



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Sixth meeting

13 July 2022

(via remote link)

Agenda and decisions

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

1. Review Mechanism: update

Ambassador Michael Kanu (Sierra Leone), a State Party representative on the Review Mechanism, also on behalf of Ambassador Paul van den IJssel (Netherlands), briefed the Bureau on the work of the Review Mechanism.

Since the Review Mechanism's 8 June briefing to the Bureau, Ambassador van den IJssel had briefed The Hague Working Group on 21 June and Ambassador Kanu would brief the New York Working Group at a future meeting.

The Review Mechanism had held two additional meetings as the platform for discussion. On 13 June, it held a second meeting on the recommendations on the Trust Fund for Victims,¹ in particular R354 and R358. The Chair of the Board of Directors of the Trust Fund for Victims, Ms. Minerva Josefina Tavárez Mirabal, a member of the Board, Mr. Sheikh Mohamed Belal, and the Executive Director of the Secretariat of the Trust Fund for Victims participated. After assessing recommendations R354 and R358 further, States Parties were of the view that there would be no benefit in implementing them. They welcomed the steps that the Secretariat of the Trust Fund had already taken in response to the IER recommendations, including an action plan and the intention to seek further efficiencies between the Trust Fund and the Registry. Further, it was important for the Court and the Trust Fund to function separately from each other. While the recommendations were negatively assessed, the Review Mechanism indicated that the governance and practical issues identified by the IER Experts would require further consideration in an appropriate forum to be decided by the Bureau and the Assembly.

On 27 June, the Review Mechanism held a second meeting on R105, "Tenure",² to continue the assessment of R105, in light of the report of the Committee on Budget and Finance³. The recommendation was assessed positively by the Court and by States Parties. The Staff Union Council was not convinced that the policy would achieve its intended purposes, and encouraged the Court to consider other options such as mobility, both vertical and lateral, internal and external; and that it should become more integrated into the United

¹ The first meeting had been held on 22 October 2021.

² Further to its initial 28 February 2022 meeting on this recommendation.

³ Report of the Committee on Budget and Finance on the work of its thirty-eighth session (ICC-ASP/21/5).

Nations Common System in order to encourage the external mobility of all staff, in particular, staff at P5 level and above who were at the end of their service. As the recommendation had been positively assessed by the Court and States Parties, the Review Mechanism recommended to the Registry and the Bureau to prepare a proposal on the principle of implementation of the tenure policy at the Court, for the consideration of States Parties at the twenty-first session of the Assembly. A more detailed proposal, while addressing also the concerns and financial implications of a tenure policy, should be developed for approval by the twenty-second session of the Assembly.

On 23 June, the Mechanism held the first roundtable, dedicated to working culture. There was a fruitful discussion at which the Court briefed participants on the implementation of the recommendations on working culture,⁴ and the Staff Union Council as well as the Focal Point for Gender Equality presented their views.

As with all meetings held in 2022, the Chair of the IER Experts, Mr. Richard Goldstone, and some members of the Group of Independent Experts participated in their personal capacity.

As per the mandate of resolution ICC-ASP/20/Res.3, the Review Mechanism had submitted its report to the Assembly on the overall progress of its work on 30 June 2022. It was of finalizing updates to the Matrix on “Progress in the assessment of the IER recommendations”, to be based on the reports of the respective facilitations, and would circulate it in the coming days. The Mechanism would also share its work programme for the second semester of 2022, which would cover the recommendations allocated for the second half of 2022. It would also hold additional roundtables which would be an opportunity for discussion of the implementation of some of the recommendations that have been positively assessed.

The Mechanism continued to consult with all stakeholders, in the interest of inclusiveness and transparency, and invited States Parties and all stakeholders to approach the members if they wished to raise any issues or discuss any points relating to the Mechanism’s work.

2. IER recommendation 169: consideration with a view to adoption of revised proposal

The President recalled that, since the 8 June 2022 meeting of the Bureau, there had been further consultations in New York and in The Hague on the draft proposal prepared by the Presidency. The revised proposal, dated 8 July 2022, which was before the Bureau, took into account to the extent possible the views expressed during those consultations, including two additional latest changes incorporated in tracked changes after the 6 July New York Working Group meeting. The President understood that some delegations needed additional time to consider the text, in particular in light of the two new changes.

The President proposed that the Bureau discuss the proposal but delay adoption until it had listened to all concerns and ensured broad agreement for the text, which was very important for the entire Assembly.

After a brief discussion, the President noted that the proposal had broad agreement in the Bureau. The Presidency would reach out ensure that there was full understanding and full agreement on the text outside the Bureau. She proposed that the Bureau agree the text via a silence procedure, ideally before the end of July.

⁴ IER recommendations R14, R15, R87, R129 and R130.

Further, the President indicated that at a meeting of the New York Working Group, there had been a proposal to develop a compilation of good practices to counter attacks against the Court, which would take stock of past experiences. This compilation could be developed at a later stage, after the adoption of the proposal on R169. It would be a record of what the Assembly had experienced.

The President would, in due course, request delegations to submit their ideas on the compilation to the Secretariat.

3. Lessons learnt: update

A co-facilitator for the Lessons learnt exercise, Ambassador Ksenija Milenković (Serbia), also on behalf of Ambassador Alexander Marschik (Austria), informed the Bureau that since their last update to the Bureau on 19 May, after they had received replies to the questionnaire, the co-facilitators had begun analyzing the replies to the questionnaire and compiling them. They also took into account the views expressed in the two rounds of in-person consultations with States Parties in New York and The Hague, on-line consultations with NGOs, bilateral discussions with interested States, and discussions with other relevant actors.

An Assistant had been engaged by the Secretariat and according to the Terms of Reference, was acting in a technical role, i.e. compiling and analyzing the replies received, and other written material, including the reports that had been provided to the co-facilitators,

The co-facilitators had met in The Hague to initiate the drafting exercise and expected the report to be made available to the Bureau at the end of September, according to the timeline indicated to the Bureau.

The President thanked the co-facilitators for their work and welcomed the fact that they now had the support of the external assistant since there was a lot of material for them to compile and process.

The Bureau would return to this item at a later date.

4. Other matters

a) Status of contributions

The Bureau took note that, as at 30 June 2022, the Court had received 90 per cent of the assessed contributions to the approved budget for 2022. The total amount of outstanding contributions for prior years, stood at €31,753,252million. A total of 16 States Parties had outstanding contributions of more than one year, and 12 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute.

The Bureau encouraged those States Parties that had not yet paid their contributions to 2022 budget of the Court and those that were in arrears, to make every effort to pay their assessed contributions as soon as possible.

b) Commemoration of the twentieth anniversary of the entry into force of the Rome Statute

The United Kingdom informed the Bureau of an event planned for 19 July. Information on the event would be circulated in due course.

Ecuador informed the Bureau of a 27 June high-level panel that had been held to mark the twentieth anniversary, organized by the Latin American and Caribbean States in The Hague.

The Republic of Korea informed the Bureau of an event that had been organized in Seoul, in which former Assembly President Mr. O-Gon Kwon, former judge of the Court Judge Sang-Hyun Song, and many lawyers had participated.

The President thanked States Parties for the initiatives which they were undertaking to mark this important anniversary in the life of the Court. She invited States and stakeholders that were planning events to consult the webpage of the Assembly⁵ in order to avoid simultaneous events, and to send the information to the Secretariat so that it may be posted on the webpage of the Assembly.

President's participation in twentieth anniversary events

On 1 July, the President had participated in the full day event organized by the Presidency of the Court in The Hague, titled "International Criminal Court at 20: Reflections on the Past, Present and the Future".

On 11 July, she had participated in an event at United Nations Headquarters, New York, titled "The International Criminal Court at 20: Reflections on the Past and vision for the future", which was sponsored by Argentina, Canada, Liechtenstein, the Republic of Korea, Romania and Sierra Leone. She thanked all the organizers and delegations that had attended the event. She expressed the view that the large participation demonstrated a renewed interest in accountability and the work of the ICC.

Day of International Criminal Justice

The President recalled that on 17 July, the international community would celebrate the Day of International Criminal Justice. She invited States Parties to continue, if possible, the tradition of flying the ICC flag during that weekend respective Embassies, UN Missions or capitals and to consider issuing statements recalling the importance of the fight against impunity in general and support for the Court in particular. She also hoped that NGOs would be able to mark this day.

c) Opening of the nomination period for election of members of the Committee on Budget and Finance

The Bureau took note that, further to its 23 June decision to open the nomination period for the presentation of candidates for the election of six members of the Committee on Budget and Finance at the twenty-first session of the Assembly, to run from 24 June to 15 September 2022 (Central European Time), nominations received by the Secretariat would be posted on the webpage of the Assembly.⁶

d) Election of the Registrar

(i) Public roundtables

The President informed the Bureau that the public roundtables⁷ with candidates for the post of Registrar were tentatively planned for 11 and 12 October. The precise time and

⁵ <https://asp.icc-cpi.int/asp-events/20a-Entry-Force>

⁶ <https://asp.icc-cpi.int/elections/committee-on-budget-and-finance/2022/2022-CBF-Nomination>

⁷ ICC-ASP/3/Res.4, part II, para.5.

duration would be announced at a later date, but in principle the roundtables would take place as of 15:00 hours The Hague time, and would be streamed, to allow a wide audience in the Western Hemisphere to follow. Arrangements would be made for interpretation.

As had been the case for the roundtables for the candidates for Deputy Prosecutors, the roundtables for the candidates for Registrar would be co-moderated by Vice-President Kateřina Sequensová and a representative of civil society. States Parties would be invited to submit questions in writing for the candidates. The Bureau would await further details on the roundtables from The Hague Working Group.

(ii) *Due diligence*

Following the Bureau's 8 June 2022 adoption of the "Proposal by the Presidency on due diligence process for candidates for Registrar agreed by the Bureau of the Assembly", the Head of the Independent Oversight Mechanism, together with the Secretariat, would prepare the text to disseminate information on the confidential channel for the submission of allegations against the candidates, if any.

(iii) *Recommendations concerning the election of the Registrar*

The President recalled the mandate of the Assembly to The Hague Working Group,⁸ and indicated that, according to past practice, the Hague Working Group would hold consultations in the second semester, having received the shortlist of candidates, in order to prepare a draft recommendation to be submitted for the consideration of the Assembly at its twenty-first session. The Bureau would await information from the working group on the progress, as there were additional factors to be considered this year, such as the public roundtables.

(iv) *Note by the Secretariat on the Election of the Registrar*

The Bureau took note that, on 8 July 2022, the Secretariat had issued a Note by the Secretariat titled "Election of the Registrar of the International Criminal Court" which contained the 17 June letter from ICC President Piotr Hofmański by which he had submitted the shortlist of candidates, the statistics on the selection of candidates, as well as the CVs and other supporting documents submitted by the candidates. This note was posted on the webpage of the Assembly,⁹ together with the relevant information for the more recent elections.

e) *IOM Evaluation report*

The President recalled the Bureau's 24 November 2021 request to the Independent Oversight Mechanism to conduct an evaluation of the theme "*Evaluation of the workplace culture in the Judicial Divisions (Chambers) of the International Criminal Court*", which had been requested by the President of the Court. The IOM's evaluation report, dated 30 June 2022, had been circulated to all States Parties, the Court and NGOs. It related to some areas identified by the IER Experts in their 2020 report and in the 2018 Staff Engagement Survey.

The Bureau took note of the evaluation report and would return to this item when the ICC Presidency was in a position to brief the Bureau on measures taken on the basis of the recommendations of the report.

⁸ Ibid., para. 6: "Requests the Bureau, through The Hague Working Group, to consider facilitating public roundtable discussions with the candidates in the list transmitted by the President of the Court open to States Parties and civil society and conducted in both working languages of the Court;"

⁹ ICC-ASP/21/2 available at: <https://asp.icc-cpi.int/elections/Regsitrar/ER2022>

f) Next meeting of the Bureau

The next meeting of the Bureau, which would consider organizational matters for the twenty-first session, was tentatively scheduled for 7 September.

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