

## Resolution ICC-ASP/19/Res.7

Adopted at the 5<sup>th</sup> plenary meeting, on 18 December 2020, by consensus

### ICC-ASP/19/Res.7

#### Review of the International Criminal Court and the Rome Statute system

*The Assembly of States Parties,*

*Recognizing* the Court's central role and achievements in the fight against impunity at the international level, as the only permanent International Criminal Court, based on the principle of complementarity,

*Reiterating* the need for continuous improvement in the performance, efficiency and effectiveness of the Court's operations and *welcoming* the Court's efforts in this respect,

*Recalling* resolution ICC-ASP/18/Res.7 entitled Review of the International Criminal Court and the Rome Statute System and *reiterating* its commitment to a transparent, inclusive State-Party driven process for identifying and implementing measures to strengthen the Court and improve its performance, and *underlining* that, for such a process to be successful, it must involve all States Parties, the Court and other relevant stakeholders,

*Welcoming* the willingness of the Independent Experts to assist with the continuing review process in providing additional background information on their findings and recommendations, as appropriate and feasible,

*Taking note* of the fact that some issues identified by the Group of Independent Experts are already under active consideration by the Court or in the Bureau working groups, facilitations and other forums (hereinafter Assembly Mandates or Mandate holders), and that such work should continue and should be coordinated with the larger review process with a view to avoid duplication and benefit from synergies,

*Stressing* the statutory mandates of the Organs of the Court and of the Assembly of States Parties and that these independent mandates should inform the assessment of the recommendations of the Group of Independent Experts and possible further action, as appropriate, by the Court, the Assembly, or both depending on the nature and purpose of the individual recommendations, and the entity identified as responsible for implementation,

*Encouraging* the continued engagement of States Parties, the Court and other relevant stakeholders in an efficient and results oriented manner in the review process,

1. *Welcomes* the report and recommendations of the Independent Expert Review contained in the document entitled 'Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report', dated 30 September 2020<sup>1</sup>, and *takes note* of the diverse, thorough and extensive nature of the Expert Recommendations and the need to address them in a structured, holistic and results-oriented way, and of annex I of the final report identifying a number of proposed priorities;

2. *Welcomes* the work of the Bureau working groups including the facilitations on complementarity,<sup>2</sup> cooperation<sup>3</sup> and equitable geographical representation and gender balance,<sup>4</sup> as well as the Bureau focal points on non-cooperation<sup>5</sup> and the Study Group on Governance<sup>6</sup> as well as the work of other relevant facilitations as part of the review process<sup>7</sup> and *notes* the difficult and adverse working conditions caused by the COVID-19 pandemic in 2020;

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<sup>1</sup> ICC-ASP/19/16

<sup>2</sup> ICC-ASP/19/22.

<sup>3</sup> ICC-ASP/19/33.

<sup>4</sup> ICC-ASP/19/29.

<sup>5</sup> ICC-ASP/19/23.

<sup>6</sup> ICC-ASP/19/21.

<sup>7</sup> ICC-ASP/18/Res.7, annex I, appendix II, para. 5.

3. *Underlines* the need to continuously observe and safeguard the judicial and prosecutorial independence of the Court and the integrity of the Rome Statute throughout the review process as well as the need to ensure proper management oversight, good governance and administrative accountability throughout the prosecutorial and judicial activities, and to continuously take into account the mandate identified by the Independent Experts for each of the recommendations in the review process;

4. *Decides* to establish a Review Mechanism, under the auspices of the Assembly, led by two State Party Representatives dedicated to planning, coordinating, keeping track and regularly reporting to the Assembly Presidency and the Bureau on the assessment of the recommendations contained in the Report of the Group of Independent Experts and further action, as appropriate, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19, and in general in accordance with that resolution. The two State Party representatives will be supported by three ad-country Focal Points, to ensure equitable geographical representation. Gender balance should be ensured in the selection of representatives. All members of the Review Mechanism shall be appointed by the Bureau, after consultations with the regional groups, upon approval by all States Parties via silence procedure, as soon as possible and no later than 60 days after the adoption of the present resolution. The Review Mechanism shall specifically:

a) submit to the Bureau for consideration, through its working groups in collaboration with the Court Focal Points and in close consultation with all States Parties, relevant Assembly Mandate holders and civil society, a proposal for a categorization of the Independent Experts' recommendations and remaining review issues according to the entity responsible (the Assembly, the Court or both) for addressing the issue concerned by 30 April 2021; and

b) transmit to the Assembly in writing and submit to the Bureau, after finalization of the categorization of the Independent Experts' recommendations, in collaboration with the Court Focal Points and in close consultation with all States Parties and civil society, a proposal for a comprehensive action plan for the assessment of the recommendations of the Group of Independent Experts, including requirements for possible further action, as appropriate, by 30 June 2021. Such a proposed action plan shall include:

(i) An allocation of the recommendations to the Court or relevant Court Organ and to Assembly Mandates, as appropriate, for their consideration and possible further action, in coordination with the Court;

(ii) As regards recommendations directed to the Assembly or both the Court and the Assembly, an allocation to the relevant and appropriate Assembly Mandate or to the Review Mechanism, acting as a focal point for States Parties, where no relevant mandate exists;

(iii) A prioritization of the recommendations based on annex I of the final report of the Independent Experts, containing a summary of prioritized recommendations; and

(iv) Timelines for the consideration of the recommendations;

5. *Invites* the Court to designate Focal Points to engage and interface with the Review Mechanism in planning, coordinating, monitoring and reporting on the assessment of the recommendations contained in the Report of the Group of Independent Experts, and possible further action, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19 and coordinate the Court's own consideration of and possible further action thereon, and *requests* the Court Focal Points to submit to the Review Mechanism and to the

Bureau and all States Parties an overall response to the ‘Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report’, as well as a preliminary analysis of the recommendations contained therein and information on relevant activities already undertaken by the Court, by 31 March 2021;

6. *Requests* the Bureau to consider and adopt the categorization of recommendations referred to in operative paragraph 4, by 30 May 2021 and the Action Plan referred to in operative paragraph 4, by 30 July 2021;

7. *Requests* the relevant Assembly Mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations to commence implementation in 2021 and to submit to the Bureau the outcome of its consideration, including on action already taken and proposals for next steps, by 1 November 2021;

8. *Requests* the Court through its Focal Points to provide regular updates to the Review Mechanism on progress achieved, including on any impediments to progress identified, and to evaluate the progress in the assessment of the recommendations of the Group of Independent Experts and possible further action, and report to the Assembly ahead of its twentieth session;

9. *Requests* the Review Mechanism, in close coordination with the Court Focal Points and relevant Assembly Mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, ideally before 30 June 2021, and to submit a report on the review process to the Assembly well in advance of its twentieth session, on:

- a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;
- b) Progress in the work of the relevant Assembly Mandates on the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19; and
- c) Any other progress in the review process;

10. *Invites* the ASP Secretariat to assist the work of the Review Mechanism and *requests* the Bureau to invite the Registrar to consider making available to the ASP Secretariat necessary additional resources, to support the Review Mechanism, on its request, and within the existing budget, only when the Bureau is satisfied that the work of the Review Mechanism so requires; and

11. *Underlines* that the Review Mechanism shall work in an inclusive and transparent manner, consulting regularly with all States Parties, the three organs of the Court, civil society and other relevant stakeholders.