



Assembly of States Parties

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Nineteenth session, second resumption
New York, 12 February 2021

Annotated list of items included in the provisional agenda

Note by the Secretariat

The following annotated list of the items contained in the provisional agenda for the second resumption of the nineteenth session of the Assembly of States Parties (“the Assembly”) to the Rome Statute of the International Criminal Court (ICC-ASP/19/1 and Corr.1) has been prepared to assist the Assembly in its consideration of issues before it at its resumed nineteenth session.

The status of the documentation reflected herein is current as at 11 February 2021.

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly meets once a year in regular session. At the 9th meeting of the eighteenth session, on 6 December 2019, the Assembly decided to hold its nineteenth session in New York from 7 to 17 December 2020. On 1 and 23 October 2020, the Bureau took decisions to hold the nineteenth session in The Hague from 14 to 16 December 2020, and to tentatively hold the resumed nineteenth session in New York from 17 to 23 December 2020.

At the 4th plenary meeting of its nineteenth session, on 16 December 2020, the Assembly adopted resolution ICC-ASP/19/Res.5 by which it decided to “mandate the Bureau to consider the practicalities of holding a second resumption of the nineteenth session as soon as possible in the first two months of 2021 in New York, to enable the Assembly to conclude its consideration of the agenda items ‘Election of the Prosecutor’ and ‘Election of six judges’ which may remain open at the end of the resumption of the nineteenth session on 23 December 2020, including the timing and financial implications, and if appropriate to proceed with the convening of the second resumption;”.

At its 5th plenary meeting, on 18 December 2020, the Assembly decided to revert at a later stage to the election of the two Vice-Presidents and the appointment of the Rapporteur of the new Bureau. The Assembly will consider the aforementioned agenda items at a second resumption of the nineteenth session, to be held on 12 February 2021.

2. Silent prayer or meditation

Pursuant to rule 43 of the Rules of Procedure of the Assembly of States Parties, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

3. Adoption of the agenda

Rules 10 to 13 and 18 to 22 of the Rules of Procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the Rules of Procedure, the provisional agenda for the nineteenth session was issued on 9 January 2020. In accordance with rule 19 of the Rules of Procedure, the agenda shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Documentation

Provisional agenda (ICC-ASP/19/1 and Corr.1)

4. States in arrears

According to article 112, paragraph 8, of the Rome Statute, “A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.”

As at 11 February 2021, eleven States Parties were in principle subject to the provisions regarding voting rights in article 112, paragraph 8, of the Rome Statute.

No documentation

5. Credentials of representatives of States at the nineteenth session

(a) Appointment of the Credentials Committee

Rule 25 of the Rules of Procedure of the Assembly of States Parties, provides that a Credentials Committee shall be appointed at the beginning of each session. It shall consist of

representatives of nine States Parties, which shall be appointed by the Assembly on the proposal of the President.

(b) *Report of the Credentials Committee*

Representation and credentials are regulated by rules 23 to 28 of the Rules of Procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

6. Organization of work

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

7. Election of two Vice-Presidents and eighteen members of the Bureau for the twentieth to twenty-second sessions

At its 5th plenary meeting, on 18 December 2020, pursuant to article 112, paragraph 3 (a) of the Rome Statute and rule 29 of the Rules of Procedure of the Assembly of States Parties, the Assembly elected the President and members of the Bureau for the twentieth to twenty-second sessions. At the same meeting, the Assembly decided to revert at a later stage to the election of the two Vice-Presidents.

The Assembly will proceed to the election of the two Vice-Presidents of the Assembly for the twentieth to twenty-second sessions from among the Bureau members, on the basis of a recommendation of the Bureau.

On 5 February 2021, the Bureau decided to recommend that the Assembly elect the following persons as Vice-Presidents of the Assembly for the twentieth to twenty-second sessions:

- Ambassador Robert Keith Rae (Canada)
- Ambassador Kateřina Sequensová (Czech Republic)

No documentation

8. Election of the Prosecutor

In accordance with paragraph 28 of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, the procedures for the nomination of candidates for judges shall apply *mutatis mutandis* to the nomination of the Prosecutor. In addition, in accordance with paragraph 29 of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, nominations for the post of the Prosecutor should preferably be made with the support of multiple States Parties. In accordance with paragraph 33 of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6, every effort shall be made to elect the Prosecutor by consensus.

On 3 April 2019, the Bureau adopted the Terms of Reference for the Election of the Prosecutor,¹ which provided that the procedures for the nomination and election of the Prosecutor would be supplemented by the work of a Committee on the Election of the

¹ ICC-ASP/18/INF.2.

Prosecutor, assisted by a panel of experts. The Committee submitted its report² on 30 June 2020. On 13 November 2020 the Bureau adopted the “Election of the Prosecutor: Way forward”, which supplemented the process set out in the Terms of Reference. On 25 November 2020, pursuant to the “Way forward”, the Committee on the Election of the Prosecutor submitted an addendum to its report.³

On 30 June 2020, the Bureau decided to open the nomination period for the election of the Prosecutor in accordance with resolution ICC-ASP/1/Res.2 as amended by resolution ICC-ASP/3/Res.6. The nomination period was open between 1 July and 22 September 2020, and was extended until 22 October 2020, 22 November 2020, 13 December 2020, 18 December 2020, 18 January 2021, 5 February 2021, and Monday, 8 February 2021 at 12:00 noon and at 14:00 (Eastern Standard Time). On 8 February 2021, the Presidency informed States Parties that it had not been possible to achieve consensus. Accordingly, the Secretariat informed States Parties that the nomination period had been extended for a further period, until 12 midday on 10 February 2021 (Eastern Standard Time), in order to allow additional time for nominations for election.

In accordance with its decision contained in resolution ICC-ASP/19/Res.5, the Assembly will proceed to the election of the Prosecutor, under agenda item 14 of the agenda of the nineteenth session.

Documentation

Election of the Prosecutor of the International Criminal Court: Note by the Secretariat (ICC-ASP/19/19 and Add.1)

Election of the Prosecutor of the International Criminal Court: guide for the third election (ICC-ASP/19/37)

Report of the Committee on the Election of the Prosecutor (ICC-ASP/19/INF.2, Add.1, Add.2, Add.3 and Add.4)

9. Other matters

² ICC-ASP/19/INF.2, Add.1 and Add.2.

³ ICC-ASP/19/INF.2/Add.3 and Add.4.