

Resolution ICC-ASP/19/Res.6

Adopted at the 4th plenary meeting, on 16 December 2020, by consensus

ICC-ASP/19/Res.6

Strengthening the International Criminal Court and the Assembly of States Parties

The Assembly of States Parties,

Mindful that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent and the duty to end the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

Convinced that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

Convinced also that justice and peace are complementary and mutually reinforce each other,

Welcoming that the international community has agreed to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and, in this regard, encouraging societies facing conflicts to move from war to peace through peaceful solutions,

Convinced that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

Welcoming the Court’s central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

Noting the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

Reaffirming its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

Welcoming the efforts and achievements of the Court in bringing those most responsible for the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes and *noting* the jurisprudence of the Court on the issue of complementarity,

Welcoming also in this regard relevant contributions from the Court relating to sexual and gender-based crimes, such as the Office of the Prosecutor’s Policy Paper on Sexual and Gender-Based Crimes,¹ as well as contributions from States Parties and other relevant actors, including initiatives for advancing the knowledge and understanding of such crimes, and *convinced* that these initiatives should be an integral part of strategic dialogues and actions

¹<https://www.icc-cpi.int/iccdocs/otp/OTP-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf>.

to strengthen the Court and national courts in the fight against impunity, while fully respecting their judicial independence,

Recalling that the application of articles 17, 18 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

Recalling further that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

Recognizing that crimes within the jurisdiction of the Court threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

Underscoring its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

Taking note with appreciation of the annual United Nations General Assembly resolutions concerning the Court,

Welcoming the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

Deeply concerned by the on-going lack of effective follow-up by the Security Council to its resolutions referring situations to the Court and its consequences, despite efforts by States Parties,

Recalling the full range of justice and reconciliation mechanisms with restorative measures that are complementary to criminal justice processes, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms, including guarantees of non-recurrence,

Acknowledging relevant decisions of the Court that have recognized that contributions to the promotion of peace and reconciliation may be a relevant consideration in sentencing decisions, on a case by case basis,

Recalling the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

Recalling also the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

Appreciating the invaluable assistance that has been provided by civil society to the Court,

Reaffirming the importance of States Parties' cooperation with the Court to the fulfilment of its mandate, and gravely concerned by attempts at intimidation to deter cooperation,

Concerned by the recent reports of threats and intimidation directed at some civil society organizations cooperating with the Court,

Welcoming the efforts undertaken by the Bureau and its Working Groups to identify ways to strengthen the International Criminal Court and the Rome Statute system through concrete, actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court,

Emphasizing the importance of equitable geographical representation and gender balance in the organs of the Court and, as appropriate, in the work of the Assembly and its subsidiary bodies,

Mindful of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

Recognizing that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims and *determined* to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system,

Conscious of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

Conscious also of the risks faced by personnel of the Court in the field,

Recalling that the Court acts within the constraints of an annual programme budget approved by the Assembly,

1. *Reconfirms* its unwavering support for the Court as an independent and impartial judicial institution, *reiterates* its commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any threats against the Court, its officials and those cooperating with it, *expresses concern* over measures against Court officials, and *renews* its resolve to stand united against impunity;

A. Universality of the Rome Statute

2. *Welcomes* the State that has become a Party to the Rome Statute of the International Criminal Court since the eighteenth session of the Assembly and *invites* States not yet parties to the Rome Statute of the International Criminal Court to become parties to the Rome Statute, as amended, as soon as possible and *calls upon* all States Parties to intensify their efforts to promote universality;

3. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;²

4. *Welcomes with appreciation* the continuation by the President of the Assembly of the dialogue on the "Relationship between Africa and the International Criminal Court" initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and *invites* the Bureau to further widen and deepen this dialogue as needed with all interested States Parties;

5. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice³ as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly⁴ and otherwise;

6. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;

7. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties

² Depositary Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

³ *Official Records... Review Conference...* 2010 (RC/11), part II.B, Kampala declaration (RC/Decl.1), para 12.

⁴ See ICC - Secretariat of the Assembly of States Parties at https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJD/Pages/default.aspx.

with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));⁵

8. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law, and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as and when appropriate;

9. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute⁶ and *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

10. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,⁷ and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

B. Agreement on Privileges and Immunities

11. *Welcomes* the States Parties that have become a Party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

12. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on Privileges and Immunities in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

C. Cooperation

13. *Refers* to its resolution ICC-ASP/19/Res.2 on cooperation;

14. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *also calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;

15. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court

⁵ ICC-ASP/5/Res.3, annex I.

⁶ ICC-ASP/19/30.

⁷ See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf.

to fulfil its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;

16. *Further calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;

17. *Welcomes* the Court's report and comprehensive presentation on cooperation,⁸ which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges;

18. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;

19. *Welcomes* the joint panel discussion on strengthening cooperation with the Court organized by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;

20. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;

21. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;

22. *Welcomes* the creation of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery;

23. *Notes* the recommendations on cooperation contained in the 30 September 2020 Independent Experts Report;⁹

24. *Recalls* the Procedures relating to non-cooperation adopted by the Assembly in ICC-ASP/10/Res.5 and revised by the Assembly in resolution ICC-ASP/17/Res.5, *recognizes* with concern the negative impact that the non-execution of Court requests continues to have on the ability of the Court to execute its mandate, and *takes note* of the past decisions of the Court on non-cooperation;

25. *Recalls* the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation,¹⁰ which was revised as annex III to ICC-ASP/17/31¹¹ and *encourages* States Parties to make use of it as they see fit in order to improve the implementation of the Assembly procedures relating to non-cooperation;

26. *Takes note* of the report of the Bureau on non-cooperation,¹² *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation, *recalls* that the President serves ex officio as focal point for his or her region,¹³ and *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly, including when accomplishing his or her task with the support of the regional focal points for non-cooperation;

27. *Recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, and *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council;

⁸ ICC-ASP/19/33.

⁹ ICC-ASP/19/16.

¹⁰ ICC-ASP/15/31, Add.1, annex II.

¹¹ ICC-ASP/17/31 (Report of the Bureau on non-cooperation – Annex III, updated Toolkit).

¹² ICC-ASP/19/23.

¹³ ICC-ASP/11/29, para. 12.

28. *Calls upon* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *encourages* the President of the Assembly and the Bureau to continue consulting with the Security Council and *also encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

29. *Takes note with appreciation* of the positive development in Sudan after a situation of non-cooperation that prevailed over a decade and *encourages* the new authorities to meaningfully contribute through effective cooperation to the fulfilment of the mandate of the Court and Security Council resolution 1593;

30. *Noting* the past orders of the Pre-Trial Chamber to the Registrar concerning action to be taken in case of information relating to travel of suspects, *urges* States to share with the focal points on non-cooperation any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued;

D. Host State

31. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters Agreement and *notes with appreciation* the on-going commitment of the host State to the Court with a view to its more efficient functioning;

E. Relationship with the United Nations

32. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

33. *Welcomes* the twice-yearly reports of the Prosecutor on the situations referred by the United Nations Security Council pursuant to resolutions 1593 (2005) and 1970 (2011), and *noting* the Prosecutor's repeated requests for effective Security Council follow-up, *recognizes* the efforts of some members of the Security Council in this regard, and *urges* all members of the Security Council to support future such requests;

34. *Recognizes* that ratification or accession to the Rome Statute by members of the United Nations Security Council enhances joint efforts to combat impunity for the most serious crimes of concern to the international community as a whole;

35. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

(a) providing effective follow-up of situations referred by the Council to the Court and on-going political support;

(b) enabling financial support by the United Nations for expenses incurred by the Court due to referrals of the Council;

(c) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council, including by considering extending best practices with respect to the drafting of mandates of peacekeeping operations while respecting their basic principles, and increased cooperation between Sanctions Committees and the Court;

(d) considering mandating peacekeeping and special political missions to contribute, where appropriate, to the strengthening of national justice systems through training, outreach and other forms of assistance;

(e) enhanced engagement by the Council with Court representatives and on matters related to the Court in various formats; and

(f) institutionalizing Council cooperation with and support for the Court in this regard;

36. *Recalls* the report of the Court on the status of on-going cooperation with the United Nations, including in the field;¹⁴
37. *Encourages* all United Nations Offices, Funds and Programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as focal point for cooperation between the United Nations system and the Court;
38. *Recalls* article 4 of the Relationship Agreement between the Court and the United Nations, and *stresses* the continuing need to ensure the ability of the Court to fully exercise its capacity of observer to the United Nations and its ability to interact and engage in dialogue with the United Nations, including through its attendance and participation as observer in the activities of the United Nations General Assembly, and through the Court's officials' regular visits to the United Nations to provide briefings and updates on its activities;
39. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;
40. *Welcomes* that States Parties have been informed throughout 2020 on Court-related developments at the United Nations and in particular at the Security Council, notably through regular briefings provided by the designated State Party member of the Security Council, and *calls upon* Bureau members and other States Parties to continue providing States Parties with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;
41. *Welcomes* the presentation of the annual report of the Court to the General Assembly of the United Nations¹⁵ and in particular its focus on the relationship between the Court and the United Nations, *also welcomes* the adoption of resolution A/RES/75/3 by the General Assembly and *encourages* States Parties to continue their constructive engagement with United Nations Member States to further strengthen this resolution;
42. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and *notes* that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €70 million;
43. *Stresses* that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;
44. *Urges* States Parties to pursue, within the General Assembly of the United Nations, the implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly shall be subject to separate arrangements;
45. *Encourages* the Court to further engage with the relevant Sanctions Committees of the United Nations Security Council with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern;
46. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

F. Relationships with other international organizations and bodies

47. *Welcomes* the efforts undertaken by various regional and other international organizations to support the Court in the fulfilment of its mandate;
48. *Recalls* the memoranda of understanding and agreements on cooperation concluded by the Court with the European Union, the Asian-African Legal Consultative Organization, the Organization of American States, the Commonwealth, the Organisation internationale de

¹⁴ ICC-ASP/12/42.

¹⁵ United Nations document A/75/324.

la Francophonie, the Parliament of the MERCOSUR, and the Inter-American Court of Human Rights;

49. *Welcomes* the efforts of the Court to engage with various regional bodies and entities, including through its participation in the bi-annual meeting of the Organization of American States on strengthening cooperation with the ICC, the EU Day against Impunity and the organization of a roundtable with the European Union, the briefing to the African, Caribbean and Pacific (“ACP”) Group of States in Brussels, Belgium, as well as the annual session of the Asian-African Legal Consultative Organization;

50. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *welcomes* the Court’s further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office, *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

51. *Welcomes* the series of meetings previously held in Addis Ababa which took the form of joint seminars between the Court and the African Union, in July 2011, October 2012, July 2014 and October 2015, and consequent retreats in October 2016 and in November 2017 organized by the Court to enable a frank and constructive dialogue between the Court and the African States Parties to the Rome Statute as a key measure to strengthen relations between the Court and its African partners and address challenges within the context of this relationship;

52. *Further welcomes* the organization of a retreat on 12 June 2019 in Addis Ababa, Ethiopia, between the Court and African States Parties to the Rome Statute, with the participation of the Office of the Legal Counsel of the African Union and the Trust Fund for Victims;

53. *Welcomes* the organization of joint seminars between the Court and the Caribbean Community (“CARICOM”) in Port of Spain, Trinidad and Tobago from 16 to 17 May 2011, and from 10 to 11 January 2017, on the importance of working towards the universality of the Rome Statute, adopting implementing legislation and increasing participation in meetings of the Assembly of States Parties;

54. *Also welcomes* the efforts to further the presence of the Court at meetings of regional organizations, including through the organization of a side event at the 48th Pacific Islands Forum held in Apia, Samoa, from 4 to 8 September 2017, and the address by the President of the Court to the 55th Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States, in Abuja, Nigeria, on 29 June 2019;

55. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

G. Activities of the Court

56. *Takes note* of the latest report on the activities of the Court to the Assembly;¹⁶

57. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court’s activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council¹⁷ referred to the Court or which the Prosecutor initiated *proprio motu*;

58. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations, tribunals and mechanisms, including those gained by national institutions that have already investigated and prosecuted crimes that fall

¹⁶ ICC-ASP/19/9.

¹⁷ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

within the Court's jurisdiction, in solving challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

59. *Encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

60. *Recognizes* the importance of achieving accountability for all Rome Statute crimes while recalling that there is no hierarchy between them, *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twentieth session of the Assembly;

61. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

62. *Welcomes* the continued implementation by the Office of the Prosecutor of its Policy Papers on Case Selection and Prioritization, on Children, and on Sexual and Gender-Based Crimes, and, in this regard, *stresses* the importance of the effective investigation and prosecution of sexual and gender-based crimes and crimes against children by the Court and by national courts, in order to end impunity for perpetrators of such crimes, *calls upon* States Parties to consider the Policy Papers to strengthen the investigation and prosecution of these crimes domestically and *notes* the on-going preparation of the Office of the Prosecutor's Policy Paper on the Protection of Cultural Property within the Rome Statute framework;

63. *Expresses its appreciation* to the Office of the Prosecutor for consulting with States Parties and other stakeholders before the issuance of its policies and strategies and *welcomes* the contributions made by States Parties in this regard;

64. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance, efficient use of financial resources and sound management;

65. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;

66. *Notes with appreciation* the continued efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices and activities in close cooperation with the United Nations, as appropriate, in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

67. *Welcomes* the on-going efforts undertaken by the Court to improve its use of alternative sources of information and evidence as well as its capacities to this end, including in the field of financial investigations, *encourages* the Court to continue these efforts and *notes* the importance of providing the Court with the appropriate means for this purpose;

68. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

69. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic

Plan for Outreach¹⁸ in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

70. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while *acknowledging* the significant contribution of other stakeholders to developing a coordinated and comprehensive approach;

H. Elections

71. *Refers* to resolution ICC-ASP/18/Res.4, which, inter alia, adopted amendments to the procedure set out in ICC-ASP/3/Res.6 for the nomination and election of judges, and amendments to the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19;

72. *Stresses* the importance of nominating and electing as judges, qualified, competent and experienced persons of the highest quality and of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices, in accordance with article 36 of the Rome Statute, and for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates;

73. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

74. *Takes note* of the report of the Advisory Committee on Nominations of Judges¹⁹ on the work of its seventh session, containing recommendations for the election of six judges during the nineteenth session of the Assembly;

75. *Recalls* its decision that the Advisory Committee on Nominations hold its sessions in The Hague or in New York, depending on the cost effectiveness of the particular venue;

76. *Reiterates* the importance of interviews with candidates, including by videoconference or similar means, to the effective discharge of its mandate and *stresses* the responsibility of the nominating States to ensure that candidates attend an interview with the Advisory Committee on Nominations;

77. *Recalls* the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19, as amended via resolution ICC-ASP/18/Res.4, and *requests* States Parties which may be considering nominations of their nationals as members of the Advisory Committee to bear in mind that the composition of the Committee should reflect, inter alia, "a fair representation of both genders";

78. *Welcomes* the process established by the Bureau of the Assembly of States Parties for the election of the third Prosecutor of the International Criminal Court and *calls upon* the Bureau, through transparent and inclusive consultations with States Parties and civil society, and with the feedback of the Committee on the Election of the Prosecutor and the Panel of Experts on the implementation of their mandate, within existing resources, to examine ways to continue strengthening the process by which the Prosecutor is elected;

I. Secretariat of the Assembly of States Parties

79. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties ("the Secretariat"), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3,

¹⁸ ICC-ASP/5/12.

¹⁹ ICC-ASP/19/11.

and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

80. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;²⁰

81. *Welcomes* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;²¹

J. Counsel

82. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

83. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association;²²

84. *Invites* the International Criminal Court Bar Association to report to the Assembly, through the Bureau, on its activities in advance of the twentieth session;

85. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel and thus *continues to encourage* applications to the list of counsel established as required under rule 21, sub-rule 2, of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

K. Legal aid

86. *Acknowledges* the Court's efforts to continue implementing the legal aid remuneration policy and *stresses* the need for continuous monitoring of the efficiency of the legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;²³

87. *Takes note* of the information provided by the Registrar²⁴ and the recommendations made by the Committee on Budget and Finance regarding this matter;²⁵

88. *Recalls* the fundamental importance of the legal aid system to ensuring the fairness of judicial proceedings as well as the right of the defendants and victims to appropriate legal representation;

L. Study Group on Governance

89. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

90. *Takes note* of the Bureau's report on the Study Group on Governance²⁶ covering the considerations of the following issues: election of the Registrar; performance indicators; procedure for amending the Rules of Procedure and Evidence; and management of transitions in the judiciary;

91. *Extends* for another year the mandate of the Study Group, established in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICC-

²⁰ ICC-ASP/2/Res.3, annex, para. 10.

²¹ ICC-ASP/17/39.

²² ICC-ASP/19/32.

²³ ICC-ASP/3/16, para. 16.

²⁴ CBF/32/11 and CBF/32/7.

²⁵ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2. paras. 93, 96, 97 and 98.

²⁶ ICC-ASP/19/21.

ASP/12/Res.8, ICC-ASP/13/Res.5, ICC-ASP/14/Res.4, ICC-ASP/15/Res.5, ICC-ASP/16/Res.6, ICC-ASP/17/Res.5 and ICC-ASP/18/Res.6;

92. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions;

93. *Encourages* the Court to continue its work in 2021 on developing common practice, in particular on performance indicators;

94. *Takes note* of the “Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report,”²⁷ dated 30 September 2020, prepared by the Independent Experts, and *notes* that the Study Group on Governance will consider recommendations falling within its ambit, including with respect to the procedure for amending the Rules of Procedure and Evidence; performance indicators; and management of transitions in the judiciary and election of the Registrar;

M. Proceedings of the Court

95. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution and the promotion of the universality of the Statute, as well as the best possible use of the Court’s resources;

96. *Welcomes* the Court’s efforts to enhance the efficiency and effectiveness of proceedings, as well as the efforts on the part of States Parties and civil society in this regard, *mindful* of the importance of continued dialogue on this matter and *noting* the shared responsibility of the Court and States Parties in this regard;

N. Working methods review

97. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

98. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods;

99. *Decides* to continue improving the working methods of the Bureau and the governance of the Assembly, and to that effect:

(a) *recalls* the revised general roadmap for facilitations contained in annex II of resolution ICC-ASP/15/Res.5 and *stresses* the need for its full implementation;

(b) *welcomes* the holding of Bureau meetings both in New York and in The Hague;

(c) *acknowledges* the importance of ensuring that the agenda of the Assembly allows sufficient time for substantive discussions;

(d) *recognizes* the importance of exchange of information as well as mutual consultations between the New York Working Group and The Hague Working Group on matters of joint concern with a view to enhancing efficiency while avoiding duplication of efforts;

(e) *encourages* all States Parties to use the Extranet designed for the work of the subsidiary bodies of the Bureau and the Assembly containing all necessary documentation on the work in progress; and

(f) *also encourages* States Parties to deliver statements no longer than five minutes and to submit written statements instead of oral ones;

100. *Recognizes* the importance of the work carried out by the facilitators and the focal points;

101. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective

²⁷ ICC-ASP/19/16.

regional group to inform the discussion of the Bureau, including by establishing appropriate mechanisms for providing regular updates on the work of the Bureau;

102. *Reiterates* that the Bureau shall have representative character in its composition, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world, and *requests* the Bureau to remain seized of the matter and report on the matter in the annual report on its activities;

103. *Requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency;

104. *Requests also* the Bureau to address in its report under paragraph 103 the proposal to hold the Assembly sessions as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled;

O. Victims and affected communities, reparations and Trust Fund for Victims

105. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

106. *Reiterates* that victims' right to present and have considered their views and concerns at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected and to protection of their safety, physical and psychological well-being, dignity and privacy, under article 68 of the Rome Statute, as well as access to relevant information are essential components of justice and, in this regard, *emphasizes* the importance of effective outreach to victims and affected communities in order to give effect to the mandate of the Court;

107. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

108. *Recalls* article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court, and *notes* that assistance and reparations to victims may promote reconciliation and contribute to peace-building;

109. *Acknowledges* the importance of protective measures for victims and witnesses, including considering the best interests, rights and well-being of children and maintaining the physical and psychological welfare of witnesses, particularly victims of sexual and gender-based crimes, for the execution of the Court's mandate, *stresses* the need for States to conclude agreements with the Court in order to facilitate expeditious international relocation of persons at risk, *urges* all States to consider concluding such relocation agreements and *encourages* all States to contribute to the Special Fund for Relocations;

110. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court, as required;

111. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,²⁸ and therefore *requests* the Court to submit an updated strategy, including measurable and time-bound objectives, to the Assembly at its twentieth session;

²⁸ ICC-ASP/13/Res.4, para. 1.

112. *Renews its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims and affected communities;
113. *Notes* the significant growth in the activities of the Trust Fund, to include the four on-going reparations proceedings as well as the expansion of assistance programmes to more situations before the Court, including Central African Republic and Côte d'Ivoire;
114. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to make voluntary contributions, in accordance with their financial ability, to the Trust Fund for Victims in order to broaden its resource base, improve the predictability of funding and maintain responsiveness to harm suffered by victims as well as to the Court's judicial developments, and *renews its appreciation* to those that have done so;
115. *Invites* States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and *expresses its appreciation* to those that have already done so;
116. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and *expresses its appreciation* to those that have already done so;
117. *Notes* the intention of the Trust Fund for Victims to raise €10 million annually in voluntary contributions and private donations, in order to ensure the implementation of Court-ordered reparations and assistance activities to the benefit of victims in cases and situations before the Court;

P. Recruitment of staff

118. *Takes note* of the Court's report on Human Resources Management,²⁹ and requests the Court to further strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties, 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, and *encourages* further progress in this regard;
119. *Calls upon* the Court to report the outcome of its efforts to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance to the Assembly at its twentieth session, including, but not limited to, improvements in the recruitment process and annual recruitment data;
120. *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;³⁰
121. *Urges* States Parties to undertake efforts to identify and enlarge pools of potential applicants to the Court's professional positions from States 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;
122. *Welcomes* the establishment by the Court of a programme to fund, through voluntary contributions, the placement of interns and visiting professionals from developing regions with a particular focus on candidates from non-represented and under-represented States Parties, *welcomes* the voluntary contributions received thus far and *calls upon* States Parties to contribute to this programme;

²⁹ ICC-ASP/19/4.

³⁰ ICC-ASP/19/29.

123. *Requests* the Court to further devise mechanisms that can ensure in a more sustainable and systematic manner the funding of placements of interns and visiting professionals from developing regions, and *further requests* the Court to explore and propose modalities for implementing JPO programmes for candidates from non- and under-represented States Parties, particularly from developing regions, to be funded through voluntary contributions;

124. *Requests* the Court to look into measures to introduce a rotation policy at the International Criminal Court and *further requests* the Court to report the outcome to the Assembly;

125. *Welcomes* the Registry Strategic Plan for 2019-2021 and its three-year programme of action to improve the geographical representation and gender balance as one of the Registry's priorities;

126. *Takes note* of the report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,³¹ and *notes* that the facilitation on geographical representation and gender balance will consider recommendations falling within its ambit;

Q. Complementarity

127. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

128. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

129. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

130. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity-building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society;

131. *Welcomes*, in this regard, the adoption of the 2030 Agenda for Sustainable Development³² and *acknowledges* the important work being undertaken with regard to promoting the rule of law at the national and international levels and ensuring equal access to justice for all;

132. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

133. *Welcomes* the report of the Bureau on complementarity,³³ *takes note* of the recommendations made on future consultations set out therein and without prejudice to any decision of the Assembly on future processes regarding the Report of the Independent Expert Review, and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of

³¹ ICC-ASP/19/16.

³² United Nations General Assembly resolution 70/1.

³³ ICC-ASP/19/22.

partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

134. *Also welcomes* the information by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions; *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twentieth session of the Assembly;

135. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities and *further welcomes* the efforts made by the international community and national authorities, including national capacity-building activities to investigate and prosecute sexual and gender-based crimes that may amount to Rome Statute crimes, in particular the continued efforts on the strategic actions to ensure access to justice and to enhance empowerment of victims at national level, recalling the recommendations presented by the International Development Law Organization³⁴ during the fourteenth session of the Assembly;

136. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and *also encourages* continued inter-State cooperation, including on engaging international, regional and national actors in the justice sector, as well as civil society, in exchange of information and practices on strategic and sustainable efforts to strengthen national capacity to investigate and prosecute Rome Statute crimes and the strengthening of access to justice for victims of such crimes, including through international development assistance;

R. Independent Oversight Mechanism

137. *Recalls* its decisions in resolutions ICC-ASP/15/Res.5 and ICC-ASP/16/Res.6 to fully review the work and the operational mandate of the Independent Oversight Mechanism at its seventeenth session and its decisions in resolutions ICC-ASP/17/Res.5 and ICC-ASP/18/Res.6 to request the Bureau to continue the review and to complete it, including the consideration of amendments to the mandate to cover investigations of allegations against former officials, and to report thereon to the Assembly at its nineteenth session;

138. *Welcomes* the discussions held during 2020 on the review of the work and operational mandate of the Independent Oversight Mechanism, which is a subsidiary body of the Assembly of States Parties;

139. *Welcomes* the draft revised operational mandate for the Independent Oversight Mechanism, annexed to the report on the review of the work and operational mandate of the Independent Oversight Mechanism,³⁵ as a result of thorough discussions held among States Parties, with representatives of the Court's Organs and the Independent Oversight Mechanism;

140. *Takes note* of the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,³⁶ in particular its recommendations related to the work and operational mandate of the Independent Oversight Mechanism, which deserves thorough discussions among States Parties and consideration and may call for further revisions of the mandate;

³⁴ International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.

³⁵ ICC-ASP/19/24.

³⁶ ICC-ASP/19/16.

141. *Decides* to adopt the revised operational mandate for the Independent Oversight Mechanism annexed to the present resolution, which shall replace the provisions of the mandate in the annex to resolution ICC-ASP/12/Res.6, and shall apply provisionally until, and without prejudice to, any decision of the Assembly to amend or replace the mandate after its consideration of the report and the recommendations of the Independent Expert Review;

142. *Welcomes* the complementary initiatives undertaken by the Bureau, the Assembly oversight bodies and the Court to try to ensure that the different organs of the Court have streamlined and updated ethics charters/codes of conduct, which should be consistent to the extent possible;

143. *Reiterates* the critical importance of the Independent Oversight Mechanism in carrying out its work in an independent, transparent and impartial manner free from any undue influence;

144. *Takes note* of the Annual report of the Head of the Independent Oversight Mechanism;³⁷

145. *Reaffirms* the importance of the Independent Oversight Mechanism reporting to States Parties on the results of its activities;

146. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *notes* the efforts being made to further strengthen the professional and ethical framework for elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, *welcomes* the steps that continue to be taken by the Court to investigate the potential impact on the Court's work in light of allegations of misconduct surrounding former officials, *welcomes* that following the Office of the Prosecutor's recommendations and ensuing consultations, the revised operational mandate of the Independent Oversight Mechanism enables it to investigate the alleged conduct of former elected officials and staff both while they were in office and when they separated from service as prescribed in its paragraph 10, *takes note* of the status report provided by the Office of the Prosecutor, and *urges* the Court to complete this investigation fully and transparently, to identify any necessary follow-up action for the Court and/or the Assembly, and to report to the Assembly in advance of its twentieth session;

147. *Welcomes* the progress reported in formally aligning the Regulations of the Court with the mandate of the Independent Oversight Mechanism and *encourages* the Court, with the support of the Independent Oversight Mechanism, as necessary, to ensure that all relevant documents are updated and aligned with the mandate of the Independent Oversight Mechanism in order to harmonize the applicable rules;

S. Programme budget

148. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

149. *Recalls* that, according to its Rules of Procedure,³⁸ the Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

150. *Takes note with concern* of the report of the Bureau on the arrears of States Parties;³⁹

151. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

³⁷ ICC-ASP/19/26.

³⁸ ICC-ASP/18/Res.1, annex.

³⁹ ICC-ASP/19/27.

152. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court and *expresses its appreciation* to those that have done so;

T. Review Conference

153. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime⁴⁰ and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character;⁴¹

154. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute, *notes with appreciation* the recent ratifications of the amendments⁴² and *notes* that two States Parties have lodged declarations in accordance with article 15 *bis*, paragraph 4, of the Rome Statute;⁴³

155. *Calls upon* all States Parties to consider ratifying or accepting these amendments;

156. *Welcomes* the activation of the International Criminal Court's jurisdiction over the crime of aggression as of 17 July 2018, as decided by consensus by the Assembly of States Parties in its resolution ICC-ASP/16/Res.5, marking the first time that a permanent international court has the authority to hold individuals accountable in respect of this crime, thereby completing the achievements of the Rome and Kampala Conferences of 1998 and 2010;

157. *Recalls* the discussions on the issue of peace and justice at the stock-taking exercise held at the Review Conference, *notes* the interest to resume the discussions on this issue and *invites* interested States Parties to do so;

158. *Recalls with appreciation* pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls upon* these States and the regional organization to ensure the swift implementation of these pledges and *also calls upon* States and regional organizations to submit additional pledges and to report further at the twentieth session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

U. Consideration of amendments

159. *Welcomes* the report of the Working Group on Amendments;⁴⁴

160. *Calls upon* all States Parties to ratify or accept the amendment to article 124;

161. *Also calls upon* all States Parties to ratify or accept the amendments to article 8 adopted at the sixteenth and eighteenth sessions of the Assembly;⁴⁵

V. Participation in the Assembly of States Parties

162. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

⁴⁰ *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

⁴¹ *Ibid.*, RC/Res.5.

⁴² https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&lang=en and https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-a&chapter=18&clang=_en.

⁴³ <https://www.icc-cpi.int/resource-library#>.

⁴⁴ ICC-ASP/19/28.

⁴⁵ ICC-ASP/16/Res.4 and ICC-ASP/18/Res.5.

163. *Encourages* the continuation of efforts undertaken by the President of the Assembly to hold an on-going dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in his undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

164. *Recalls* the long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society, and *reaffirms* resolution ICC-ASP/2/Res.8 on recognition of the coordinating and facilitating role of the NGO Coalition for the ICC; and

165. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Independent Oversight Mechanism, the Secretariat, and the Board of Directors and the Secretariat of the Trust Fund for Victims, as appropriate, with the mandates contained in the annex to the present resolution.

Annex I

Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
 - (a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute;¹ and
 - (b) *requests* the Bureau to continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its twentieth session;
2. With regard to the **Agreement on Privileges and Immunities**, *requests* the Bureau to continue to support the ratification of the Agreement;
3. With regard to **cooperation**,
 - (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
 - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twentieth session;
 - (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
 - (d) *invites* the Bureau, through its Working Groups, to continue to strengthen the relationship between the UN and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court;
 - (e) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
 - (f) *requests* the Bureau, through its Working Groups, to speed up its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,² in close cooperation with the Court, where appropriate;
 - (g) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
 - (h) *requests* the Bureau, through the facilitation on cooperation, and in accordance with the resolution on the Review of the International Criminal Court and the Rome Statute system, to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its twentieth session;
 - (i) *requests* the Court to continue to submit an updated report on cooperation to the Assembly at its annual session, containing disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
 - (j) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris, including by continuing the work to further develop the secured digital platform;
 - (k) *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders in accordance with the Assembly procedures

¹ ICC-ASP/19/30.

² ICC-ASP/6/Res.2, annex II.

relating to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly;

(l) *requests* that any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued be promptly shared with the Court by the focal points on non-cooperation; and

(m) *requests* the Bureau to continue to actively engage throughout the intersessional period with all relevant stakeholders to continue to ensure effective implementation of the Assembly procedures relating to non-cooperation and to submit a report on its activities to the Assembly at its twentieth session;

4. With regard to the **relationship with the United Nations**,

(a) *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court; and

(b) *requests* the Registry to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council³ ahead of the twentieth session of the Assembly;

5. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;

6. With regard to **elections**,

(a) *decides* to continue to review the procedure for the nomination and election of judges as set forth in resolution ICC-ASP/3/Res.6, as amended, with a view to making any improvements as may be necessary, taking into account the work conducted so far as reflected in the facilitator's report;⁴ and

(b) *requests* the Bureau to update the Assembly, at its twentieth session, on the progress of the review of the procedure for the nomination and election of judges;

7. With regard to the **Secretariat**, *invites* the President to report to the twentieth session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;⁵

8. With regard to **legal aid**,

(a) *mindful* of the recommendation of the Committee on Budget and Finance that the Court make every effort to present a reform that can be achieved within existing resources by exploring opportunities to contain the administrative burden without jeopardizing the need for accountability and by setting priorities accordingly, *requests* the Court to continue its review of the functioning of the legal aid system and to present, following further consultation with States Parties, proposals for adjustments to the legal aid remuneration policy for the consideration of the Assembly, through the Committee, at its twentieth session, taking into account the recommendations of the Group of Independent Experts⁶ on legal aid, without prejudice to any decision of the Assembly on the broader review process;

(b) *requests* the Bureau to continue its work on legal aid to discuss the proposals from the Court and the recommendations of the Group of Independent Experts regarding the legal aid policy, and to report to the Assembly thereon at its twentieth session; and

(c) *encourages* further consultations between the Court and the host State regarding issues related to the taxation of legal aid counsel and support staff, taking into account the recommendations of the Group of Independent Experts on legal aid;

9. With regard to the **Study Group on Governance**,

³ ICC-ASP/19/17.

⁴ Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/19/35).

⁵ ICC-ASP/17/39.

⁶ ICC-ASP/19/16.

(a) *invites* the Court to further engage in a structured dialogue with States Parties with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

(b) *encourages* the Court to continue to share with the Study Group any update on the development of qualitative and quantitative indicators;

(c) *acknowledges* the importance of avoiding duplication and *invites* the Study Group to closely cooperate with the Court, subsidiary bodies and other facilitations established by the Assembly on the examination and implementation of the Independent Experts' recommendations that address governance issues; and

(d) *requests* the Study Group to consider the following issues listed in the Matrix, mindful of the relevant recommendations made by the Group of Independent Experts, and to report thereon to the twentieth session of the Assembly:

- (i) 1.4 Election of Registrar;
- (ii) 1.8 Performance indicators;
- (iii) 1.13 Procedure for amending Rules of Procedure and Evidence; and
- (iv) 2.9 Management of transitions in the judiciary.

10. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice;

(b) *encourages* the Bureau, including through the two working groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings;

(c) *encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court; and

(d) *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twentieth session of the Assembly;

11. With regard to the **working methods review**,

(a) *decides* that its annual session shall have a duration of seven working days with a possible extension of up to two additional days in election years, as required, and to focus, in such cases, the first two days on the elections of judges;

(b) *also decides* that its annual sessions shall include one or two plenary segments on specific agenda items;

(c) *invites* the facilitators and focal points, when appropriate, to present their work to the Assembly;

(d) *also invites* the facilitators and focal points to commit themselves for a period of up to three years considering the particularities and the complexity of each mandate and to submit, in addition to their regular reports, a final written report to the Assembly at the end of their mandate, including lessons learnt;

(e) *invites* the Bureau to implement the recommendations of the 2013 working methods report;⁷

⁷ ICC-ASP/12/59.

(f) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;⁸

(g) *invites* the Bureau to use existing technologies such as video-conferencing in order to ensure participation of members of the Bureau not represented at the venue of the Bureau meeting;

(h) *requests* the Bureau to continue conducting evaluations of the established mandates and, where appropriate, consider the inclusion of end-dates and that it prepare recommendations on the reduction of the number and length of reports;

(i) *requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau, and to make recommendations to improve efficiency; and

(j) *requests* all facilitators and focal points, in consultation with States Parties, to undertake an exercise to streamline the present resolution for the twentieth session;

12. With regard to **victims and affected communities, reparations and the Trust Fund for Victims**,

(a) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;

(b) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its on-going dialogue with the organs of the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(c) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(d) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;

(e) *requests* the Court to submit an updated Revised Strategy in Relation to Victims, including measurable and time-bound objectives, to the Assembly at its twentieth session;

(f) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism; and

(g) *requests* the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings; such statistics may include, as appropriate, information on gender, criminal offense and situation, among other pertinent criteria as determined by the relevant Chamber;

13. With regard to **recruitment of staff**,

(a) *endorses* the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its thirty-fifth session⁹ and urges the Court to take the necessary steps to implement them;

⁸ As outlined, e.g., in paras. 21(a) and 23(b) of the report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

⁹ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2.

(b) *requests* the Court to submit a comprehensive report on human resources by the end of May 2021, to be considered by the Assembly at its twentieth session, which would include an update on the implementation of the recommendations on the topic made by the Committee in 2020;

(c) *requests* the Court to include in that report an outline of its efforts to improve the recruitment process in seeking equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance, including annual recruitment data;

(d) *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 twentieth session of the Assembly; and

(e) *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;

14. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes; and

(b) *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twentieth session of the Assembly;

15. With regard to the **Independent Oversight Mechanism**,

(a) *requests* the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering recommendations of the Independent Expert Review in this regard, subject to relevant decisions of the Assembly on the implementation of the Report of the Independent Expert Review, and to report thereon to the Assembly at its twentieth session;

16. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that the Bureau, through the President of the Assembly, the Coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and via the annual facilitation on the topic of arrears, report thereon to the Assembly at its twentieth session; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

17. With regard to the **Review Conference**, *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

18. With regard to **consideration of amendments**,

(a) *invites* the Working Group on Amendments to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the Working Group to submit a report for the consideration of the Assembly at its twentieth session;

19. With regard to **participation in the Assembly of States Parties**,

(a) *decides* that the Committee on Budget and Finance shall hold its thirty-sixth session from 17 to 21 May 2021 and its thirty-seventh session from 6 to 17 September 2021; and

(b) *also decides* that the Assembly shall hold its twentieth session in The Hague from 6 to 11 December 2021, and its twenty-first session in The Hague.

Annex II

Operational mandate of the Independent Oversight Mechanism

I. Mission of the IOM

1. The Independent Oversight Mechanism (hereinafter “IOM”) is a subsidiary body of the Assembly of States Parties to the Rome Statute (hereinafter “the Assembly”), established in accordance with article 112, paragraph 4, of the Rome Statute, by Assembly resolution ICC-ASP/8/Res.1, as amended by the present resolution.

2. As prescribed by article 112, paragraph 4 of the Rome Statute, the purpose of the IOM is to provide comprehensive oversight of the Court through the conduct of independent internal administrative investigations, evaluations, and inspections, in order to enhance its economy and efficiency.

3. The IOM shall exercise complete operational independence in the fulfilment of its functions and will report to the Assembly as provided for in paragraph 15 of resolution ICC-ASP/8/Res.1.

4. The IOM shall have the authority to initiate on a reasonable basis, carry out and report on any action which it considers necessary to fulfil its responsibilities with regard to its functions without any hindrance or need for prior authorisation, except as set forth in the present resolution. The IOM shall not be prohibited from carrying out any action within the purview of its mandate. In the case of any inconsistency between this mandate and any provision of the Court’s internal regulatory framework, the former shall prevail.

Oversight Activities

5. The authority of the IOM does not in any way impede the authority or independence granted by the Rome Statute to the Presidency, judges, Registrar, or Prosecutor. In particular, the IOM will fully respect judicial and prosecutorial independence and minimize any impact by the conduct of its activities on the effective functioning of the Court.

6. Should the IOM deem that actions are required to fulfil its mandate that may potentially affect judicial or prosecutorial independence, or affect ongoing Court proceedings or investigations, it shall first consult the Presidency or Prosecutor to determine a course of action which would both respect the judicial or prosecutorial independence and not unduly interfere with Court proceedings or prosecutorial activities, while allowing the IOM to provide the oversight required. Should there be no agreement in respect of such course of action, the Presidency or Prosecutor shall agree with the Head of the IOM on an independent third-party procedure to facilitate and mediate the disagreement. In addition, the IOM will alert the relevant Head of Organ about any planned evaluation, inspection, or investigation, unless it determines that it would be inappropriate to do so. Upon such consultation, the Presidency or Prosecutor may raise any concerns connected to judicial or prosecutorial independence which have not been identified by the IOM.

7. In matters concerning judicial and prosecutorial independence, the IOM and relevant Head of Organ shall proceed in good faith at all times with a view to ensuring accountability, in accordance with the Rome Statute and the Rules of Procedure and Evidence.

A. Investigation

Legal mandate

8. The IOM shall promptly receive all allegations of misconduct¹ against any staff member or consultant/contractor retained by the Court, and determine after an initial review those that should be further assessed by the IOM. These include the making of allegations against an elected official, staff, or consultant/contractor in bad faith.

9. In accordance with relevant provisions of the Rome Statute and of the Rules of Procedures and Evidence,² the IOM shall also be the only body authorized to receive and investigate complaints of misconduct and serious misconduct against any elected official. The outcome of any investigation under this paragraph should be reported in accordance with Rule 26 of the Rules of Procedure and Evidence.

10. The IOM also has the discretionary authority to assess or investigate any allegations of misconduct, serious misconduct, or unsatisfactory conduct against any former elected official, staff member, or consultant/contractor, provided the elected official, staff member, or consultant/contractor was in the service of the Court at the time the alleged misconduct took place. This paragraph also covers allegations of misconduct with respect to obligations undertaken by elected officials, staff members, or consultants/contractors during their service and that extend after their term of service.

11. The IOM will not investigate contractual disputes or human management issues, including work performance, conditions of employment or personnel-related grievances. The IOM will also not investigate offences under article 70 of the Rome Statute.

Procedure

12. Following the IOM's initial review under paragraph 8, the IOM may decide to investigate the matter, in which case no further action should be taken by any other body within the Court until such time as the IOM has completed its investigation, unless after consultation the IOM has agreed that this would not affect the conduct of its investigation.

13. Should the IOM decide, further to an initial review under paragraph 9, not to investigate a matter, it may refer the matter to the relevant Head of Organ if appropriate. Should the Head of Organ nevertheless decide to carry out an investigation, it should be conducted, whether by a staff designated by the Head of Organ or an external investigator, in accordance with the Court's Regulatory framework with respect to the conduct of administrative investigations.

14. Should the IOM find, following a formal investigation that any allegation of unsatisfactory conduct under paragraph 9 above has been substantiated, it should present its report to the relevant Head of Organ, along with its recommendation on whether to initiate disciplinary proceedings. The Head of Organ shall report back to the IOM on whether disciplinary proceedings were initiated, and if so, whether any disciplinary measure was imposed, and the nature of the measure. If no disciplinary proceedings were initiated or no disciplinary measure imposed, it should inform the IOM as to the reason for not doing so.

15. Where an investigation reveals that criminal acts may have been committed by elected officials, staff members or consultants/contractors, the IOM may also refer the matter to the relevant Head of Organ, and recommend that the matter be further referred to the relevant national authorities.

¹ For the purposes of this mandate, misconduct is used interchangeably with unsatisfactory conduct, defined in Chapter X of the Court Staff Rules as: "Failure by a staff member to act in accordance with any official document of the Court governing rights and obligations of staff members, such as the Staff Regulations and Rules and the Financial Regulations and Rules, or any relevant resolutions and decisions of the Assembly of States Parties, or failure to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory conduct within the meaning of staff regulation 10.2(a), leading to the institution of disciplinary proceedings and the imposition of disciplinary measures."

² Articles 46 and 47 of the Rome Statute, and Rules 24-26 of the Rules of Procedure and Evidence.

16. The IOM may also, including in cases of unsubstantiated allegations, make observations and recommendations to any Head of Organ, Division, or Section if investigation findings reveal weaknesses in adherence to administrative or operations policies, guidelines, procedures or practices, or if specific issues arising from the investigation require immediate corrective action to strengthen internal controls and prevent similar incidents from happening in the future.

17. The confidentiality of sources of allegations should be strictly safeguarded, and any relevant identifiable information not included in any IOM report, unless disclosure is necessary to guarantee the rights of any elected official, staff member, or consultant/contractor. Such disclosure should only occur after the consent of the source has been obtained.

18. The IOM shall assist the Court in adapting the Court's internal regulatory framework for the review of allegations of misconduct, consistent with this mandate.

B. Evaluation

19. An evaluation is a rigorous, impartial, systematic and independent assessment of an activity, project, programme, strategy, policy, topic, theme, sector, operational area or institutional performance. It analyses the level of achievement of both expected and unexpected results using criteria such as relevance, effectiveness, efficiency, impact and sustainability. In sum, evaluation assesses what works, what does not and why, highlighting both intended and unintended consequences concerning the subject evaluated.³

20. After consultation with the Heads of Organs, the IOM shall prepare an independent annual programme of evaluations to propose to the Assembly, taking into account the IOM's capacity in this respect. The Assembly or Bureau may also request the IOM to conduct evaluations other than those in the IOM annual programme of evaluations, providing also a rationale for such evaluations and a suitable budget and resources as required. The IOM will assess such requests on the basis of evaluability criteria to determine whether an evaluation can be carried out. If the result of an evaluability assessment is that the evaluation cannot be carried out, the IOM will consult with the requesting authority regarding alternative options.

21. Should part of or the entire annual programme of evaluations proposed by the IOM be rejected by the Bureau, without any other evaluation request made by the Assembly or the Bureau, the Heads of Organ will be encouraged to request the IOM to conduct an evaluation. Such request will also be reviewed by the IOM to determine its suitability, and an alternative proposed if necessary. In the absence of any evaluation request from the Assembly, the Bureau or the Heads of Organ, the IOM has the independent and discretionary power to initiate an evaluation on its own accord, after consultation with the relevant Head of Organ.

22. The IOM may, upon request of the Assembly, Bureau or any Head of Organ, provide quality assurance, coordination and secretariat support for any evaluation conducted by an external consultancy or by any high-level peer-review panel established by the Assembly, Bureau or Head of Organ, for the purposes of evaluating any aspect of the Court's operations.

23. The IOM may provide, upon request of a Head of Organ, technical support to the relevant Organ in establishing or reviewing an internal monitoring and evaluation system of any project, programme or initiative.

24. The IOM shall be the custodian of all evaluations, including those conducted under the purview of Heads of Organs. The Heads of Organ will report to the IOM all internal evaluations planned and completed by providing general information on these, such as the topic, scope, and timeline. Such internal evaluations are defined according to the evaluation principles of the UNEG Norms and Standards for Evaluation, and excludes reviews, performance indicators and audits, monitoring and other similar analyses not considered

³ The definition of evaluation is adapted from the United Nations Evaluation Group's (UNEG) Norms and Standards for Evaluation (2016).

formal evaluations. The IOM shall have unrestrained access to all internal evaluation reports conducted by the Court.

25. Notwithstanding the confidentiality obligations attached to IOM work as found in this resolution, the IOM's annual programme of evaluations, all evaluation requests made by the Assembly or the Bureau, as well as evaluation executive summary reports will be made public. Where publication of any report regarding any evaluation would be inappropriate for reasons of confidentiality, or where it could place in jeopardy the safety and security of any individual, or run the risk of violating the due process rights of individuals, the report may be redacted or in exceptional cases withheld at the direction of the President of the Assembly or the Head of Organ, as appropriate.

26. The IOM will issue the final report for an evaluation requested by the Assembly or the Bureau to the President of the Assembly, who will then be responsible for any subsequent dissemination.

27. For evaluation requested by a Head of Organ pursuant to paragraph 21, the report will be submitted to the Head of Organ, who will be responsible for its dissemination. The IOM will also include a summary of any such evaluation in its Annual Report.

C. Inspection

28. The IOM may conduct unscheduled or *ad hoc* inspections of any premises or processes, as requested by the Bureau or a Head of Organ. Such inspections are defined as special, unscheduled, on-the-spot verifications made of an activity directed towards the resolution of problems which may or may not have been previously identified.⁴

29. All requests of the Bureau to the IOM to conduct inspections will be notified to the appropriate Head of Organ, and shall be preceded by a consultation with the appropriate Head of Organ. The concerned Head of Organ may appoint a representative of his/her office to witness the inspection.

30. Upon completion of an inspection requested by the Bureau, the IOM shall deliver the report to the President of the Assembly, who shall forward it to the Assembly or its Bureau, as appropriate. The Assembly or the Bureau is solely responsible for any subsequent distribution or publication.

31. In those cases where the IOM agrees to conduct an inspection following a request from a Head of Organ, it shall deliver its inspection report to the Head of Organ upon completion, who will be solely responsible for any subsequent distribution or publication. The IOM will report on any such inspection in its Annual Report.

II. Powers and Authority

32. The IOM shall have full, free and prompt access to all (electronic or otherwise) Court records files, documents, books or other materials, assets and premises, and shall have the right to obtain such information and explanations as they consider necessary to fulfil their responsibilities.

33. The IOM shall also have full and free access to all elected officials, staff, contractors, or any other personnel of the Court, and all such personnel shall have the duty to cooperate promptly with any IOM request, including requests for information, to be interviewed and/or to provide explanations. Failure to provide such cooperation, without reasonable excuse, may result in disciplinary action.

34. Any IOM request under paragraphs 32 and 33 above must be kept confidential and not shared with anyone, including any other elected official, staff or consultant/contractor,

⁴ See *JIU Glossary of Evaluation Terms* (JIU/REP/78/5).

unless explicitly provided for in the Court's regulatory framework or expressly authorized by the IOM. Failure to maintain such confidentiality may result in disciplinary action.

35. Notwithstanding the provisions outlined in paragraphs 32 and 33 above, the right of access granted to the IOM shall be subject to confidentiality considerations necessary for the exercise of the Court's mandate under the Rome Statute, in particular in the context of criminal investigations, judicial proceedings, any pre-existing obligation of confidentiality to the originator of the information or document, the safety and security of witnesses, victims and third parties, and the protection of national security information of States Parties.

36. Any objection to comply with any IOM request under paragraphs 32 and 33 should be raised by the elected official, staff member, or consultant/contractor concerned at the earliest opportunity with the IOM, who will then consult with the appropriate Head of Organ. If the Head of Organ is of the view that the request would violate one of the confidentiality considerations of paragraph 35, the Head of Organ should formally notify the Head of the IOM accordingly. The IOM and Head of Organ shall make all reasonable efforts to allow the IOM access to material that will allow it to fulfil its functions, without jeopardizing the confidentiality considerations contained in paragraph 35, including by providing redacted information that could satisfy both the mandate of the IOM and the confidentiality of the information.

37. Despite their best efforts, should the Head of Organ and Head of the IOM not agree regarding whether the information is protected from disclosure under paragraph 35, or if the Head of the IOM considers that unrestricted access to the information is nevertheless necessary to fulfil the mandate of the IOM, the Head of Organ and Head of the IOM should agree on an independent third-party procedure to facilitate and mediate the disagreement, while ensuring that all confidentiality obligations under the Rome Statute are duly respected.

III. Reporting

38. The IOM shall provide an Annual Report on its operations to the Assembly. The Annual report shall provide information regarding investigations, evaluations and inspections carried out by the IOM, ensuring that it respects privacy rights of elected officials, staff members, and consultants/contractors. In particular, the Annual Report shall not contain the names or publicly identifiable information regarding any individual involved in any investigations.

39. Prior to its submission, the draft should be circulated to each Head of Organ, who may provide comments for the IOM's consideration. Any Head of Organ may also provide formal comments to the Annual Report which shall be annexed to the Annual Report and submitted with it to the Assembly.

40. The Annual Report (including any annexes) shall be a public document.

41. The IOM shall also provide an Interim Report to the Bureau of the Assembly, covering the six-month period following the previous Annual Report, and which shall include a summary of the IOM's operations for this period. The Interim Report shall be copied to the Heads of Organs and the Committee on Budget and Finance, and any further disclosure should be done only with the approval of the President of the Assembly.

42. Both the Interim Report and the Annual Report shall be presented at a Bureau meeting, and the Head of the IOM shall be available to provide further information, without disclosing information that is confidential and/or would be prejudicial to the rights of any elected official, staff member, or consultant/contractor, or would interfere with Court proceedings or investigations.

43. The IOM shall also provide *ad hoc* reports to the Bureau upon its request, or at the discretion of the Head of the IOM, who may do so after consultation with the President of the Assembly.

IV. Staff and Accountability

44. In carrying all its activities, the IOM will implement recognized best practices and adhere to the highest ethical standards.

45. Except where explicitly provided in this resolution, the work of the IOM shall be confidential, and the IOM shall be responsible for safeguarding all confidential information provided to it. Unauthorized disclosure of any confidential information by staff members of the IOM shall constitute unsatisfactory conduct, for which appropriate disciplinary measures may be imposed.

46. Staff members of the IOM shall not be engaged in any non-IOM related operational duties for the Court, nor engage in any activity that might give an appearance of jeopardizing their independence, such as membership in any body that requires election or nomination.

47. The IOM exercises full operational independence from the Court, and accordingly reports directly to the President of the Assembly.

48. The Head of the IOM shall be selected by the Bureau of the Assembly. The evaluation of the work performance of the Head of the IOM shall be undertaken by the President of the Assembly. The Head of the IOM may be removed only for cause and by the decision of the Bureau of the Assembly.

49. Notwithstanding paragraph 47, the IOM is nevertheless bound by the regulatory framework of the Court. For administrative purposes, therefore, the Head of the IOM shall follow the Court processes for approvals related to Human Resources, Budget and Finance, and Procurement, including requiring the approval of the Registrar for any action in these areas. However, the Registrar shall not use its discretion to deny any IOM request, provided that the proper administrative processes have been followed. Any disagreement between the Registrar and the Head of the IOM in this respect shall be resolved by the President of the Assembly, whose decision shall be final.

50. All staff members of the IOM are considered staff of the Court. As such, and unless otherwise inconsistent with the present mandate, their appointment, conditions of employment and standard of conduct must be in accordance with the Staff and Financial Regulations and Rules and relevant administrative issuances of the Court. Therefore, as part of the Court, the staff members of the IOM shall enjoy the same rights, duties, privileges and immunities, benefits of all staff members. The Registry shall facilitate any administrative arrangements.

51. Any allegation of unsatisfactory conduct by any staff member of the IOM shall be promptly reported to the Head of the IOM, who upon consultation with the President of the Assembly, will decide on the proper course of action.

52. Any allegation of unsatisfactory conduct by the Head of the IOM shall be reported to the President of the Assembly, who shall decide on the proper course of action.

53. Any investigation into the conduct of any staff member of the IOM should be carried out in accordance with the standards applicable to investigations of any other staff member of the Court.

54. Any disciplinary measure imposed on a staff member of the IOM should be imposed by the Registrar in consultation with the Head of the IOM. Any disciplinary measure against the Head of the IOM shall be made by the Bureau of the Assembly upon recommendation by the Registrar. Any disciplinary measure against any staff member of the IOM should be taken or recommended only following the disciplinary process of the Court, including the due process rights of the staff member of the IOM in question.