



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Sixth meeting

8 September 2021

(via remote link)

Agenda and decisions

The meeting was chaired by the President of the Assembly, Ms. Silvia Fernández de Gurmendi (Argentina). The Vice-Presidents of the Assembly, Ambassador Robert Rae (Canada) and Ambassador Kateřina Sequensová (Czech Republic), also participated.

1. Review Mechanism: update

The President recalled that the Bureau had adopted the “Comprehensive action plan for the assessment of the recommendations of the Group of Independent Experts, including requirements for possible further action, as appropriate” on 28 July 2021.¹ She had held a meeting with the ASP mandate-holders, the Review Mechanism, and the Court focal points on 15 July to discuss the allocation of recommendations proposed in the Comprehensive Action Plan and coordinate the work moving forward.

A State Party representative on the Review Mechanism, Ambassador Michael Imran Kanu (Sierra Leone), briefed the Bureau on the work of the Review Mechanism, also on behalf of Ambassador Paul van den IJssel (Netherlands), who could not be present.

Since their briefing to the Bureau 7 July, Ambassador van den IJssel had briefed The Hague Working Group on 13 July and Ambassador Kanu had briefed the New York Working Group on 14 July 2021.

The Comprehensive action plan provided a roadmap for action by stakeholders before the implementation stage, and did not address the substance of the recommendations but set out the structure for future work. It indicated the allocation of the recommendations, their prioritization² and the timelines for their consideration. Additionally, the Review Mechanism had included the forum for discussion of the respective recommendations. It had assigned the recommendations to the existing platforms of the Assembly, had not created new platforms, and where no platform existed it had assigned that issue to itself.

The Mechanism had prioritized³ recommendation 48 on reinstating the structure of two Deputy Prosecutors; the working culture-related recommendations R87 and R88, and R129-

¹ Pursuant to resolution ICC-ASP/19/Res.7.

² Ibid.

³ On the basis of the recommendations that States Parties, the Court and other stakeholders had indicated were absolute priorities.

R130 on judicial collegiality and bullying; and recommendations 1-13 on unified governance, given the need to address them early and their potential implications for other recommendations.

The Review Mechanism had prepared a draft programme of work which set out the timelines for the consideration of the recommendations that it had allocated to itself. It would prepare a stand-alone resolution and a report on the review process for the consideration of the twentieth session of the Assembly.

The Review Mechanism would continue its work with respect for the principles of transparency and inclusivity which it has observed from the inception.

2. Preparations for the twentieth session

The Bureau was informed that the Secretariat of the Assembly continues with preparations continues for the twentieth session of the Assembly. Given the uncertainties of the ongoing coronavirus (COVID-19) pandemic and the need to reduce the risks to the health of delegates, ICC staff and other participants, the Secretariat of the Assembly suggested that the twentieth session be organized following similar pandemic related measures as at the nineteenth session.

a) Seating arrangements

In accordance with Assembly decision ICC-ASP/1/Decision.4, the President drew lots to determine the State Party that would occupy the first desk on the Assembly floor: Australia.

b) Programme of work

The Bureau agreed a programme of work for the twentieth session, dated 25 August 2021,⁴ on the understanding that it would be updated in the coming weeks and may also be subject to modification during the session itself to take account of developments and any needs which may arise.

c) General debate

The Bureau requested the President to inform States that the General debate would open on Monday, 6 December 2021 at 15:00 hours, that ministerial-level representatives would speak first, and that the General debate would continue during the morning and afternoon sessions of Tuesday, 7 December 2021. The General debate will conclude on Tuesday, 7 December 2021.

The Bureau decided that the list of speakers for the General debate would open on 25 October 2021 (Central European Time).

The Bureau further decided that given the challenges faced by the coronavirus (COVID-19) pandemic and experience from the nineteenth session, the alternative means of holding the General debate would include:

- (i) Pre-recorded statements: Time permitting, the pre-recorded statements would be played during the General debate plenary and posted on the website of the Assembly;
- (ii) In-person statements;

⁴ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/ASP20.ProvWP.pdf

- (iii) Written statements. Following the practice introduced at the eleventh session of the Assembly, the President invited States in a position to do so to submit written statements only, which would be then posted on the website of the Assembly.

- *Time limits*

The Bureau recommended, on the basis of rule 50 of the Rules of Procedure of the Assembly of States Parties and previous decisions of the Assembly, that the Assembly request speakers to observe a time limit of five minutes.

- *Participation of observers and non-governmental organizations*

On the basis of previous Assembly decisions, the Bureau recommended that the Assembly allocate 45 minutes for the participation in the General debate of observers pursuant to rule 92 of the Rules of Procedure of the Assembly.

The Bureau also recommended that 45 minutes be allocated to non-governmental organizations for the delivery of statements at the end of the general debate.

- d) *Elections*

- (i) *Deputy Prosecutor: update*

The President provided an update on the process for the election of the Deputy Prosecutor(s), which was scheduled for the twentieth session of the Assembly. She recalled that the first stage of the election process was within the hands of the Prosecutor himself. The vacancy announcement had been published on 7 July 2021, with an initial closing date of 11 August 2021. On 10 August 2021 the vacancy announcement was extended until 17 August 2021. The Prosecutor was responsible for reviewing the applications and undertaking interviews and background checks of the candidates, and he would then submit a shortlist of candidates to the Assembly. The Bureau would receive further updates on the election as the process continued. She also indicated that in parallel, the Review Mechanism would serve as the platform for discussion on IER recommendation 48, regarding the number of Deputy Prosecutors. That recommendation was allocated in the comprehensive action plan to the Office of the Prosecutor and the SGG.

A query was raised as to whether information was available on the number of applications received. A request was also made for information regarding the previous election of the Deputy Prosecutor, including any precedent on the decision concerning the number of positions. The point was made that a prior decision of the Bureau stated that “the Bureau noted that the decision on the number of Deputy Prosecutors lay with the Prosecutor.”⁵ and that this was a relevant and important precedent for application in the current context, whilst also noting the need for budgetary approval by the Assembly. The President noted that information could be compiled on the practice followed for the previous election in 2012. This could also be conveyed to States Parties for information ahead of their discussion of IER recommendation 48 at the Review Mechanism meeting of 13 September.

⁵ See the agenda and decisions of the Bureau of 31 January 2012, available at: https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2012-Bureau-6-D-31Jan2012.pdf.

(ii) *Status of nominations:*

Board of Directors of the Trust Fund for Victims

The Bureau took note that, at the close of the nomination period on 29 August 2021, the number of candidates remained less than the number of seats and not all regions had nominated a candidate. The Bureau had therefore extended the nomination period for a two weeks, until 12 September 2021, in accordance with its past practice. The President noted that since the extension of the nomination period, a State from the Asia-Pacific group had nominated a candidate.

Advisory Committee on Nominations of Judges

The Bureau took note that, at the close of the nomination period on 29 August 2021, the number of candidates remained less than the number of seats and not all regions had nominated a candidate. The President had therefore, pursuant to resolution ICC-ASP/1/Res.7, extended the nomination period for a period of two weeks until 12 September 2021.

The President noted that eight States had nominated candidates to the nine seats on the Committee and that all regional groups except one⁶ had nominated candidates.

e) Credentials Committee

The President recalled that according to rule 25 of the Rules of Procedure of the Assembly of States Parties, the Credentials Committee shall be composed of nine States Parties. She requested Bureau members to consult within their regional groups in order to identify States Parties willing to serve on the Committee. Regional groups or interested States should inform the Secretariat about their respective candidatures, preferably before the end of October 2021.

f) Nomination of national tellers

The President noted that it was necessary to appoint tellers to assist with the elections to be held during the twentieth session. Tellers should not be representatives of States Parties that had presented candidates for any of the elections. She requested Bureau members to consult within their respective regional groups and to inform the Secretariat of the name of the representative nominated as the national teller as soon as possible, but no later than 22 November 2021.

g) Nomination of a Rapporteur for the twentieth session

The President noted that it would be necessary for the Assembly to appoint an individual from one of the Bureau members to be Rapporteur for the twentieth session. The Rapporteur should be from one of the two regional groups not represented in the Presidency of the Assembly, i.e. the African group and the Asia-Pacific group, and should, as far as possible, also be available for the twenty-first and twenty-second sessions of the Assembly.

The President suggested that the two regional groups consult internally to try and agree on one nominee for the position, and inform the Secretariat preferably before the end of October.

⁶ The Eastern European group.

h) Guidelines of the Assembly: update

Building upon the recent experience and bearing in mind the challenges related to coronavirus (COVID-19) pandemic, the Bureau adopted “Guidelines for the preparation and conduct of the twentieth session of the Assembly” dated 3 September 2021 (annex I). The Bureau had approved a first set of guidelines on 15 November 2018.

i) Side events

The Bureau decided that given the restrictions related to coronavirus (COVID-19) pandemic, side events cannot take place in-person and should be held virtually as during the nineteenth session. Side events may be organized in the week of the Assembly session, from 6 to 11 December 2021, and should not overlap with the official meeting times of the Assembly in order to be reflected in the official Journal. Further details regarding organization of the virtual side events are reflected in the “Guidelines for the preparation and conduct of the twentieth session of the Assembly” (annex I).

In order to facilitate proper planning by the Secretariat, the Bureau requests States, observers and non-governmental organizations wishing tentatively to hold virtual side events during the twentieth session to submit their requests to the Secretariat by 8 November 2021, with a view to the preparation of a draft advance Journal for dissemination in the week of 8 November 2021.

3. Lessons learnt exercise of the Prosecutor’s selection process: update

The President provided an update on the lessons learnt exercise of the Prosecutor’s selection process. She recalled that, on 5 August 2021, the Bureau had received two of the reports which it had decided to request at its meeting on 13 May: the report of the former Presidency of the Assembly, dated 26 July 2021, and the report of the Committee on the Election of the Prosecutor, dated 31 July 2021. The President expected that the report of the Panel of Experts would be submitted in the coming days. As regards the way forward, once the Bureau had received all three reports, it could proceed to consider how to put in place an inclusive lessons learnt process, including who should be assigned the mandate and the parameters of that mandate. A paper would be prepared for consideration at the next meeting of the Bureau. The President noted that a group of States had also distributed a non-paper containing their own points of view regarding the lessons learnt.

The point was made that it would be important to move swiftly to appoint facilitators for the topic, in order to make progress while the experience was still recent. In this regard, it was noted that a concrete proposal for discussion at the next Bureau meeting would be welcomed, and that an interim report could be requested in advance of the twentieth session of the Assembly.

4. Status of contributions

The President provided an update regarding the status of contributions to the budget of the Court. As of 31 August 2021, the Court had received 78 per cent of the assessed contributions to the approved budget for 2021 (excluding the host State loan). The total amount of outstanding contributions, for 2021 and for prior years, stood at €63.3 million, compared to €64.2 million at the end of June. 72 States Parties had fully paid their contributions, compared to 66 at the end of June. A total of 28 States Parties had outstanding contributions of more than one year, and nine States Parties were subject to the provisions regarding the loss of voting rights in article 112, paragraph 8, of the Rome Statute.

The President noted that, while the figures again indicated some movement in the right direction, more efforts were needed as the Court approached a critical time in the year. The Presidency continued to deploy all efforts, in consultation with the Registry, to encourage States Parties that had not yet done so to make every effort to pay their assessed contributions as soon as possible.

5. Other matters

The President would travel to New York in the second half of September and would meet for the first time with New York-based delegations.

Annex I

BUREAU OF THE ASSEMBLY OF STATES PARTIES

Guidelines for the preparation and conduct of the twentieth session of the Assembly

Appendix

1. SIDE EVENTS

d) Virtual side events (in light of the COVID-19 measures that seek to diminish the risks to delegates and Court staff)

- The topic of the virtual side event should be clearly relevant to the work of the International Criminal Court/Assembly of States Parties;
- Virtual side events can be scheduled in advance of the Assembly as well as during the Assembly session. Nonetheless, they should not be organized during the official working hours of the Assembly (10:00-13:00 and 15:00-18:00) so as not to interfere with its work. Side events scheduled during those hours will not be included in the Journal of the Assembly.
- Virtual side events should be sponsored by a State Party. Side events not sponsored by a State Party will not be included in the Journal of the Assembly.
- Each organizer of a virtual side event will be required to organize its own event and use conferencing platforms they have available.
- Virtual side event organizers must provide the Secretariat with the name, date, time, time zone, sponsors of a side event, a contact point with an email address as well as connection details (link, meeting ID and password) to the event.

2. DOCUMENTS

a) Paperless

- The Secretariat shall apply paperless- approach endorsed by the Bureau as it continues its endeavours to increase the efficiency of meetings by providing delegations with electronic access to meeting programmes, agendas, documents, reports and statements, while at the same time reducing the carbon footprint and waste, as well as providing financial savings to States Parties.

- In this context, the Secretariat shall provide the documents for Bureau meetings and the meetings of its Hague and New York Working Groups as well as subsidiary bodies of the Assembly in digital format only. The President, the respective Vice-President, or chair of the respective subsidiary body may however, when deeming an exception to be necessary, authorize that a limited number of hardcopies be available at the meeting or at the plenary.

b) Reducing carbon emissions/ecological footprint

- Reports of the Assembly, its subsidiary bodies or reports of the Court to the Assembly should not exceed 16 pages with exceptions to be authorized by the President of the Assembly (for example annual budget and financial statements) or the chair of the respective subsidiary body.
- No hardcopies of the Assembly documentation nor documents of subsidiary bodies would be printed nor shipped at cost to the Assembly.
- All States Parties are encouraged 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 progress⁹.
- With regard to the sessions of the Assembly, all pre-session documentation will be posted on the website of the Assembly as an additional measure to decrease the need for printing services and in accordance with a “paperless” approach reflecting the trend in international organizations.

c) Distribution of documents, paper and statements

- Any document, paper or statement that representatives wish to circulate in the room can only be distributed by the Secretariat staff once the distribution is authorized by the presiding officer. In such cases, representatives are requested to provide 20 copies for distribution to the President, Rapporteur, Secretariat, and interpreters to the conference room officer.
- Written statements shall not be reproduced at the expense of the Assembly and shall not be issued as official documents.

d) Statements made before or after the adoption of resolutions

- The Secretariat shall reflect in the Official Records of the respective session the statement as delivered at the respective plenary meeting of the Assembly.

Annex II

Decisions taken by the Bureau via a silence procedure

1. Decision on the extension of the nomination period for the election of the members of the Advisory Committee on Nominations of Judges

On 29 August 2021, the Bureau approved the extension by the President of the nomination period for the presentation of candidates to the Advisory Committee on Nominations of Judges to run from 30 August to 12 September 2021.

⁹ ICC-ASP/14/Res.4, para. 65(e).

2. Decisions on the appointments to the Staff Pension Committee of the International Criminal Court, pursuant to ICC-ASP/3/Res.3.

- a) On 6 August 2021, the Bureau appointed Ms. Patricia Pérez-Galeana (Mexico) as a member of the Staff Pension Committee of the International Criminal Court for a two-year period.
- b) on 19 August 2021, the Bureau appointed Mr. Julian Silva (Colombia) as an alternate member of the Staff Pension Committee for a two-year period.

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