitment of staff,

Endorses the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its twenty-sixth and twenty-seventh sessions;

Requests the Court to submit a comprehensive report on human resources to the Assembly at its sixteenth session, which would include an update on the implementation of the recommendations on the topic, which would be made by the Committee on Budget and Finance in 2017;

Requests the Bureau to continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher-level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the sixteenth session of the Assembly;

Urges the Registry to seize the opportunity of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;