



## **BUREAU OF THE ASSEMBLY OF STATES PARTIES**

### **Second meeting**

9 March 2022

*(via remote link)*

*The meeting was chaired by the President of the Assembly, Ms. Silvia Fernández de Gurmendi (Argentina). Vice-Presidents Ambassador Bob Rae (Canada) and Ambassador Kateřina Sequensová (Czech Republic) also participated.<sup>1</sup>*

### Agenda and decisions

#### **1. Review Mechanism: update**

Ambassador Michael Imran Kanu (Sierra Leone), also on behalf of Ambassador Paul van der Ijssel (Netherlands), briefed the Bureau on the progress of the work of the Review Mechanism.

The Mechanism continued to function as the platform for the assessment of those recommendations it had assigned to itself. It would continue to focus on the areas identified in 2021 as priority issues, as well as those recommendations indicated in the Comprehensive Action Plan for assessment in the first half of 2022.

The Review Mechanism had held two meetings as the platform for assessment. At both meetings, some IER Experts, whose mandate ended on 30 September 2020, had participated in their personal capacity, in order to explain the rationale behind their recommendations. Their participation was welcomed by all stakeholders. The IER Chair, Mr. Richard Goldstone, and Experts from each of the three clusters attended.<sup>2</sup>

At the first meeting, the Review Mechanism had assessed R105 on “Tenure” and would hold another meeting to conclude the assessment. At the second meeting, the Review Mechanism continued its assessment of R1-R13 on ‘Unified governance’. The meeting discussed the conceptual issue of the incompatibility of the three-layered governance model with the Rome Statute,<sup>3</sup> and touched, on a preliminary basis, on some of the practical issues in

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<sup>1</sup> Germany, which started its mandate on the Bureau on 1 March 2022, participated

<sup>2</sup> ICC-ASP/18/Res.7, annex II: Governance; Judiciary; and Prosecution and Investigation.

<sup>3</sup> Indicated by the Court in its 14 April ‘Overall response’ to the IER recommendations: [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf)

that cluster of recommendations. The Review Mechanism would require one additional meeting to address the practical issues and hoped that the IER Experts would also participate.

The State Party representative reiterated that the meetings were not intended to re-litigate the IER Experts' recommendations but were an opportunity to understand better what had influenced their recommendations.

Ambassador Kanu presented an overview of upcoming meetings, including a meeting in March on R363 on ASP-Court relations, in which the President would participate. The Mechanism would also hold a series of roundtable discussions starting in the second half of May with a roundtable on 'Working culture', a topic that all stakeholders had identified as a priority issue.

The Review Mechanism would continue to be available to all mandate holders for discussions on any issues or any challenges that they may be face. It would also continue to meet regularly with the Court focal points, and had met with the Study Group on Governance to discuss unified governance recommendations, given similarity in mandates.

The Mechanism would continue to consult with all stakeholders in the interest of inclusiveness and transparency. It would also continue to regularly brief States Parties and all stakeholders on its work through briefings to the Bureau, the working groups, its reports, and through the Matrix,<sup>4</sup> which would be updated as necessary.

The President commended the Review Mechanism on the excellent start to its work and noted the great importance of the topics discussed in its meetings. She was especially pleased that some of the IER Experts had participated in the meetings in their personal capacity, and welcomed their availability to States Parties.

## **2. Lesson learnt on the election of the Prosecutor process: update**

The co-facilitators for the Lessons Learnt issue, Ambassador Alexander Marschik (Austria) and Ambassador Ksenija Milenković (Serbia), briefed the Bureau on their work so far and on the next steps.

The co-facilitators had held the first round of in-person consultations with States Parties in New York, as well as a number of bilateral talks with them. The comments received gave a good overview of how the process had been perceived and also a good insight into which topics States Parties felt were important and would like to have reflected in the report.

In addition, the co-facilitators had held talks with the former members of the Committee on the Election of the Prosecutor, Chair of the Panel of Experts and members of the previous Assembly Presidency. They had also met with representatives of civil society. After initial consultations with the Coalition for the International Criminal Court (CICC) ), it was decided that one virtual meeting will be held with representatives of civil society, instead of separate meetings in New York and The Hague.

As regards future meetings, in the first week of April, Ambassador Marschik would travel to The Hague where the facilitators would hold a second round of in-person consultations with States Parties. Both facilitators would also be available for bilateral meetings.

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<sup>4</sup> Report of the Review Mechanism submitted pursuant to ICC-ASP/19/Res.7, paragraph 9 (ICC-ASP/20/36, annex).

The co-facilitators invited States Parties that wished to take part in the group consultations but also bilaterally for more in-depth discussions, to write to them or to the Secretariat for the preparation of the program for the April meetings.

The President invited delegations to participate in the upcoming meetings. She also encouraged States Parties to respond to the questionnaire, dated 9 February 2022, before the deadline of 15 April, so that their views could be taken into account by the co-facilitators in the preparations of their final report. She welcomed the facilitators' efforts to consult with civil society, whose participation had been crucial throughout the process.

### **3. Election of the Registrar: update**

The President informed the Bureau that, further to its 2 February recommendation to the Presidency of the Court on the inclusion of text submitted by some States Parties<sup>5</sup> in the vacancy announcement for the position of Registrar, the Court had published the vacancy announcement on its website on 22 February 2022, with a deadline for applications of 1 May 2022. On the same date, the Secretariat had circulated the vacancy announcement to States Parties and requested them to disseminate it widely to qualified individuals.

The President noted that the text proposals of States Parties had been included in the vacancy announcement. She welcomed the consultations between the Court and States Parties on the preparation of the vacancy announcement as per the resolution,<sup>6</sup> and noted that States Parties' ability to contribute to the drafting of the vacancy announcement was a welcome step in improving the process and in ensuring a greater role for them. This was the result of States Parties' action on recommendation 76 of the IER Experts.

The President reminded States Parties to disseminate the vacancy announcement widely to qualified individuals within their own countries. She noted that candidates must apply via the Court's recruitment website as they were not candidates nominated by States Parties. She highlighted the importance of having as many good applications as possible, and noted that it was only when the Court received a greater number of qualified candidates from all regions that it would be in a better position to respond to States Parties' requests that it ensure greater diversity in the election of the Registrar.

As regards the public roundtables,<sup>7</sup> she reiterated her 2 February request to Bureau members to submit comments on improving the format of roundtables to the Secretariat by the end of May. The Bureau would consider the modalities of the roundtable discussions at a future meeting.

A view was expressed that, while the vacancy announcement had accommodated some of the suggestions of States Parties, the proposal on geographical representation had not been included. Support was expressed for the suggestion that geographical representation should be one of the criteria for selecting the new Registrar of the Court. Further, a query was made whether the vacancy announcement could be modified to accommodate this point, since equitable geographical representation was an important issue for many delegations and regions.

A representative of the Presidency of the Court explained that the Court had accommodated the comments submitted by the Bureau and that the language on geographical

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<sup>5</sup> The Bureau had proposed the inclusion of text on the public roundtable discussions with candidates; on an explicit reference to the criterion of "high moral character"; and on giving greater prominence to the reference to geographical representation and gender balance in the vacancy announcement.

<sup>6</sup> ICC-ASP/20/Res.4, Part II, para. 2.

<sup>7</sup> *Ibid.*, para. 5.

and gender representation was the standard text included in each vacancy announcement published by the Court. As regards the possibility of re-advertising the vacancy, on which Human Resources would first need to be consulted, he noted from past experience that this would require a new deadline.

The President reiterated her call to States Parties to disseminate the vacancy announcement widely and stressed that the Court needed as many applicants as possible to ensure this diversity in the final selection.

#### **4. Other matters**

##### *a) Commemoration of the twentieth anniversary of the entry into force of the Rome Statute*

The President would continue conversations with the President of the Court during her visit to The Hague in mid-March on the Court taking the lead on the 2022 commemoration, while the Assembly would do so for the commemoration in 2023 of the twenty-fifth anniversary of the adoption of the Rome Statute.

The President once more invited all States Parties to consider organizing events to mark the twentieth anniversary of the entry into force of the Rome Statute.<sup>8</sup> She invited States organizing such events to inform her and the Secretariat of their plans. The Secretariat had disseminated a message on 7 March 2022 informing all stakeholders that it had established a web page<sup>9</sup> containing information conveyed to it by States, intergovernmental organizations and civil society regarding the commemorative events. Further information on events could be sent to the email address<sup>10</sup> dedicated to the twentieth anniversary events.

The Republic of Korea, informed the Bureau that, together with the Netherlands, as the co-focal points for universality, they were planning an event in Brussels in early June to commemorate the twentieth anniversary. As the Embassies of 21 non-States Parties were based in Brussels, it would provide a suitable opportunity to encourage greater participation in the Rome Statute. The leadership of the Court would be speakers at the event. The President welcomed such an event in Brussels, as many States Parties were represented there.

The delegation of Germany informed the Bureau that Germany and Sweden would hold a hybrid event on 7 April titled “Almost 20 years of complementarity: how does it work in practice?”, which would take place at the Court. Speakers on the panel would include the ICC Prosecutor, as well as the Director-General of the each country’s Foreign Ministry and a national prosecutor of each country. The President welcomed this information and noted that complementarity was a key topic for the Court and the Assembly.

##### *b) Status of contributions*

The President informed the Bureau that, as at 28 February 2022, the Court had received 54.6 per cent of the assessed contributions to the approved budget for 2022. The total amount of outstanding contributions, for 2022 and for prior years, stood at €103.4 million. A total of 34 States Parties had outstanding contributions of more than one year, and 13 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute.

She expressed appreciation to States that had recently paid their assessed contributions, including those States Parties in arrears that were also making efforts to pay their outstanding

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<sup>8</sup> On 1 July 2022.

<sup>9</sup> [https://asp.icc-cpi.int/en\\_menus/asp/asp%20events/20a-Entry%20Force/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/asp%20events/20a-Entry%20Force/Pages/default.aspx)

<sup>10</sup> 20th.Info@icc-cpi.int

contributions. She encouraged States Parties to make every effort to pay their assessed contributions as soon as possible to enable Court to accomplish its important mandate.

*c) Appointment of mandate holders of the New York Working Group*

The Bureau appointed the mandate-holders of the New York Working Group and the Working Group on Amendments, on the basis of the 4 March 2022 recommendation of the New York Working Group (annex).

*d) Activities of the President*

The President informed the Bureau of her activities since the last Bureau

In Washington D.C., she had met with representatives of State Parties, civil society and the State Department. She had met with Ms. Uzra Zeya, Under Secretary of State for Civilian Security, Democracy and Human Rights of the US Department of State as well as officials of the Legal Department and discussed, inter alia, the US-ICC/ASP relationship, and ways of realizing concrete cooperation. She had also participated in a hybrid roundtable discussion organized by the CICC and the Washington ICC Working Group of NGOs.

In New York, she had met with the co-facilitator of the lessons learnt process, with the facilitators of the New York Working Group, as well as with the State Party Representative on the Review Mechanism, Ambassador Michael Kanu (Sierra Leone). She had attended the third meeting of the New York Working Group, and engaged in bilateral and group meetings.

A delegation highlighted the importance of the issue of workplace culture and staff wellbeing. It was posited that, although the issue was on the agenda on the Review Mechanism, it required attention independently of the review process. It was acknowledged that measures were being undertaken by the Court and processes were on-going in that regard, and it was suggested that the different offices of the Court inform States of the state of play of those processes and surveys and the outcomes thereof. It was also proposed that the issue be included as an item on the agenda of the Bureau.

The President agreed that it was an important issue and the Presidency would look into its inclusion on the agenda.

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## **Annex**

### **Appointment of the mandate holders of the New York Working Group and the Working Group on Amendments**

The Bureau made the following appointments:

#### **Facilitators**

*a) Arrears*

- H.E. Mr. Rodrigo Alberto Carazo Zeledón (Costa Rica), Ambassador and Permanent Representative

*b) Geographical representation and gender balance in the recruitment of staff of the Court*

- Mr. Taeun Choi (Republic of Korea)

- c) *Review of the procedure for the nomination and election of judges*
  - Mr. Matúš Košuth (Slovakia)

**Ad country focal points**

- a) *Non-Cooperation*
  - Argentina
  - Côte d'Ivoire
  - Ireland
  - Romania
  - Timor-Leste

**Focal point of the Bureau**

- a) *Scheduling of Assembly sessions*
  - Ms. Maitê de Souza Schmitz (Brazil)

**Working Group on Amendments<sup>11</sup>**

**Chair**

- Ambassador Juan Gómez Robledo Verduzco (Mexico)

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<sup>11</sup> The Working Group on Amendments is a subsidiary body of the Assembly (see resolution ICC-ASP/8/Res.6, para. 4.) The Chair is appointed by the Bureau on an annual basis.