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Report of the Judicial Remuneration Panel

I. Introduction

1. This report of the Judicial Remuneration Panel (“the Panel”) is submitted to the Bureau of the Assembly of States Parties pursuant to the mandate set out in the Terms of Reference for the Review of the Judges’ Remuneration (“Terms of Reference”) adopted by the Assembly at its eighteenth session in December 2019.¹

2. The Assembly established the Panel to facilitate its consideration of possible adjustments to the remuneration of the judges of the International Criminal Court, in accordance with article 49 of the Rome Statute.² In 2022, the Panel was composed of: Vice-President and Coordinator of The Hague Working Group, Ambassador Katerina Sequensova (Czech Republic); facilitator for the budget, Ambassador Frances-Galatia Lanitou Williams (Cyprus); and Mr. Peter Lovell (United Kingdom), a former member of the Committee on Budget and Finance.³ At its meeting on 20 June 2022 the Panel decided to designate Ambassador Sequensova as its Chair.

3. The Panel met on 20 June 2022. The meeting took place by remote link.

II. Mandate of the Panel

4. As set out in the Terms of Reference,⁴ the Panel is mandated *inter alia* to submit a report in 2022 and thereafter on a triennial basis containing a recommendation for possible adjustment of the remuneration of the judges of the International Criminal Court. In making that recommendation the Panel shall, in particular, take into account:⁵

- a) The ability of the Court to attract highly qualified candidates to the position as judges;
- b) The cost of living in the Netherlands; and
- c) The financial situation of the Court.

¹ Resolution ICC-ASP/18/Res.2, annex I. The Panel was requested to report by the end of May, however the complications caused by the COVID-19 pandemic prevented the Panel from meeting this timeline.

² ICC-ASP/18/Res.2, annex I, para. 1.

³ According to paragraph 1 of the Terms of Reference, the Panel shall consist of the Vice-President and Coordinator of The Hague Working Group, the facilitator on the budget, and one outgoing or former member of the Committee on Budget and Finance, to be appointed by the Bureau. Ambassador Sequensova was elected as Vice-President of the Assembly at the second resumption of its nineteenth session in February 2021. Ambassador Lanitou Williams was re-appointed by the Bureau as facilitator for the budget on 22 February 2022. Mr. Lovell was appointed by the Bureau as a member of the Panel on 26 February 2020.

⁴ Resolution ICC-ASP/18/Res.2, annex I, para. 2.

⁵ Resolution ICC-ASP/18/Res.2, annex I, para. 5.

III. Deliberations

5. The Panel recalled that the first mandatory criterion listed in the Terms of Reference was the ability of the Court to attract highly qualified candidates to the position as judges of the Court. The inclusion of this criterion required the Panel to consider whether the remuneration package was sufficient to attract candidates who meet the criteria set out in article 36 of the Rome Statute. The Panel has also reviewed the records of recent elections and noted that in all cases there were more candidates for election than positions available.

6. The second mandatory criterion set out in the Terms of Reference was the cost of living in the Netherlands, which however was a factor automatically taken into consideration in the United Nations Common System (UNCS) packages for remuneration paid to staff members of the Court and other elected officials.

7. The third mandatory criterion set out in the Terms of Reference was the financial situation of the Court.

8. The Panel recalled its prior view that with the decision of the Assembly to move to a sustainable structure for the remuneration package as a whole, i.e. replacing the conditions of service and compensation of full-time judges with those of the Under-Secretary General of the UNCS, including participation in the United Nations Joint Staff Pension Fund (UNJSPF), there were a number of short, medium and long-term benefits of such a package for the Court, the Assembly, and the judges. Via resolution ICC-ASP/19/Res.3 the Assembly had provided an attractive package to well-motivated judicial candidates, taking into account the financial situation of the Court. Specifically, the package:

- a) addressed the issue of no formal cost of living mechanism by linking the remuneration to the most appropriate index;
- b) offered future judicial candidates a universally recognized terms and conditions package;
- c) provided a sustainable package that would reduce the need for the Assembly to re-consider the issue in the future;
- d) provided a significantly better pension for the judges, which was more cost effective, easier for the Court to manage, and removed the risk of there being no suitable pension scheme provider in the future;
- e) provided all judges with a comprehensive level of healthcare; and
- f) at 2020 values, had been broadly cost neutral.

IV. Recommendations

9. Based on its deliberations, the Panel decided to make the following recommendations:

- a) That the Assembly decide that the mandate of the Panel has been completed and therefore there is no need for any subsequent report from the Panel to the Bureau with a recommendation for a possible adjustment of the remuneration of the judges of the Court; and
- b) That the Assembly decide to abolish the Panel and revoke the Terms of Reference accordingly.

10. Should the Assembly wish to adopt the above recommendations, the annex contains the text for inclusion in the draft resolution on the budget prepared by the Panel in consultation with the Registry.

Annex

Draft paragraphs on the remuneration of judges of the International Criminal Court for inclusion in the budget resolution

The Assembly of States Parties,

Recalling its resolution ICC-ASP/18/Res.2, by which it adopted the Terms of Reference for the Review of the Judges' Remuneration (Terms of Reference),¹ and resolution ICC-ASP/19/Res.3, by which it amended the conditions of service and compensation of full-time and non-full-time judges² of the International Criminal Court, including the allowances as set out in the annexes to resolution ICC-ASP/19/Res.3,

Noting that the new conditions of service and compensation for full-time judges and non-full-time judges entered into force on 11 March 2021, and that all the sitting judges opted, for the remainder of their terms of office, to be subject to the new conditions of service and compensation as amended by resolution ICC-ASP/19/Res.3,³

Recalling also that all judges elected during the nineteenth session of the Assembly, and subsequent sessions, are subject during their terms of office exclusively to the new conditions of service and compensation as amended by resolution ICC-ASP/19/Res.3,⁴

Welcoming that the Court adopted the necessary transitional measures, including to ensure compliance with article 49 of the Rome Statute of the International Criminal Court, in relation to the sitting judges who opted for the new conditions of service and compensation, and also made any necessary operational arrangements, in consultation with those sitting judges, for their transition to the new conditions of service and compensation as of 11 March 2021,⁵

Welcoming the report of the Judicial Remuneration Panel⁶ (Panel) submitted to the Bureau of the Assembly of States Parties in accordance with the Terms of Reference,

Bearing in mind the recommendations⁷ of the Panel,

1. *Decides* that the mandate of the Panel has completed and therefore there is no need for any subsequent report from the Panel to the Bureau with a recommendation for a possible adjustment of the remuneration of the judges of the Court; and
2. *Decides also* to abolish the Panel and to revoke the Terms of Reference accordingly.

¹ Resolution ICC-ASP/18/Res.2, annex I.

² As adopted by the Assembly in resolution ICC-ASP/3/Res.3 and amended by resolution ICC-ASP/6/Res.6 and resolution ICC-ASP/18/Res.2.

³ Resolution ICC-ASP/19/Res.3, para. 4.

⁴ Resolution ICC-ASP/19/Res.3, para. 5.

⁵ Resolution ICC-ASP/19/Res.3, paras. 6 and 7.

⁶ ICC-ASP/21/....

⁷ ICC-ASP/21/..., para.