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

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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 fifteenth session, the Assembly “request[ed] 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.”¹

4. The mandate on the issue of geographical representation and gender balance (GRGB) was allocated by the Bureau of the Assembly to the New York Working Group and Mr. Patrick Luna (Brazil) was re-appointed as facilitator on this issue on 20 February 2017.

5. A roadmap for the facilitation was presented on 24 April 2017. As in previous years, the facilitation would serve, among others, as a platform to raise awareness on the staffing of the Court and provide updates regarding fluctuations of staffing in terms of geographical representation and gender balance.

6. The facilitator organized meetings of the New York Working Group on 12 May 2017 and The Hague Working Group on 25 July 2017. It was understood that, even though the GRGB mandate has been allocated to the New York Working Group, a meeting in the Hague could also be useful, since the Hague Working Group addresses administrative and budgetary issues, for which this topic is relevant.

7. Representatives of the Human Resources Section were present in both meetings, either in person or via video-conference. Following a request by the facilitator, the Court presented a five-year overview of its efforts to achieve geographical and gender balance and statistics were also broken down in Court organs, so as to permit a horizontal view in addition to the vertical one.

8. The Court made presentations on staff by nationality (as at 1 January 2017); geographical and gender balance (dated 25 July 2017); and geographical distribution (as of 30 June 2017). This data has been circulated electronically to the Assembly. 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.²

9. The facilitator also held bilateral meetings with interested delegations, aimed at providing specific information on statistics relevant to their respective States and stressing the importance of better disseminating the advertisement of professional vacancies.

10. At its twenty-ninth session, the Committee on Budget and Finance made a number of observations regarding geographical and gender representation and implementation by the ICC of the Committee’s earlier recommendations in this area. Regarding geographical representation, the Committee noted that the number of nationals of States that are not Parties to the Rome Statute remained significant, reiterated its previous recommendation

¹ ICC-ASP/15/Res.5, annex I, para.14(c).

² Report of the Committee on Budget and Finance on the work of its twenty-eighth session (ICC-ASP/16/5), annex II, updated as of 31 July 2017 via document CBF/29/11P01 “Geographical Representation of ICC Professional Staff”.

and requested the Court to address this issue within a reasonable timeframe. The Committee resolved to continue analysing the persistent disequilibria in relation to geographical distribution and the relevant benchmarks, as well as to keep monitoring the desirable ranges per country at its thirtieth session in April 2018.³ Regarding gender balance, the Committee recommended that the Court continue its efforts to narrow the gender gap.⁴

11. As at 31 July 2017, the Court had 449 professional posts, comprised of 89 different nationalities (excluding elected officials and 42 language staff); 24 posts were vacant; 76 were under recruitment or had the recruitment completed; and 5 had been advertised.⁵

II. Recruitment process

12. Representatives of the Human Resources Section provided States with background information regarding the functioning of the recruitment process. It was informed that, in accordance to the Rome Statute, the Court selects the most qualified candidates and, when candidates perform equally well, the recruiting panel considers geographical and gender representation. It was stressed that diversity is also relevant for the composition of the panels, and that its members should be provided with information regarding under- and over-represented countries, in an effort to ensure that nationals from these countries are properly considered for shortlisting.

III. Gender balance

13. As at 31 July 2017, female staff comprised 49.2 per cent of the Court's professional staff, an increase of 1.9 per cent from 2016, while male staff comprised 50.8 per cent.⁶ While female staff constitute more than 50% at the P-1 (72%) and P-2 (61%) levels, female staff are severely under-represented at the higher levels: only one of nine staff at the D-1 level is female, 14 of 43 at the P-5 level, 31 of 82 at the P-4 level, and 75 of 165 at the P-3 levels.⁷

14. The overall gender balance continues within range - and improved in comparison to 2016. Ensuring gender balance on the recruitment panels is among the measures taken by the Court to preserve this achievement.

15. Female staff remain however severely under-represented at the higher levels. The Court noted that the pool of male candidates for senior-level posts tended to be larger than the one of female applicants, so measures aimed at increasing application from female candidates were being considered. It was stressed that, due to the low turnover of staff in senior positions, the strategy with respect to achieving gender balance at this level is long-term.

IV. Geographical representation

16. Of 124 States Parties, as of 31 July 2017, 90 nationalities were represented in the professional staff of the Court, of which: 20 nationalities were in balance with their targets; 19 nationalities were under-represented; 28 over-represented; and the remaining 57 nationalities were not represented. The remaining 23 nationalities of the professional staff corresponded to States not Parties to the Rome Statute.

17. In terms of absolute distribution, as of that date, 73 staff were nationals from the African region, 33 from the Asia-Pacific region, 45 from Eastern Europe, 32 from the Group of Latin American and Caribbean, and 266 from the Western and other States group.

³ Report of the Committee on Budget and Finance on the work of its twenty-eighth session (ICC-ASP/16/15), paras. 168 and 169.

⁴ Report of the Committee on Budget and Finance on the work of its twenty-eighth session (ICC-ASP/16/15), para. 173.

⁵ Human Resources standard statistics, contained in document CBF/29/11P01.

⁶ *Ibid.*

⁷ *Ibid.*

18. The number of staff per post, per region, was as follows:⁸

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

(b) P-5: eight from the African Region, one from the Asia-Pacific region, three from the Eastern European region, one from GRULAC and 30 from WEOG; with an over-representation of African and WEOG nationals.

(c) P-4: twelve from the African region, seven from the Asia-Pacific region, six from the Eastern European region, four from GRULAC, and 39 from WEOG; with African and WEOG nationals being over-represented.

(d) P-3: 26 from the African region, nine from the Asia-Pacific region, eleven from the Eastern European region, 14 from GRULAC and 85 from WEOG; with Africa and WEOG being over-represented.

(e) P-2: 20 from the African region, ten from the Asia-Pacific region, 16 from the Eastern European region, eleven from GRULAC, and 91 from WEOG; with WEOG nationals over-represented.

(f) P-1: six from the African region, five from the Asia-Pacific region, nine from the Eastern European region, and 16 from WEOG, with GRULAC States not represented; with African and Eastern European and WEOG nationals over-represented.

19. While acknowledging that significant challenges to achieve equitable geographic representation persist, the Court underlined that its efforts have resulted in some signs of improvement in recent years, at least in relation to non- and under-represented countries. The number of non-represented countries was reduced in 4 from 2016 to 2017 and, during the same period, 11 previously under-represented nationalities have now reached the target.

20. From a broader perspective, the data regarding a five-year overview indicated that geographical representation remained relatively stable. This reveals the chronic nature of the imbalance representation in the Court in disfavour of some countries and regions, in particular from Asia-Pacific and Latin American and the Caribbean.

21. States underlined that the Court's targets for geographical representation should be considered in both national and regional perspectives. It was stressed that the fact that a regional group was over-represented should not be held against nationals from State from that group who is non- or under-represented. It was pointed out that some States that are among the highest contributors to the Court's budget remain severely under-represented.

22. It was also noted that 59 nationals from non-States Parties had been recruited, representing approximately 12 per cent of the Court's staff. States stressed that each recruitment of a staff member from a non-State Party is an over-representation and could hamper the adequate representation of States Parties. One delegation suggested examining the creation of a quota for nationals of non-States Parties. Nevertheless, it was also acknowledged that hiring nationals of non-States Parties could also contribute to illustrate the commitment to the universality of the Rome Statute.

23. Diversifying the pool of candidates remains crucial for overcoming the challenges of achieving equitable geographical representation. The Court observed that the composition of the pool of candidates are frequently geographically imbalanced and that awareness needs to be raised to the fact that not all professional positions at the Court require a legal background.

24. The Court conducted outreach to embassies of most under-represented countries in The Hague and focused outreach and advertising not only through the Court's website, but also through social media and various platforms for international job vacancies. States

⁸ Report of the Committee on Budget and Finance on the work of its twenty-eighth session (ICC-ASP/16/5), annex II, updated as of 31 July 2017 via document CBF/29/11P01 "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.

encouraged the dissemination of announcements in both working languages of the Court. The Court also informed that it had started actively sourcing potential candidates from non-represented and under-represented countries through LinkedIn. The critical role of States in ensuring wider dissemination of the vacancy announcements was recognized.

V. Interns, JPOs and visiting professionals

25. States indicated that geographical representation and gender balance also desirable in the selection of interns, Junior Professional Officers (JPOs) and visiting professionals. Interest was also expressed in the interrelationship between these programs and the actual recruitment of the Court, given that interns, JPOs and visiting professionals are frequently potential candidates for professional postings. It was therefore noted that measures aimed at promoting geographical distribution in these programs could have a positive impact in the diversification of the pool of applicants for professional postings.

26. The Court informed of the establishment of a fund based on voluntary donations for enabling the participation of interns and visiting professionals from developing regions, which stood at approximately €200,000 at the end of July 2017. It could thus cover the costs of approximately 20-25 persons.

27. A suggestion also was made that a special budgetary allocation be considered to cover the costs of interns, JPOs and visiting professionals from non- and under-represented States, particularly from least developed States.

VI. Conclusions

28. There is an interest of State Parties and civil society in being kept updated regarding the fluctuations of staffing at the Court, from the perspective of geographical representation and gender balance. It was stressed that a fair representation of male and female staff and equitable geographical distribution benefits the Court by ensuring diversity of perspective which, internally, increases the creativity in the work environment and, externally, remains crucial to address perception challenges and advance the universality of the Rome Statute.

29. There is an overall balance in terms of gender balance. There remains, however, a severe imbalance in disfavour of women in the upper echelons. The Court should continue its efforts to narrow this gap.

30. Regarding geographical representation, there is a persistent and chronic imbalance in disfavor of some countries and regions, in particular from Asia-Pacific and Latin American and the Caribbean. There are also some nationalities from over-represented groups that are under-represented in the Court's staff. Some States that rank among the highest contributors to the Court's budget are severely under-represented.

31. Efforts should be undertaken by the Court and the Assembly to ensure the visibility of 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, inter alia, by helping to reach a pool of qualified candidates from under- and non-represented countries.

VII. Recommendations

A. To the Court

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

33. In order to bridge the persistent gender gap at the higher echelons, efforts should continue to be undertaken to identify, reach and recruit women qualified for senior-level positions, as well as to support the career advancement within the Court of female staff who have the qualifications to advance to those positions.

34. The Court should prioritize outreach activities, in order to target potential candidates from under- and non-represented countries, especially developing ones.
35. Vacancy announcements should:
- (a) continue to be advertised through the Court's website and its social media profiles, as well as circulated via periodicals and publications, in particular in those with circulation in countries that are non- or under-represented.
 - (b) be regularly informed to the Assembly, in order to assist States Parties and civil society organizations in further disseminating them;
 - (c) be circulated at least in both working languages of the Court.
36. Efforts should be undertaken to promote the participation of nationals of non- and under-represented States Parties, especially developing ones, in the internship, JPO and visiting professionals programmes, including by encouraging voluntary contributions to the corresponding fund. Information on gender and geographical gender balance regarding these programmes should continue to be made available to the Assembly.
37. 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- and under-represented States Parties priority for the purpose of short-listing.
38. The Court should address, within a reasonable timeframe, the issue related to the significant number of nationals of States that are not Parties to the Rome Statute staffed at the Court, as also recommended by the CBF.
39. The Court should continue gathering, monitoring, analysing and reporting data of female applicants and applicants from non- and under-represented countries, in particular from developing ones, in order to identify the specific challenges they face in successfully acquiring positions at the Court.

B. To the Assembly and States Parties

40. The chronic imbalance in geographical representation, as well as that of women in senior levels, require redoubled efforts by States Parties.
41. States Parties engaging with the Court with respect to JPO programmes should also consider providing financing for participants from non- and under-represented regions, in particular from countries.
42. States Parties should consider providing funding to cover stipends for participants from non- and under-represented regions, in particular from countries, in the internship and visiting professional programmes.
43. Consultations amongst under- or non-represented States Parties, in particular developing ones, should be undertaken in order to develop targeted strategies that would serve to support the dissemination of Court vacancies.
44. States Parties, especially those non- and under-represented, should further disseminate Court vacancies to their national institutions and organisations, as appropriate, including universities, professional associations and chambers and judicial institutions.
45. The Bureau should engage in consultations to identify partners that could promote capacity-building in non- and under-represented countries or 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.
46. 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. 96 - 98 of the 2016 omnibus resolution ICC-ASP/15/Res.5

Takes note of the Court's report on Human Resources,¹ 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;

Takes note of the continued 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 support outreach to pools of potential applicants to the Court's professional positions from State Parties from non- and under-represented regions and countries, including through the financing by the Assembly of the Court's internship and visiting professional programmes, and by States Parties of Junior Professional Officer (JPO) programmes, through targeted outreach initiatives and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

B. New paragraph

Notes with appreciation that three States Parties joined the Court's Junior Professional Officer programme;²

C. As provided in para. 14 of the 2016 omnibus resolution ICC-ASP/15/Res.5, annex I

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-eighth and twenty-ninth sessions;³

Requests the Court to submit a comprehensive report on human resources to the Assembly at its seventeenth 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 2018;

Requests the Bureau to continue engaging with the Court to identify ways to improve equitable geographical representation and gender balance in professional posts, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the seventeenth session of the Assembly;

Urges the Court to continue to seize the opportunities 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;

¹ See ICC-ASP/16/5, annex II.

² Japan on 25 January 2016, the Republic of Korea on 6 September 2017 and Switzerland on 25 October 2017.

³ ICC-ASP/16/5 and ICC-ASP/16/15.