



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Eighth meeting**

**19 October 2022**

*(via Zoom)*

Agenda and decisions

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

**1. Review Mechanism: update**

A State Party representative on the Review Mechanism, Ambassador Michael Kanu (Sierra Leone), also on behalf of Ambassador Paul van den IJssel (Netherlands), informed the Bureau that, since the last Review Mechanism's briefing to the Bureau on 7 September, they had briefed the 15 September meeting of The Hague Working Group.

Following the submission of the report on the overall progress of its work<sup>1</sup> and the updated Matrix on "Progress in the assessment of the IER recommendations", on 30 June 2022, the Review Mechanism circulated on 7 September its work programme for the second semester. Ambassador Kanu reiterated that the Matrix was a living document that would be updated to include the progress made in the coming months. The Mechanism aimed to complete consideration of the majority of recommendations by the end of the second semester, and would continue work on any remaining recommendations in 2023.

Ambassador Kanu indicated that during the last weeks the Mechanism had been coordinating with the Court focal points with regard to the remaining meetings before the end of the year. He clarified that for efficiency reasons, and upon consultations with the Court focal points, the Review Mechanism had decided to merge the agendas of the two meetings relating to victims' issues indicated in the work programme. He noted that the next planned meeting, to be held on 24 October, would be assessing victim participation (R336 to R341) and victims reparations and assistance (R342-R349 and R351).

The Mechanism invited States Parties and all stakeholders to approach the members should they wish to raise any issues or discuss any points relating to its work.

The Bureau took note of the progress of the work of the Review Mechanism.

---

<sup>1</sup> In accordance with resolution ICC-ASP/20/Res.3, para. 11.

## **2. Lessons learnt: Presentation of the report**

Ambassador Alexander Marschik (Austria) and Ambassador Ksenija Milenković (Serbia), co-facilitators of the lessons learnt process on the election of the Prosecutor, presented their report to the Bureau.<sup>2</sup>

Consistent with their mandate, the co-facilitators had examined ways to strengthen the election process by conducting inclusive consultations with States Parties, NGOs and key individuals involved in the process, aiming to present a forward-looking report which could have added value for future processes. The report reflected the consultations held, as well as the response to the questionnaire that had been sent out. The report was structured around thematic issues raised during and after the election process, as well as during the consultations, that were deemed particularly relevant, such as: the normative framework; the temporal aspect of the process; consensus-building; and due diligence. The information received on those issues was reflected as transparently and conclusively as possible, reflecting the general views. In this regard, the co-facilitators noted that quantitative references in the report referred to the number of comments received during the consultations and did not reflect absolute numbers of States Parties.

In chapter three of the report, the facilitators had attempted to present a non-exhaustive set of points that could be borne in mind for future election processes, including issues such as: adherence to a process once it has been agreed to; having a specific normative document in regard to the process, established well in advance, in a transparent, open and inclusive manner; a shortlist of candidates resulting from a merit-based assessment; enough time to enable a thorough search for potential candidates; a clearly defined timetable set out well in advance including considerations for the consensus-finding process and clear provisions for a situation where establishment of consensus might fail; that due diligence of some sort needed to be conducted, be it via a permanent vetting mechanism or on an ad hoc basis, while balancing between sufficient transparency and confidentiality to protect privacy needs; the need to fully inform the candidates about all aspects of the process and what is expected from them; the need to avoid politicization in order to provide the successful candidate with additional legitimacy; a clearly structured consensus-building mechanism and an advance agreement on the expectations, goals and strict timelines.

Vetting was highlighted as an issue that stood out, and it was noted in this regard that some of the lessons had already been learnt as seen by the action taken by the Assembly with regard to the due diligence process for the Deputy Prosecutor and Registrar elections.

The facilitators thanked all stakeholders, including States Parties, NGOs and key individuals involved in the process for their valuable input.

The Bureau took note of the report. The President welcomed the fact that the co-facilitators would introduce their report and its findings to the New York and Hague working groups.

## **3. Twenty-first session of the Assembly: Update on preparations**

### *a) Updated work programme*

The Bureau agreed on the modified programme of work for the twenty-first session<sup>3</sup>, on the understanding that that it would be updated in the coming weeks and was subject to modification during the session depending on the progress on different agenda items.

---

<sup>2</sup> ICC-ASP/21/16

<sup>3</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-10/ASP21.ProvWP.pdf>

*b) Preparations for the twenty-first session*

The President informed the Bureau that the Ministry of Foreign Affairs of the Netherlands has indicated that as of mid-September 2022 there were no longer any COVID-19 related measures and that it would revert to the Secretariat in the event changes occur.

Therefore, the Bureau agreed to proceed with the organization of the twenty-first session as in the pre-COVID-19 times. Each State Party would have four designated seats, two at the desk with a microphone and two seats directly behind. Observer States and invited States would be seated in alphabetical order behind the States Parties with one person at the desk with the microphone and one seat directly behind. International/Intergovernmental organizations, representatives from the Court, and non-governmental organizations will be seated in designated areas of the main hall. Any delegates which cannot be seated behind their nameplate can be seated at the balcony.

Based on possible developments regarding COVID-19 in the Netherlands in November, the Bureau would return to this matter at its next meeting to see whether there is a need to introduce some restrictions or mitigations measures.

The Secretariat indicated that the plenary meetings would be web-streamed via ICC YouTube (into floor language, English and French) with the assistance of the Registry of the Court.

#### **4. Elections**

*a) Committee on Budget and Finance: recommendation by the Bureau*

The Bureau noted that the nomination period for the presentation of candidates for the election of six members of the Committee on Budget and Finance had closed on 29 September 2022. On that date, seven candidates had been nominated for the six seats. In the African group, two States, Malawi and Sierra Leone, had nominated a candidate for election to the one vacant seat for the African group.

The Bureau agreed to recommend that the Assembly elect the candidates in the regional groups for which the number of candidates was equal to the number of vacancies:

Eastern European States

- Mr. Urmet Lee (Estonia)

Group of Latin American and Caribbean States

- Ms. Ana Patricia Villalobos Arrieta (Costa Rica)

Western European and Other States

- Mr. Daniel McDonnell (United Kingdom of Great Britain and Northern Ireland)
- Mr. Klaus Stein (Germany)
- Mr. Pascual Tomás-Hernández (Spain)

The President encouraged the Bureau members of the African Group to consult with the two States that had presented candidates in order to reach an agreement in advance of the Assembly session.

A statement was delivered by Côte d'Ivoire on behalf of the African States Parties to the Rome Statute (see annex).

*b) Registrar: update*

Vice-President Sequensová briefed the Bureau on the roundtables with candidates for the position for Registrar. She noted that the roundtables took place on 11 and 12 October, in the second half of the afternoon (The Hague time), to allow New York delegations to follow as well. The roundtables were

hosted in Courtroom III with candidates connecting virtually. The roundtables were streamed online with a 30-minute delay, with simultaneous interpretation in English and French. She indicated that the recordings of the roundtables were made available in the Assembly website.

Vice-President Sequensová indicated that roundtables took place with the remaining ten candidates, with five candidates on each session, following the withdrawal of two candidates ahead of the roundtables. Vice President Sequensová served as moderator posing questions on behalf of States Parties. She thanked the States Parties that submitted questions to pose to the candidates. The questions tackled issues related to budget management, human resources and working culture. She noted that particular effort was made to avoid completely replicating the questions on each session. She also worked closely with the civil society co-moderators to avoid duplication and overlap with their questions.

Following the roundtables, she indicated that The Hague Working Group would start drafting the text of the recommendations for the Assembly resolution.

In this regard, the point was raised that having the discussions on the recommendations in The Hague Working Group was a regrettable situation for the African group, which had only eight representations in The Hague, and it was requested that the process be brought to New York to allow greater participation from States Parties. On the other hand, it was noted that it was the Assembly which had entrusted The Hague Working Group with preparing the Assembly resolution on the matter<sup>4</sup>. The President suggested that organizing a hybrid meeting of The Hague Working Group would allow New York based delegations to participate on the drafting of the recommendations as well.

## **5. Status of contributions**

The President informed the Bureau that, as at 30 September 2022, the Court had received 91 per cent of the assessed contributions to the approved budget for 2022. The total amount of outstanding contributions, for 2022 and for prior years, was €44.6 million (of which €13.4 million related to 2022 and €31.2 million to prior years). A total of 23 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 President informed the Bureau that the Assembly Presidency and the facilitator on arrears, Ambassador Maritza Chan Valverde (Costa Rica), continued to deploy all efforts to obtain the timely payment of contributions, in consultation and coordination with the Court.

## **6. Other matters**

### *a) Commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute*

The President recalled that, as mentioned at the 7 September meeting of the Bureau, it had been agreed with the Presidency of the Court that the Assembly would take the lead in the planning and organization of the commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute in 2023. During the 13 April meeting of the Bureau she had also mentioned that a segment of the commemoration would be devoted to a discussion on the strategic vision for the next ten years, to implement recommendation 363 of the Independent Expert Review.

The President recalled her proposal that another segment of the commemoration would take the form of a treaty accession ceremony in relation to the Rome Statute, amendments and the Agreement on Privileges and Immunities. She further indicated that the UN Secretary General and the Office of Legal Affairs would be willing to support the organization of this event at the United Nations Headquarters, and had proposed that the event take place on or around 17 July 2023 at the United Nations Headquarters in New York. Furthermore, she encouraged others to organize events to mark the twenty-fifth anniversary.

---

<sup>4</sup> ICC-ASP/20/Res.4.operative paragraph 6

She informed the Bureau of her consultations with the Court and others on the potential format and content of the event or events and indicated that she would be able to provide a concrete proposal to be recommended to the Assembly at the next meeting of the Bureau.

*b) Judicial Remuneration Panel report*<sup>5</sup>

The President noted that the Bureau had received a copy of the report of the Judicial Remuneration Panel, submitted pursuant to the Terms of Reference for the Review of the Judges' Remuneration annexed to Assembly resolution ICC-ASP/18/Res.2. As set out in the Terms of Reference, the report would be considered by The Hague Working Group. The Bureau would then submit the report to the Assembly for final approval or rejection of the recommendations.

*c) Due diligence of candidates for judges: possible role for the Independent Oversight Mechanism*

The President recalled the Bureau's previous consideration of the possibility of implementing a vetting or due diligence process for all elected positions at the Court. On 12 May 2021 the Bureau had agreed to focus on due diligence for the election of Deputy Prosecutors, and to use that experience to shape the mechanism which would apply in the future. Building on that experience, a due diligence process, with some adjustments, had been implemented in 2022 for the election of the Registrar. The President noted that the Assembly would proceed to elect six judges in December 2023, and in order for the Assembly to have a due diligence process in place for those candidates a decision would need to be taken at its twenty-first session in December 2022. One key aspect to consider was the possible role to be entrusted to the Independent Oversight Mechanism (IOM), as it may have budgetary implications. The President noted that the Bureau would return to this topic at its next meeting.

The point was made that it would be useful to receive information from the IOM regarding its capacity to assume such a role, and the possible budgetary implications. It was also noted that the budgetary implications would need to be considered in the context of the budget facilitation. Upon the suggestion of a member of the Bureau, the President indicated that the Head of the IOM would be invited to participate in a discussion at the next Bureau meeting.

## **Annex**

### **African States Parties to the Rome Statute of the International Criminal Court (ICC) Statement on the Election of Members of the Committee on Budget and Finance in the meeting of the Bureau of the ICC Assembly of States Parties, 19 October 2022**

1. The States Parties to the Rome Statute of the International Criminal Court received a note verbale from the Secretariat of the Assembly of States Parties dated 24 June 2022 on the election of six members of the Committee on Budget and Finance which will take place during the twenty-first session of the Assembly of States Parties, scheduled to be held in The Hague from 5 to 10 December 2022.
2. The note verbale, inter alia, states the following:
  - a. Pursuant to the resolutions of the Assembly of States Parties to the Rome Statute on the establishment of the Committee on Budget and Finance (ICC-ASP/1/Res.4, as amended by ICC-ASP/2/Res.5 and ICC-ASP/4/Res.6, see annex I) and on the procedure for the nomination and election of members of the Committee on Budget and Finance (ICC-ASP/1/Res.5, as amended by ICC-ASP/2/Res.4, see annex II), adopted at the Assembly at its first and second sessions, and the 23 June 2022 decision of the Bureau, the Secretariat of the

---

<sup>5</sup> ICC-ASP/21/17.

Assembly invited States Parties to nominate candidates for six seats on the Committee on Budget and Finance.

- b. Pursuant to the Bureau decision of 23 June 2022, the nomination period for the candidates for six seats on the Committee on Budget and Finance ran from 24 June to 15 September 2022 (CET). This was further extended from 16 September to 29 September 2022 (CET).
  - c. The six members whose term of office will expire on 31 December 2022 are from the following regional groups: **one from the Group of African States**; one from the Group of Eastern European States; one from the Group of Latin American and Caribbean States; and three from the Group of Western European and other States.
3. Importantly, ICC-ASP/1/Res.4<sup>1</sup> on the “Establishment of the Committee on Budget and Finance”, in the Appendix, paragraph 1, the Assembly of States Parties establishes, in accordance to that resolution, a Committee on Budget and Finance composed of **12 members**.
  4. As per paragraph 2 of the Appendix of ICC-ASP/1/Res.4 the “Assembly shall elect the members of the Committee on Budget and Finance, who should not be of the same nationality, **on the basis of equitable geographical distribution**”.
  5. ICC-ASP/1/Res.5<sup>2</sup> on the “Procedure for the nomination and election of members of the Committee on Budget and Finance” list the distribution of seats, in paragraph 8, “*Bearing in mind the requirements of paragraph 2 of the annex to the resolution establishing the Committee on Budget and Finance, the distribution of seats for the first election is as follows*”:
    - African States, two seats;
    - Asian States, two seats;
    - Eastern European States, two seats;
    - Group of Latin American and Caribbean States, two seats; and
    - Western European and Other States, four seats.
  6. It is certainly the case that after the first election of the Committee on Budget and Finance, the issue of the distribution of seats has not been revisited to fully reflect the correct distribution of seats on the basis of equitable geographical distribution based on the current geographical distribution of the States Parties, and the requirements of paragraph 2 of the annex to the resolution establishing the Committee on Budget (ICC-ASP/1/Res.4).
  7. The African States Parties had previously highlighted this issue in a meeting with the President of the Assembly of States Parties.
  8. The Bureau is therefore urged by the African Group for the distribution of seats to be corrected as per the applicable Assembly resolution, and seat allocation adjusted before the elections scheduled to be held at the twenty-first session of the Assembly of States Parties, in The Hague from 5 to 10 December 2022.
  9. This will be in line with the provisions of paragraph 14 of ICC-ASP/1/Res.5, which stated that: “The present procedure is without prejudice to the overall composition of the Committee on Budget and Finance, the procedures for future elections or the future distribution of seats”.

---

<sup>1</sup> As amended by resolutions ICC-ASP/2/Res.5 and ICC-ASP/4/Res.6 and 3 December 2005, respectively.

<sup>2</sup> The text of paragraph 15 reflects the amendment introduced by resolution ICC-ASP/2/Res.4.