

**Twentieth session**

The Hague, 6-11 December 2021

**Report of the Court on Review of the International Criminal Court and the Rome Statute system****1. Introduction**

1. The report of the Court is submitted pursuant to paragraph 8 of resolution ICC-ASP/19/Res.7, of the Assembly of States Parties to the Rome Statute (“ASP” or “Assembly”) which provides as follows:

“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;*”

2. This report details the steps taken by the International Criminal Court (“ICC” or “Court”) in the context of the Review of the International Criminal Court and the Rome Statute system in 2021. The report also evaluates the progress achieved in the implementation and assessment of recommendations of the Group of Independent Experts and outlines issues for possible further action,

3. The Court wishes to highlight its continued commitment to One-Court principle when carrying the work, while mindful of the need to respect the distinct mandates of the organs. All activities detailed in the report have been subject to a close coordination and cooperation, wherever feasible.

4. The report builds upon and makes reference to the Court’s “Overall Response to the ‘Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report’”<sup>1</sup> and other documentation provided, as well multiple regular updates that have been regularly provided by the Court Focal points to the Review Mechanism and various relevant Assembly Mandates throughout 2021, pursuant to the same resolution.

**2. Written submissions by the Court**

5. The Court submitted its “Overall Response to the ‘Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report’” to the Review Mechanism, the Bureau and all States Parties on 14 April 2021, pursuant to paragraph 5 of Resolution ICC-ASP/19/Res.7. In that document the Court provided its preliminary analysis of the Independent experts’ recommendations and information on relevant activities already undertaken by the Court. The Court’s Overall Response, with the information contained in it, remains topical.

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<sup>1</sup> ICC-ASP/20/2.

6. The Review Mechanism made a call on 12 March 2021 to stakeholders to provide comments on categorization of IER recommendations and remaining review issues. The focus of this exercise was to categorise the recommendations by allocating them within the Court, Assembly or Assembly & Court for the purposes of assessment and consideration for future action. The Court, through its Focal Points, engaged with the Review Mechanism based on a Draft Categorization document by the Review Mechanism as well as the Court's draft proposal. The Court was largely in agreement with the draft proposal of the Review Mechanism on categorization, but there remained some differences of view. For transparency, the Court provided its comments in a document dated 19 April 2021, outlining the "recommendations for which the Court's view differs from that contained in the Review Mechanism's zero draft" and "Recommendations for which the Court's view on categorization does not differ from that in the RM's zero draft, but the Court wishes to provide comments on the way forward". The Review Mechanism published its final proposal on "Categorization of recommendations and remaining issues" on 30 April 2021, incorporating some of the Court's observations, and the document was adopted by the ASP Bureau on 31 May 2021.

7. The Review Mechanism consequently, in consultation with the Court, States Parties and civil society stakeholders, developed a Comprehensive Action Plan ("CAP") for the assessment of recommendations of the Group of Independent Experts and possible further action. The CAP categorised the recommendations; allocated them between the Court and ASP mandate holders for the purposes of assessment and consideration for future action; and set timelines for this process of review. The Court through its Focal Points engaged with the Review Mechanism on the comprehensive action plan, including its format. The Court notes with appreciation that the format proposed by the Court was adopted. The Court also provided two documents: Judiciary update to the Review Mechanism on Priorities and Timelines for assessment of recommendations, dated 11 June 2021, and a Matrix with the Court's comments, dated 15 June 2021. The Review Mechanism submitted the CAP to the Bureau on 30 June 2021 and the Bureau approved it on 28 July 2021.

### **3. Regular updates by the Court Focal Points on progress achieved**

8. The Court organs appointed their respective Focal Points for the Review Mechanism process: Mr. James Stewart, Deputy Prosecutor, Mr. Hiram Abtahi, Chef de Cabinet to the President, and Mr. Osvaldo Zavala Giler, Senior Special Assistant to the Registrar. They were supported in their work throughout the year by other Court staff based on the relevant expertise.

9. The Court's Focal Points, pursuant to resolution ICC-ASP/19/Res.7 and in accordance with the timelines set in the CAP, actively and productively engaged with the Review Mechanism and ASP mandate holders in a series of facilitations, involving the Court, States Parties and civil society stakeholders. These facilitations provided platforms for the assessment of recommendations and discussion on further action. The Focal Points reported in detail, through these platforms, on progress achieved in the assessment of recommendations within the Court, as well as further actions undertaken by the Court. This reporting is now reflected in the reports of the Review Mechanism and the Bureau which the Assembly mandate holders have submitted through the Bureau to the ASP. In the interest of efficiency to avoid duplication of reporting, but to ensure its completeness, the relevant Bureau reports are merely referenced in this report.

10. The Review Mechanism and Bureau reports containing the reporting by the Court Focal Points on the progress achieved by the Court in the assessment of recommendations, and activities already undertaken by the Court, are the following:

- a. Report of the Review Mechanism as the platform for discussion of IER recommendations, dated 1 November 2021,<sup>2</sup> paragraphs 4-30;
- b. Report of the Bureau on complementarity,<sup>3</sup> paragraphs 22-48;

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<sup>2</sup> ICC-ASP/20/38.

<sup>3</sup> ICC-ASP/20/22.

- c. Report of the Bureau on cooperation,<sup>4</sup> paragraph 24 and annex;
- d. Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court,<sup>5</sup> paragraphs 5-8;
- e. Report of the Bureau on legal aid,<sup>6</sup> paragraphs 5-26;
- f. Report of the Bureau on the Study Group on Governance,<sup>7</sup> paragraphs 10-106.
- g. Report on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism,<sup>8</sup> paragraphs 5-21;
- h. Report on the topic of Budget Management Oversight on the IER related recommendations,<sup>9</sup> paragraph 28

#### 4. Impediments to progress identified

11. While not strictly speaking impediments, important changes in the Court's leadership took place during 2021 impacting the timelines of the Court's engagement with the Review Mechanism. These were addressed through transparent and constructive communication with the Review Mechanism. Additionally, the sheer magnitude of the Independent Expert Report and its recommendations has created a significant additional workload for the Focal Points and the Court to manage, in addition to their normal duties. Nevertheless, the Court, through its Focal Points, has delivered on all requests of the review Mechanism hence contributing to this important work. The Court has managed the additional workload *inter alia* by focusing in 2021, where possible, on those recommendations that were considered actionable or that were already being addressed in the course of the normal implementation of its mandate.

#### 5. Evaluation of progress in 2021 and further steps in 2022 and beyond

12. The Court considers that good progress has been made in 2021 on the Review of the International Criminal Court and the Rome Statute System, in particular in the assessment of the recommendations as well as in the implementation of a number of recommendations that fall within Court's mandate.

13. The Court looks forward to making further progress in 2022, including through the implementation of the Comprehensive Action Plan, working in cooperation and consultation with the Review Mechanism and relevant Assembly mandates, with full adherence to Court's independent mandate.

14. Work will continue in particular with respect to a number of priority areas in line with the CAP, and the Court's Focal Points will continue to provide further updates, as appropriate, on the assessment of recommendations, as well as on the actions undertaken by the Court to strengthen the International Criminal Court and the Rome Statute system, with a view to improving the efficiency, effectiveness and impact of its operations. Similarly, the Court underlines the importance of making progress also in those recommendations that are addressed to the broader Rome Statute System, notably the Assembly, in strengthening the Court for the future.

15. The Court wishes to express its deep appreciation for the good cooperation and constructive engagement it has enjoyed throughout the year with the Review Mechanism, in particular Ambassador Paul van den Ijssel and Ambassador Michael Kanu, as well as the *ad country* focal points Bangladesh, Chile and Poland, and with all other relevant Assembly mandate holders.

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<sup>4</sup> ICC-ASP/20/25.

<sup>5</sup> ICC-ASP/20/29.

<sup>6</sup> ICC-ASP/20/39.

<sup>7</sup> ICC-ASP/20/21.

<sup>8</sup> ICC-ASP/20/24.

<sup>9</sup> ICC-ASP/20/31.