

# Report of the Review Mechanism on the overall progress of its work

## I. Introduction

1. The present report of the Review Mechanism (“Mechanism”) is submitted pursuant to paragraph 11 of resolution ICC-ASP/20/Res.3 and further to the Report of the Review Mechanism submitted on 30 November 2021, pursuant to ICC-ASP/19/Res.7, paragraph 9.<sup>1</sup> Paragraph 11 states as follows:

“11. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2022, and to submit a report on the review process to the Assembly well in advance of its twenty-first session on:

a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;

b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19; and

c) Any other progress in the review process.”

## II. Mandate of the Review Mechanism

2. The task of the Mechanism is set out in the resolution ICC-ASP/20/Res.3:

“6. The Review Mechanism shall specifically continue to coordinate the assessment of the recommendations, and continue to serve as a platform for assessment of recommendations in conformity with the comprehensive action plan, as well as monitor further action and implementation, as appropriate, of the assessed recommendations;”

### *a) The Review Mechanism as the platform for discussion*

3. In its 1 November 2021 “Report of the Review Mechanism as the platform for discussion of IER recommendations”, the Review Mechanism recalled that, in allocating the IER recommendations in the Comprehensive Action Plan (CAP), it had decided to work through existing Assembly structures, and allocated the recommendations for which there is no mandate to itself as the platform for discussion.

4. As regards assessment of the IER recommendations, the Mechanism held eight meetings as the platform for discussion, on 28 February, 3 and 24 March, 21 and 29 April, 3, 13 and 27 June 2022, and invited the Court and stakeholders to which it had allocated recommendations in the CAP to indicate their views on the assessment of the recommendations. The Court organs informed the meeting of the status of implementation of the recommendations in addition to the status of their assessment. The Chair of the Group of Independent Experts, Mr. Richard Goldstone, together with some of the IER Experts, participated in all the meetings in their personal capacity, and provided the rationale underlying the recommendations of the IER Experts. States Parties and all participants welcomed their presence at the meetings.

5. At its 28 February 2022 meeting on R105 on “Tenure”, allocated to the Court and the Review Mechanism, with the involvement of the Staff Union Council, the Mechanism deduced that the Court agreed in principle with the recommendation. The Staff Union Council stated that a tenure policy risked damaging the Court’s institutional memory, functioning and quality of work. It was in favour of mobility, which could be encouraged through different means, e.g., internal rotation or increased upward mobility. Some States Parties highlighted the need for flexibility in view of on-going trials and noted that the Court may risk losing expertise at the crucial trial stage. Some supported the tenure policy as it could ensure greater diversity

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<sup>1</sup> ICC-ASP/20/36 : [https://asp.icc-cpi.int/sites/asp/files/asp\\_docs/ASP20/ICC-ASP-20-36-ENG.pdf](https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP20/ICC-ASP-20-36-ENG.pdf)

among staff. Some supported the applicability of a tenure of nine years at the P5 level and above. The Court would submit a report to the Committee on Budget and Finance (“the Committee”) at its May 2022 session, which would present information on how the tenure policy had been implemented in other international organizations, as well as lessons learnt and the legal aspects of the implementation of the policy. Once the Committee had issued its report containing its comments on the tenure policy, the Review Mechanism would hold a second meeting to conclude consideration of this recommendation.

6. On 27 June 2022, the Review Mechanism held a second meeting on R105 (Tenure), to continue the assessment this recommendation, in light of the report of the Committee on Budget and Finance at its May 2022 session, which had examined this recommendation. A first discussion on the assessment of R105 had taken place at the 28 February meeting but was inconclusive.
7. The Court indicated its support for recommendation 105, as formulated by the Experts. Should it be assessed positively by States Parties, the Court would be ready to present a proposal to implement it. The Staff Union Council was not convinced that this policy would achieve the intended purposes, but rather, it could encourage the recruitment of persons at the end of their careers, could have an impact on productivity, would not lead to gender equality, and would not bear fruit for several years. The Council 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 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. The Council also drew attention to the impact on the work of the Human Resources Section and noted that the tenure policy would require the Court, under its duty of care, to support staff in finding employment in other organizations. Should States Parties adopt this policy, it should apply to P5 level and above, be for a period of 7 to 9 years, and not be applied retroactively. In this exercise, the Court should adopt objective and fair criteria, as indicated by the IER Experts.
8. States Parties were in favour of this recommendation but called for caution and careful consideration with regards the potential budgetary implications and that its implementation should allow for certain flexibility with objective criteria that would take into account geographical representation and gender balance.
9. Having been positively assessed by the Court and States Parties, the Review Mechanism decided to recommend to the Registry and the Bureau, in light of the discussion, to prepare a proposal on the principle implementation of the tenure policy at the Court, for the consideration of States Parties at the twenty-first session. 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 ASP.
10. The 3 March 2022 meeting focused on R1-R13 (Unified governance), further to the Mechanism’s 28 October meeting which was an initial discussion on assessment of these IER recommendations. The Court presented a document titled “Tabular presentation of the Court’s initial assessment of IER Recommendations on ‘Unified Governance’ (R1-R13)” dated 23 February 2022, which contained a summarized presentation of the analysis set out in the Court’s 14 April 2021 “Overall response”, with some concise additional information considered pertinent by the Court. The paper indicated the initial assessment or status update of the respective recommendations. In the Court’s view, the proposed three-layer governance model was not compatible with the Rome Statute but it noted that this incompatibility did not mean that practical issues raised in the recommendations could not be addressed; this could be done without considering the three-layer governance and its compatibility with the Rome Statute. The Court noted that since its inception, the Heads of organs had followed the “One Court” principle whereby they worked on streamlining their approach to administrative matters. In addition, the internal legal framework was being updated to align Administrative Instructions with the jurisprudence of the International Tribunal of the International Labour Organization (ILOAT) and regarding R14, the Court would present a report on moving from ILOAT to the United Nations Administrative Tribunal by 30 June.
11. The IER experts presented information on the rationale for these recommendations. A key point of the three-layer model was that functions that have nothing to do with judicial or prosecutorial activity and administration of justice should not fall under the Judiciary or the OTP, e.g., routine Court-wide administrative and operational issues not related to or affecting judicial and prosecutorial independence. The One-Court principle should avoid having more than one person or office performing the same function. The three-layer model was suggested as a tool for more effective management, while respecting absolute independence of the Judiciary and the OTP.

12. In inviting the States Parties and other stakeholders to express their further views on R1-R13, the Mechanism requested participants to focus on the recommendations concerning the conceptual issue of compatibility with the Rome Statute, after which the meeting would turn to the practical aspects of the recommendations. In commenting, States indicated the need for a pragmatic approach, but the balance between governance and independence was not always clear. It was noted that the improvement of governance was needed in the Court. The independence of the judiciary, rule of law and avoidance of any interference in the administration of justice were of utmost importance. A view was expressed regarding the first and second layers (Judiciary and Prosecution), that there was a need for these to be dealt with, while the third layer (Registry) could be discussed at another time. States should start with a focus on the points where there was no need to amend the Rome Statute.

13. The 21 April 2002 meeting continued the assessment of the IER recommendations on Unified governance (R1-R13). Three important points, defined at the initial October meeting of 2021, guided the discussions: Firstly, “Unified Governance” recommendations address a very technical issue, deeply rooted in the law of international organizations. As such, secondly, assessment of the recommendations requires a detailed and comprehensive discussion through a consultative approach/process. Thirdly, attention may have to be paid to why the model in the Rome Statute was adopted, and reconciling the understanding of the Rome Statute model to the proposed governance model in the IER.

14. In its overall response, the Court had indicated that these recommendations were not compatible with the Rome Statute, but that the Court in practice shared the same objectives that is efficiency (streamlining and avoidance of duplications) as regards governance. During the meeting, the Court indicated that some governance practices have been already in force for several years, while other practices had been reinforced in light of the IER recommendations. In addition, the Court noted that there was no micromanagement or duplication of work within governance structures of the Court.

15. The meeting assessed the recommendations negatively while stressing the importance of implementing the practical aspects not in contradiction with the Rome Statute, while safeguarding the judicial and prosecutorial independence of the Court. Such practical aspects included issues related to efficiency and streamlining of governance procedures as well as staff wellbeing and accountability measures. It was also agreed that the Study Group on Governance would lead discussions on implementation of the practical aspects of the recommendations, and that the Review Mechanism may convene roundtable meetings focused on implementation.

16. The 24 March meeting of the Review Mechanism considered IER recommendation R363 on convening a discussion among stakeholders concerning a strategic vision for the Court for the next 10 years. The President of the Assembly, Ms. Silvia Fernández de Gurmendi participated. The meeting considered whether it was desirable to have the discussion referred to in R363. The President noted the multiple challenges, which the Court was facing, including the impact of recent developments, agreed with the view of the Court in its “Overall response” regarding the importance of such a discussion, and noted that the undertaking would strengthen the Court and the Rome Statute system. If States could agree on a positive assessment of the recommendation, this would be a good foundation for that crucial discussion.

17. The Court recalled its positive response to the recommendation in its “Overall response”, and suggested that the discussion could take place in a staggered and progressive manner, over time. The opportunities for discussion could be linked to the twentieth anniversary of the entry into force of the Rome Statute in 2022 and the twenty-fifth anniversary of the adoption of the Statute in 2023. Representatives of civil society noted the importance of the Court being given adequate resource to carry out its mandate, and addressing challenges such as cooperation. The development of a 10-year strategic vision could be an important element in arriving at a long-term solution. Some States Parties-spoke out in support of the recommendation, and noted that a strategic discussion must contribute to the review process, and should include consideration of how to balance the budget and objectives of the Court. In addition, there was a need for clear parameters, i.e., a clear delimitation of the discussion with respect for judicial independence and the integrity of the Court.

18. The meeting assessed the recommendation positively with the condition that neither the independence nor the integrity of the Court should not be affected. There was a need to set clear parameters for the discussion, which should also not hinder nor detract from the work on the review of the Court and the Rome Statute system. The Assembly President would liaise with the Court informally on the strategic discussion,

which could take place in 2023. It would be necessary to decide on the format, including whether there would be one discussion or staggered in a series of discussions. If there was agreement on the format, the Assembly could take a decision at the twentieth session.

19. At its 25 April meeting, the Review Mechanism meeting assessed the IER recommendations on Relations with civil society and media (R153-R162) and recommendations on Communication (R164-R166). Representatives of civil society noted that they had been working directly with victims and affected communities, which had been recognized by the IER Experts, who had also recognized the shortcomings, including resources and the need to look at the relationship with the Office of the Prosecutor. It was important to take into account the need for flexible arrangements and reduced bureaucracy. The Court endorsed that relations with civil society and media constituted a key element and a priority for the Court, and agreed with the IER Experts on the role of civil society as a “force multiplier”. As regards R153 on relations with regional organizations, it was important to foster these relations as a part of the Court’s expanding activities, and it needed to further enhance its level of engagement. The Court focal point from the OTP indicated that R154 was positively assessed but the Court should be careful to avoid any appearance of influence over stakeholders. It was also necessary to think of resources for implementation of the recommendations.

20. The Court did inform the meeting that it will consider in the context of the inter-organ communications strategy the sufficient level of resources that is required to achieve the strategy, including for maintaining relations with civil society organisations as per R155. However, managing expectations will remain an important consideration going forward. In relation to R161 and R162, the Court sees value in both recommendations to introduce a system of paid visiting positions for journalists and to set up a fund to allow journalists from situation countries to temporarily report from The Hague.

21. Some States found the recommendations acceptable but noted that they were first and foremost the responsibility of the Court and the OTP. Some did not agree that the relationship with civil society organizations should be formalized, as per R160 and suggested that options could be examined, such as a cataloguing of best practices.

22. The recommendations were all positively assessed by the Court, with the exception of R157, which was assessed negatively. The meeting concluded that R160 could be implemented in a modified form and the Court was open to discussing the best format.

23. The 3 June 2022 meeting assessed recommendations on Induction and continuing professional development (R174-R177) and recommendations on Secretariat of the ASP (R369 and R370). The first three recommendations were addressed to the ICC Presidency, while R177 was addressed to the Court. The initial assessment by the Court in 2021 had been positive on all four recommendations, and they were already in the implementation phase.

24. The ICC Presidency updated the meeting on their implementation. There was already a programme of induction for judges joining the Court and in 2021, this had been a shortened and hybrid version of the induction due to the issues related to the pandemic and its accompanying travel restrictions. Topics included judicial collegiality and ethics, Court values, current challenges of the Court and the discussion of key legal issues that pertain to Pre-Trial, Trial and Appeals Divisions. Some aspects were added later as the Court started to open up after the pandemic, including the familiarization of the new judges with the Registry’s function, which is quite important as regards efficiency of the Court, in particular areas directly pertaining to support of the hearings, victims and witnesses, as well as security and safety issues. Other activities include the annual judicial seminar and the yearly retreat with judges, as well as occasional visits by experts from other supranational courts and tribunals, national jurisdictions; as well as experts from international organisations (the United Nations, for example), or from civil society working on Court-related issues.

25. Following the discussion, the Review Mechanism indicated that, given that this group of recommendations was assessed positively and that implementation was ongoing, it would return to the issue to check on implementation at a later stage. In this regard, the IER experts expressed satisfaction and commended the Presidency for the efforts undertaken in implementing this group of recommendations.

26. With regard to the recommendations on the Secretariat of the Assembly of States Parties (R369-R370), the Review Mechanism took note that the first part of R369 had been positively assessed and was being

implemented, which was a positive step. The discussion focused in greater detail on the second part of the recommendation.<sup>2</sup>

27. The Review Mechanism heard presentations from the Director of the Secretariat, the Chair of the Committee on Budget and Finance and the Vice Chair of the Audit Committee. The view was expressed that there did not seem to be an issue of duplication with Registry and the ASP Secretariat functions. It was stated that merging the Secretariat within the structures of the Registry would potentially have an impact on the functional independence of the ASP Secretariat and also the judicial independence of the Court. The Chair of the Committee on Budget and Finance and the Vice-Chair of the Audit Committee supported the recommendation to maintain the functional independence of its Executive Secretary. After hearing the views of States Parties, the conclusion was that the second part of the recommendation of R369 and R370 was not assessed positively; however, a delegation was of the view that the recommendation should be assessed further. After the meeting, this delegation informed the Review Mechanism that although the later part of the R369 was assessed negatively, it was still interested in improvement and enhancement of the ASP Secretariat, and looked forward to the further discussion in a different forum.

28. During the discussions, delegations showed a great interest in the issue of resources, effectiveness, streamlining of functions and geographical representation in the Secretariat, which could not be included in a discussion on assessment, but is a discussion on implementation, which could be addressed in governance discussions. The Review Mechanism noted that further discussion would be required on these issues and that the Assembly could decide on the appropriate forum to address the challenges that were highlighted.

29. On 13 June, the Review Mechanism held a second meeting on the recommendations on the Trust Fund for Victims, in particular R354 and R358. The Chair of the Board of Directors of the Trust Fund for Victims, Ms. Minerva Josefina Tavárez Mirabal, and a member of the Board, Mr. Sheikh Mohamed Belal, made statements, as did the Executor Director of the Secretariat and the Legal Officer.

30. After further assessment of recommendations R354 and R358, States Parties were of the view that there would be no benefit in implementing these recommendations. They recalled the views of the Trust Fund and the Registrar at the October 2021 meeting, i.e. that the Trust Fund had already made a number of improvements to its operations, and they were therefore not in favour of these recommendations. It was stated that there were substantive reasons for the Trust Fund to maintain its mandate and some concern was expressed that removing this mandate would diminish the visibility and meaning of reparations. States welcomed the steps that had already been taken by the Secretariat of the Trust Fund in response to the IER recommendations, including the action plan and the intention to seek further efficiencies between the Trust Fund and the Registry. They took note, *inter alia*, that it was important for the Court and the Trust Fund to function separately from each other.

31. While these recommendations were negatively assessed, the Review Mechanism summarized the view of the meeting that the governance and practical issues identified by the IER Experts would require further consideration in another forum.

#### ***b) Roundtable***

32. In addition to the eight meetings as the platform for discussion, the Mechanism also held a Roundtable on the implementation of the workplace culture related recommendations at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022. The Registrar, the Court focal points, the Staff Union Council and the Focal Point for Gender Equality participated, as well as the IER Experts. These recommendations had all been previously positively assessed at the 30 September 2021 meeting, and were considered a priority by all stakeholders. It was not intended that the meeting would have conclusions, but to be an informative session and a brainstorming of ideas from other stakeholders regarding implementation of these recommendations. The Registrar, Mr. Peter Lewis, provided an update on the activities of the Court since the 30 September 2021 meeting. The Court wanted to see real change and real actions. The Court's actions were led by the three Heads of organs, the Gender Focal Point, the Staff Union Council, the Immediate Offices and the Court focal points. The Court had adopted Administrative Instructions (AIs) on disciplinary procedures and on unsatisfactory conduct. The process incorporated the

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<sup>2</sup> "In the long-term, the functions of the Secretariat of the ASP should be taken over by the Registry, and the Secretariat of the ASP, in its current form, dismantled."

Independent Oversight Mechanism and streamlined the process, so there would no longer be parallel processes. There is also a new AI on harassment, including sexual harassment, abuse of authority and discrimination that had been promulgated recently by the Court. The Court was also working on a new administrative instruction on sexual exploitation and sexual abuse, which would be ready before the end of the year. Finally, the Court was also updating the Whistle-blower policy, and was far advanced in the recruitment of the Ombudsperson. A process of core values for the entire Court was underway. The Court had held the second triennial Staff Engagement Survey focused on priorities, e.g., gender equality, standards of conduct, leadership, well-being, including stress prevention, staff selection and career development. These priorities would be taken forward together with the implementation of the IER recommendations. He also provided information on measures undertaken in training and recruitment, including the use of social media to reach out especially regarding gender and underrepresented States Parties. The Principals were committed to having a strategy on gender policy and workplace culture; the zero draft had been shared widely and it hoped to publish it by the Assembly session in December.

33. The Staff Union Council welcomed the zero draft strategy on workplace culture and gender equality and suggested that it be enlarged to other pillars such as accountability, and should dedicate another pillar to growth and development. The Council hoped that the outcome of the various exercises would be shared across organs so that all staff could benefit. It reiterated its willingness to cooperate with the Court on the implementation of R14. In order to implement the workplace culture strategy across the Court, there should be a strengthened role for the Human Resources Section, active involvement of the leadership, a strong communication strategy, and the creation of key performance indicators (KPIs). The 2020 Recognition Agreement would expire on 17 July and the Council and the Court were working towards its renewal.

34. The IER Experts welcomed the responses of the Court. In commenting, States Parties welcomed the clear commitment of the Court to this process and the efforts made so far, as well as gender mainstreaming and the initiatives to address gender imbalance in the Court, especially at higher levels. The IER recommendations would continue to be a priority moving forward. The key would be implementation of the policies, not just adoption, and in that regard, continued dialogue was important. It was also important that the AIs be communicated to all staff, including the relevant procedures. It was of utmost importance that the IOM have sufficient resources, including for support of staff. As regards implementation, continuous and sustained follow-up action was needed. The Review Mechanism advised the Court to give regular updates to all stakeholders on progress on this issue.

### ***Reports of facilitations***

35. The Mechanism takes note of the reports of the facilitations on the respective issues assigned to them as the platform for discussion, and of the status of the assessment of the recommendations by the actors to which they were allocated in the Comprehensive Action Plan.

(i) *Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process*<sup>3</sup>

36. The Mechanism has carefully considered the reports of the facilitations referred to in annex I, as well as the discussions held in the six meetings of the Mechanism as the platform for discussion. In this regard, the Mechanism submits herewith the updated Matrix, titled “Progress in the assessment of the IER recommendations” (annex). The Matrix provides an update of the overview of the progress in the assessment of and possible further action on the respective recommendations of the Independent Experts with a timeline for assessment of the first half of 2022 in the CAP.

37. The Mechanism notes that the mandate holders have discussed the recommendations assigned to them as the platform, and that where appropriate the Court has briefed the respective facilitations on its assessment of the recommendations, indicating in that regard which recommendations it assessed positively or negatively and which recommendations the assessment is still ongoing.

38. In this regard, the Review Mechanism would like to express concern about the delays in the assessment of some of the recommendations, especially in some important areas like complementarity and cooperation. The Mechanism once more expresses its view that the accepted roadmap of the review process is the Comprehensive action plan including the timelines set out in that document. The Review Mechanism considers it important for the effectiveness and the credibility of the review process that we can conclude

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<sup>3</sup> Ibid., para. 9 (a).

the assessment phase in the first semester of 2023. The Review Mechanism hopes that all stakeholders will contribute to the achievement of that goal.

39. In the view of the Mechanism, the Matrix (annex) presents to States Parties and all stakeholders an overview of the status of the review process. To get the full picture, the Matrix should be read in conjunction with the CAP. The Matrix is a purely factual document and is based on the reports of the different facilitations and the Mechanism. The Mechanism sees the Matrix as a living document that will incorporate further progress on the assessment, and further action including implementation of those recommendations that are positively assessed.

(ii) *Other progress in the review process*

40. The Mechanism has always sought to observe the principles of transparency and inclusiveness throughout its mandate and, to this end has, at each stage of its work, consulted broadly with States Parties, the Assembly President and Vice-Presidents, the Court, in particular the Court focal points, as well as civil society and all relevant stakeholders. The meetings of the Mechanism as the platform for discussion benefited from interpretation into the working languages of the Court, which greatly assisted in ensuring inclusiveness in its work. The Mechanism is grateful to the Registrar and the Language Services Section for their valuable assistance in this regard.

### **III. Next steps**

41. The Mechanism intends to continue its work in the second semester of 2022 in line with the CAP and as mandated by the Assembly. Pursuant to the CAP, the Mechanism will continue to function as a platform for discussion in the assessment of those recommendations it has assigned to itself in 2022. A more detailed work plan will be presented for the second semester.

42. The Mechanism will, in conformity with its mandate, continue to monitor the overall progress of the review process both regarding assessment and further action and where appropriate, including implementation. The Mechanism proposes to further keep track of implementation through a timeline that will be developed in the assessment process and reflected in the Matrix. The Mechanism will regularly brief States Parties and all stakeholders on its work through its briefings, reports, and through the Matrix.

43. Finally, and where necessary, the Mechanism may serve as a platform for/or facilitate round table discussions on the implementation of positively assessed recommendations.

#### ***Acknowledgements***

44. The State Party representatives (Co-Chairs) of the Review Mechanism firstly want to express deep gratitude to the *ad country* focal points, Ms. Monica Mosammat Shahanara, Ms. Nawrid Sharmin, and Mr. Nasir Uddin (Bangladesh), Mr. Jaime Moscoso and Mr. José Juan Hernández (Chile), and Ms. Paulina Dudzik and Mr. Władysław Manteuffel, succeeded by Ms. Katarzyna Padlo-Pekala (Poland), for their supportive role and valuable inputs in the work of the Mechanism.

45. The members of the Mechanism would also like to express their gratitude to the three Court focal points, Mr. Hiram Abtahi, Chef de Cabinet of the Presidency, Mr. Mamadou-Racine-Ly, Advisor, Immediate Office of the Prosecutor, and Mr. Juan Escudero, Chief of Staff, Immediate Office of the Registrar, for the collaborative work and high spirit of engagement in the work of the Mechanism.

46. The members of the Mechanism would also like to express special appreciation to the independent experts, in particular the Chair of the IER Mr. Richard Goldstone (South Africa), as well as Mr. Nicolas Guillou (France), Ms. Mónica Pinto (Argentina) and Mr. Mike Smith (Australia), Ms. Anna Bednarek (Poland), Mr. Iain Bonomy (U.K.), Mr. Mohamed Chande Othman (Tanzania), Mr. Hassan Jallow (The Gambia); and Ms. Cristina Schwanssee Romano (Brazil).

47. The Mechanism also acknowledges the support and advice of the President of the Assembly, Ms. Silvia Fernández de Gurmendi, and the Vice-Presidents, Ambassador Robert Rae (Canada) and Ambassador Kateřina Sequensová (Czech Republic). The Mechanism is deeply indebted to the Assembly Secretariat, in particular Ms. Gaile Ramoutar and Mr. Aaron Matta, for consistent efficient and responsive assistance throughout the work of the Mechanism.

## **Annexes**

### **Annex I**

#### **Reports of Assembly mandate holders on the issues assigned to them as the platform for discussion**

##### **1) Reports of the Assembly mandate holders**

- a) Report of the Bureau on the Study Group on Governance.
- b) Report of the Review of the Procedure for the Nomination and Election of Judges.
- c) Report of the Budget Management Oversight.

## **Study Group on Governance**

### **Assessment of recommendations of the Independent Expert Review**

#### **Update from the co-Chairs and co-focal points of the Study Group on Governance**

Further to the request of the Review Mechanism that Assembly mandate holders report to the Mechanism by 30 June 2022 on progress on the assessment and/or implementation of the IER recommendations assigned to them in the Comprehensive Action Plan, the co-chairs and co-focal points of the Study Group on Governance hereby submit an updated overview of the IER recommendations assigned to it. The Study Group has completed the assessment of the recommendations indicated in its 15 February 2022 work plan for the first semester of 2022.

The table in the appendix contains updates for inclusion in the revised Matrix titled “Progress in the assessment of the IER recommendations” contained in annex II of the Review Mechanism’s report to the twentieth session (ICC-ASP/20/36).

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## Appendix

### Assessment of recommendations of the Independent Expert Review Update from the co-Chairs and co-focal points of the Study Group on Governance

Recommendation	Result assessment (plus date)	Implementation date	Comments	Timeline (CAP)
27			Assessment 2nd half of 2022	2nd half 2022
30			Assessment 2nd half of 2022	2nd half 2022
33			Assessment 2nd half of 2022	2nd half 2022
48	negative		structure of two Deputy Prosecutors reinstated	2nd half 2021
55	positive	2022		2nd half 2021
76	partially pending	2022 (partial implementation)	Decision to strengthen State Party participation within existing legal framework; further consideration pending in relation to governance model discussions and upcoming 2022 election	2nd half 2021
77	pending		further consideration pending in relation to governance model discussions and upcoming 2022 election	2nd half 2021
78			Assessment 2nd half of 2022	2nd half 2022
82	positive	ongoing		2nd half 2022
83	positive	ongoing		2nd half 2022
92	positive	ongoing		1st half 2022
95	positive	ongoing		1st half 2022
99	positive	ongoing		1st half 2022
101	positive	ongoing		2nd half 2022
103	positive	ongoing		2nd half 2022
144	positive	ongoing		2nd half 2022
145	positive	ongoing		2nd half 2022
146	positive	2022		2nd half 2021

148	pending			2nd half 2021
202			Assessment 2nd half of 2022	2nd half 2022
203			Assessment 2nd half of 2022	2nd half 2022
206	positive	2022		2nd half 2021
214	pending			2nd half 2021
215	pending			2nd half 2022

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## **Report of the Review of the Procedure for the Nomination and Election of Judges pursuant to paragraph 11 of the resolution ICC-ASP/20/Res.3**

### **A. Introduction**

1. This report to the Review Mechanism on the progress of the assessment, and where appropriate, implementation of the relevant Independent Expert Recommendations (IER) is submitted pursuant to resolution ICC-ASP/20/Res.3, paragraph 11, which: “Requests the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2022, and [...]”

2. The comprehensive action plan for the assessment of the recommendations of the group of independent experts, including requirements for possible further action, which was proposed by the Review Mechanism on 30 June 2021 and adopted by the Bureau on 28 July 2021, has allocated ten IER recommendations to the facilitation on the review of the procedure for the nomination and election of judges (“the facilitation”), being R371 to R380.

### **B. Consideration of IER recommendations**

3. The facilitation continued the process of considering the allocated recommendations on the basis of discussions held in 2021. Three meetings of the facilitation have been convened so far in 2022, which led to the finalization of the assessment of all the allocated recommendations, and to the agreement on the action to be taken in 2022 to implement the recommendation R372, as reflected in the Appendix to this report.

4. Further meetings of the facilitation are planned before the twenty-first session of the Assembly of States Parties starts, to agree on the action to be taken in 2022 to implement the recommendations R371, R373-378 and R380 in accordance with their assessment.

## Appendix

### Matrix

#### Progress in the assessment of the IER recommendations

Recommendation	Result of assessment (plus date)	Implementation date	Comments
R371	positive with modifications	2022	Modifications concern parts of the recommendation related to in-person attendance of candidates at interview before the ACN and disqualification of candidates.
R372	positive	2022	Agreed action: To amend OP12 <sup>ter</sup> of the Procedure of nomination and election of judges.
R373	positive with modifications	2022	Modifications concern different feasible form of supporting verifiable information about the candidate instead of a certificate of accuracy of replies to the questionnaire.
R374	positive	2022	
R375	positive with modifications	2022	Modifications concern different form of providing information on the procedure followed leading to the nomination instead of a certificate.
R376	modified	2022	Instead of the process leading to harmonization of national nomination procedures, preparation of a non-binding document for the attention of States Parties when forming or amending the rules governing their national nomination procedures was agreed. Implementation being considered together with R377. Recommended timeline in the course of 2021 was not possible.
R377	positive with modifications	2022	Modifications concern preparation of a non-binding document for the attention of

			States Parties when forming or amending the rules governing their national nomination procedures instead of a set of criteria which should be applied in national nomination procedures along with guidelines on their conduct. Implementation being considered together with R376.
R378	positive	2022	Implementation of the recommendation in its part related to casting of votes might not be fully feasible due to minimum voting requirements.
R379	not positive <sup>1</sup>		
R380	modified	2022	Recommendation to be included in the mandate of the review of procedure for nomination and election of judges for future consideration.

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<sup>1</sup> None of positive, modified or negative assessment was agreeable.

## **Report of the Budget Management Oversight facilitation pursuant to paragraph 11 of the resolution ICC-ASP/20/Res.3**

### **A. Introduction**

1. This report to the Review Mechanism on the progress of the assessment, and where appropriate, implementation of the relevant Independent Expert Recommendations (IER) is submitted pursuant to resolution ICC-ASP/20/Res.3, paragraph 11, which: “Requests the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2022, and [...].”

2. The comprehensive action plan for the assessment of the recommendations of the group of independent experts, including requirements for possible further action, which was proposed by the Review Mechanism on 30 June 2021 and adopted by the Bureau on 28 July 2021, has allocated the three IER recommendations indicated below to the Budget management oversight facilitation (BMO).

### **B. Consideration of IER recommendations**

3. The BMO facilitation continued the process of considering the allocated recommendations on the basis of discussions held in 2021 and this led to the finalization of the assessment of all the allocated recommendations as indicated in the appendix.

## Appendix

### Matrix

#### Progress in the assessment of the IER recommendations

Recommendation	Result of assessment (plus date)	Implementation date	Comments
R366	negative	N/A	<p>The two governance bodies have distinct mandates. Specific recommendations made by the External Auditor (Cour des Comptes) which had not been addressed could be discussed at future BMO meetings.</p> <p>Discussion on streamlining of CBF agenda was proposed and, with input from the Court, could be further discussed in BMO meetings. It was noted that the increased interaction between the oversight bodies and the Court in the BMO facilitation has allowed for better understanding of the respective mandates and States Parties expectations.</p>
R367	positive	2022	<p>The Audit Committee, as it currently exists (ie not the “new budgetary control and audit body” as formulated in R367) would remain responsible for overseeing the adequacy of the framework set up for the Court’s internal audit function and its independence. As regards the future discussion on the implementation of the recommendation, the respective roles of the Audit Committee and of Coordination Council (CoCo) of the Court as referred to in R367 could be further delineated.</p>
R368	positive	2022	<p>This recommendation has already been undertaken in 2021 by discussing the respective recommendations made by the External Auditor (Cour des</p>

			Comptes), whose recommendations were only submitted after the IER report was finalized. Thus the positive assessment of R368 is without prejudice to the position- positive or negative- of States Parties regarding the specific recommendations of the former External Auditor.
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**Matrix****Progress in the assessment of the IER recommendations**

Submitted pursuant to resolution ICC-ASP/20/Res.3, para. 11

<b>Recommendation</b>	<b>Result assessment (plus date)</b>	<b>Implementation date</b>	<b>Comments</b>
R1	negative		The recommendations were assessed negatively while stressing the importance of implementing the practical aspects not in contradiction with the Rome Statute, while safeguarding the judicial and prosecutorial independence of the Court. Such practical aspects included issues related to efficiency and streamlining of governance procedures as well as staff wellbeing and accountability measures. It was also agreed that the Study Group on Governance would lead discussions on implementation of the practical aspects of the recommendations, and that the Review Mechanism may convene roundtable meetings focused on implementation.
R2	negative		See comment in R1.
R3	negative		See comment in R1.
R4	negative		See comment in R1.
R5	negative		See comment in R1.
R6	negative		See comment in R1.
R7	negative		See comment in R1.
R8	negative		See comment in R1.
R9	negative		See comment in R1.
R10	negative		See comment in R1.
R11	negative		See comment in R1.
R12	negative		See comment in R1.
R13	negative		See comment in R1.
R14	positive	immediately	On-going implementation. The implementation of this recommendation was further discussed at the Roundtable on the implementation of the workplace culture related recommendations at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022.
R15	positive	immediately	On-going implementation.

			The implementation of this recommendation was further discussed at the Roundtable on the implementation of the workplace culture related recommendations at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022.
R16	positive	beginning of 2022	
R17	positive	implemented in 2020	
R18	positive	end of 2021	
R19	positive	1st quarter 2022	
R20	positive	being implemented	The following represents the agreed language on the status of implementation consented to by the SUC and reported to the CBF and RM. "The collaboration initiatives between the Court and the Staff Council have been reported to the Committee in the context of the Courts' annual reports on human resources management and will continue to be reported in this annual report to the Committee."
R35	positive		The ICC Presidency indicated that it had implemented R35 in December 2021.
R48	negative		
R55	positive	2022	PIU is already on board and the recruitment process for the P4 is ongoing.
R65	positive	2022	
R67	positive	2022	
R68	positive	2022	
R71	positive	2022	Prosecutor can set priorities after budget has been approved
R76	partially pending	2022 (partial implementation)	Decision to strengthen State Party participation within existing legal framework; further consideration pending in relation to governance model discussions
R77	pending		Related to governance model discussions
R80	positive	on-going	
R81	positive	on-going	
R82	positive	on-going	
R83	positive	on-going	
R85	positive	on-going	
R86	positive	on-going	
R87	positive	immediately	On-going commitment. The implementation of this recommendation was further discussed at the roundtable on the implementation of the workplace culture related recommendations

			at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022.
R88	positive	immediately	On-going commitment
R91	positive	immediately	Court already implemented the recommendation
R92	positive	on-going	
R93	positive	2022	To be implemented by the Court in 2022
R94	positive	on-going	
R95	positive	on-going	
R96	positive	on-going	
R97	positive	on-going	
R98	positive	on-going	
R99	positive	on-going	
R100	positive	on-going	
R101	positive	on-going	
R102	positive	on-going	
R103	positive	on-going	
R104	positive	on-going	
R105	positive	Decision on principle to be taken by ASP 2022. A full-fledged detailed proposal to be submitted to ASP 2023.	Registrar to make a proposal to ASP21 in December 2022
R106	negative		The Courts common values project linked to ethics instead.
R107	positive	immediately	Already being implemented. Full commitment from OTP.
R108	positive		Assessed positively but modified - IOM tasked with drafting a non-paper with modalities, possible ASP decision in principle in 2022. Additional feedback on timeline for implementation will be also received following the judges retreat in September.
R109	pending		Pending 2023. R108 could be seen as a pilot to determine if 109 in its entirety is necessary or if 108 would suffice.
R110	negative		Feedback by the UN FDP was that the FDP was not suited for judges. The Court updated that no other viable alternatives had been found.
R111	negative		As it would impinge on judicial independence, but guidelines to be reinforced.
R112	positive		Implementation will require time.
R113	positive		Without prejudice to implementation of 112.
R114	positive		Without prejudice to implementation of 112.

R115	negative		The Court has already taken other measures capturing the spirit of this recommendation.
R116	pending		To be read together with R117 and R120
R117	pending	2022	To be read together with R116 and R120.
R118	positive	2022	Already being implemented.
R119	negative		Regarding compulsory mediation: Ombudsperson, when recruited, to be consulted on how to encourage informal resolution of disputes at the Court.
R120	pending		To be read together with R116 and R117. The Court will present a short paper with the different options discussed at the IOM facilitation meeting. SUC supports staying with ILOAT.
R121	positive		Taking note of the intention of the Court to let this recommendation inform the rest of the review work.
R129	positive	immediately	On-going commitment. This recommendation was further discussed at the roundtable on the implementation of the workplace culture related recommendations at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022.
R130	positive	immediately	On-going commitment. This recommendation was further discussed at the roundtable on the implementation of the workplace culture related recommendations at the Court (IER recommendations R14, R15, R87, R129 and R130) on 23 June 2022.
R132	positive	implemented	The Committee on Budget and Finance and the Court were of the view that this recommendation was already being implemented.
R133	positive	on-going	The CAP notes the link between this recommendation and those on Unified Governance, in particular R4. The Court noted that R133 is already being implemented as the Registrar already has a leading role in regards a centralized budget process as per the One-Court principle, and as elaborated in the context of R132.
R135	pending		This recommendation has yet to be assessed by the Committee on Budget and Finance. The

			discussion would then continue.
R136	pending		This recommendation has yet to be assessed by the Committee on Budget and Finance.
R137	positive	2022	States Parties were of the view that having meetings with the Committee on Budget and Finance, as recommended, were most useful and should continue.
R138	positive	implemented	The Committee on Budget and Finance and the Court were of the view that the existing arrangements were satisfactory and effective and that they would continue with the format, frequency and scope of the workshops.
R139	pending		
R140	pending		States Parties continued their discussion from 2021 on the issue of liquidity and arrears as a strategic priority for the continued sustainability of the Court's operations. Discussions are on-going.
R141	implemented		
R142	positive (assessed in 2021)	Implemented	This recommendation had been assessed positively in 2021. As regards its implementation, the Court submitted a report which contained as an annex the organigrams requested, and will continue the practice of reporting to States on the organigrams in the context of the annual approved programme budget.
R144	positive	on-going	
R145	positive	on-going	
R146	positive	2022	
R148	pending		
R149	negative		Court is not in a position to support it, as the ICC already has a Court-wide channel of communication to the UN in the form of the New York Liaison Office. The Court agrees with the overall idea but the recommendation is not applicable as such due to concerns with the independence of the OTP, neutrality of the Registrar or confidentiality safeguards.
R150	positive	immediately	Already being implemented. A working group within the Court has been created to analyse a series of other activities that the New York Office could carry out in order to strengthen its role.

R151	positive		Already being implemented.
R152	positive	immediately	Already implemented by Court
R153	positive	immediately	Already implemented by Court
R154	positive		Court must be careful to avoid any appearance of influence over stakeholders
R155	positive		Implementation subject to budget constraints
R156	positive		
R157	negative		
R158	positive		Already being implemented by Court
R159	positive		Being implemented; is already the practice and expected to increase
R160	negative		Court does not object to the idea of R160 but sees the potential to compromise the ability of CSOs to act independently. Need for caution. Better to have a dynamic and flexible operational framework that could be adapted to each situation.
R161	positive	immediately	Court has measures in place to support journalists from situation countries
R162	positive		
R163	1st part- positive 2nd part pending	2nd half 2022	
R164	positive	immediately	Court fully subscribes to IER's assessment that Outreach is core and must be adequately funded. Need to develop teams to undertake this. Outreach at the preliminary examination stage requires additional staff and resources; Court not geared for this at the present time
R165	positive	immediately	In the absence of funding, Court will consider innovative ways to raise funds for Outreach plans, as per the IER.
R166	positive		
R169	positive	1st half 2022	RM thinks implementation should take place under auspices of Bureau
R171	positive	immediately	Already implemented by Court
R172	positive	immediately	Already implemented by Court
R174	positive	immediately	Already implemented by Court
R175	positive	immediately	Being implemented
R176	positive	Immediately	Being implemented
R177	positive	immediately	Being implemented
R178	positive	immediately	Already implemented by Court
R179	positive	immediately	Already implemented by Court
R180	positive	immediately	Already implemented
R181	positive	immediately	Already implemented
R182	positive	immediately	Already implemented
R183	positive	immediately	Already implemented

R184	positive	immediately	Already implemented
R185	positive	immediately	Already implemented
R186	positive	immediately	Already implemented
R187	positive	immediately	Already implemented
R188	positive	immediately	Already implemented
R189	positive	immediately	Court reports “de-facto implementation”
R190	positive	2022	Implementation may be complex. Judges want to have a say in composition of review team
R191	positive	immediately	
R192	positive	immediately	This recommendation has already been implemented by the Chambers Practice Manual.
R193	positive	immediately	The judges will always try to follow the Chambers Practice Manual
R199	positive	immediately	As reflected in the Court’s press release, the judges agreed on concrete measures to implement this recommendation at their retreat in November 2021
R204	positive	immediately	Already implemented
R206	positive	2022	Rule 140 <i>bis</i> was presented by the judiciary to the Working Group on Amendments which approved its submission of the rule to the ASP for consideration at its 21 <sup>st</sup> session.
R208	positive	on-going	
R209	positive	on-going	
R211	positive	on-going	
R212	positive	on-going	
R213	Pending		
R214	pending		
R215	pending		
R219	positive	immediately	The Presidency of the Court does not see a role for itself but should be left to the judges in Chambers.
R220	positive	immediately	This recommendation had been implemented with the adoption in 2019 of the Internal Guidelines on Judgment Drafting and Guidelines on judgment structure
R221	positive	2022	Further modalities discussed during Judges retreat in November 2021
R225	positive	immediately	Already implemented
R226	positive		
R227	positive		
R228	positive		Already being implemented
R229	positive		
R230	positive		
R231	positive		
R232	positive		
R233	positive	as soon as possible	
R234	positive	as soon as possible	
R235	positive		
R236	positive		

R237	positive		
R238	positive		
R239	positive	immediately	Already implemented
R240	positive		
R241	positive		
R242	positive		
R243	positive		Already being implemented. The OTP is actively reviewing the implementation of the Situation Completion policy across all situations and hopes to make relevant announcements during 2022.
R244	positive		Already being implemented. The OTP is actively reviewing the implementation of the Situation Completion policy across all situations and hopes to make relevant announcements during 2022.
R245	positive		See comment on R244.
R246	positive		See comment on R244.
R247	positive		See comment on R244.
R248	positive		See comment on R244.
R249	positive		See comment on R244.
R250	positive		See comment on R244.
R251	positive		Already being implemented.
R252	positive		Already being implemented.
R253	positive		Already being implemented.
R254	positive		
R255	positive		
R256	positive		
R257	positive		
R258	positive		
R259	positive		
R260	positive		
R261	positive		
R262	positive		Already being implemented.
R263	positive		Already being implemented.
R264	positive		Already being implemented.
R265	positive		Already being implemented.
R266	positive		
R267	positive		
R268	positive		Already being implemented. Operations Manual is currently being revised.
R269	positive		Already being implemented. Reorganization of the OTP since the publication of the report of the independent experts.
R270	pending		See comment on R269.
R271	positive		See comment on R269.
R272	positive	immediately	The OTP points out that it remains flexible in its approach because it believes that not all partnerships need to be translated into agreements and arrangements.
R273	positive	immediately	Positively assessed for implementation but within certain

			practical constraints. The OTP continues to explore and promote standard practices and procedures, where possible.
R274	positive	immediately	Positively assessed for implementation but within certain practical constraints. The OTP has encountered some difficulties with the number of different laws and legal requirements in the different States Parties, and added that it was challenging to have a one-size fits all approach.
R275	positive	immediately	On-going commitment
R276	positive	Immediately	Already partially implemented
R277	positive	2022	OTP notes that its implementation would require time and resources
R278	positive	immediately	Already being implemented. States Parties called for careful handling of its implementation.
R279	positive	immediately	Already practised by OTP
R281	positive	immediately	Already implemented by the OTP
R282	positive		Already being implemented.
R283	positive		Already being implemented.
R284	Assessment is ongoing.		
R285	positive	immediately	OTP is making efforts to increase the involvement of the Suspects-At-Large Tracking Team (SALT) with national law enforcement agencies
R286	Assessment is ongoing.		
R287	positive		Already being implemented. Coordination between OTP and the Registry is well established and functional.
R288	positive		Already being implemented.
R289	Assessment is ongoing.		
R290	positive		Not yet implemented
R291	positive		Already being implemented.
R292	positive		Already being implemented.
R293	positive		Already being implemented.
R294	positive		Already being implemented.
R295	positive		Already being implemented - caution with regard to the local recruitment of staff potentially involved in investigations
R296	positive		Already being implemented.
R297	positive		Already being implemented.
R298	positive		First half 2023.
R299	positive		Already being implemented.
R300	positive		Already being implemented.
R301	positive		Already being implemented.
R302	positive		Already being implemented.
R303	positive		Already being implemented.
R304	positive		Already being implemented.
R305	positive	immediately	Already implemented
R306	positive	immediately	Already implemented
R307	positive	immediately	Already implemented

R308	pending		Court concerned about budgetary consequences
R309	positive	immediately	already practised
R310	positive	immediately	Implemented through the multifaceted test of “a reasonable prospect of conviction”
R311	positive	immediately	Already done incidentally but will be done in a more structured way
R312	positive	immediately	Already done incidentally but will be done in a more structured way
R313	positive	immediately	Would be institutionalized, including through the KPIs
R314	positive	immediately	See comment on R313.
R315	positive	immediately	See comment on R313.
R316	positive	immediately	See comment on R313.
R317	positive	immediately	See comment on R313.
R318	positive	immediately	See comment on R313.
R319	positive	immediately	See comment on R313.
R320	positive	immediately	
R321	negative		Court prefers to keep present rules regarding composition ACLT
R322	pending		
R323	pending		
R324	pending		
R325	pending		
R326	pending		
R327	pending		
R328	positive	to be determined	This has been assessed positively, as modified by the agreed draft resolution on Legal aid requesting the Court to review the legal aid system (see OP1)
R329	positive	yet to be determined	Court will further study adequate modalities
R331	positive	on-going	modalities of implementation are being looked at by the Court
R332	positive	immediately	
R333	positive	yet to be determined	Will be included in reform of Legal aid policy
R334	positive	yet to be determined	Will be included in reform of Legal aid policy
R335	partially positive		See Court’s comments on R115
R350	positive	immediately	Already implemented
R352	pending	1st half 2022	
R353	positive	1st half 2022	TFV agrees with the recommendation
R354	negative		R354 assessed as negative, but the governance and practical issues identified by the IER Experts would require further consideration in an appropriate forum.
R355	positive	immediately	Already implemented
R356	positive	immediately	Already implemented
R357	positive	immediately	Being implemented
R358	negative		Related to assessment of R354. R358 were assessed as negative, but the governance and practical

			issues identified by the IER Experts would require further consideration in an appropriate forum.
R361	positive	immediately	On-going commitment
R362	positive	immediately	On-going commitment
R363	positive	2023	PASP to consult informally with ICC President. Can be held in 2023.
R364	positive		Some issues already being addressed, but by-and-large implemented.
R366	negative		The two governance bodies have distinct mandates. Specific recommendations made by the External Auditor (Cour des Comptes) which had not been addressed could be discussed at future BMO meetings. Discussion on streamlining of CBF agenda was proposed and, with input from the Court, could be further discussed in BMO meetings. It was noted that the increased interaction between the oversight bodies and the Court in the BMO facilitation has allowed for better understanding of the respective mandates and States Parties expectations.
R367	positive	2022	The Audit Committee, as it currently exists (i.e. not the “new budgetary control and audit body” as formulated in R367) would remain responsible for overseeing the adequacy of the framework set up for the Court’s internal audit function and its independence. As regards the future discussion on the implementation of the recommendation, the respective roles of the Audit Committee and of Coordination Council (CoCo) of the Court as referred to in R367 could be further delineated.
R368	positive	2022	This recommendation has already been undertaken in 2021 by discussing the respective recommendations made by the External Auditor (Cour des Comptes), whose recommendations were only submitted after the IER report was finalized. Thus, the positive assessment of R368 is without prejudice to the position- positive or negative- of States Parties regarding the specific recommendations of the former External Auditor.

R369	First part positive Second part negative	First part immediately	First part being implemented. Issues of governance, resources, effectiveness, streamlining of functions and geographical representation in the Secretariat to be considered, and the Assembly to decide on the appropriate forum.
R370	negative		See comment for second part of R369
R371	positive with modifications	2022	Modifications concern parts of the recommendation related to in-person attendance of candidates at interview before the ACN and disqualification of candidates..
R372	positive	2022	Agreed action: To amend OP12 <sup>ter</sup> of the Procedure of nomination and election of judges.
R373	positive with modifications	2022	Modifications concern different feasible form of supporting verifiable information about the candidate instead of a certificate of accuracy of replies to the questionnaire.
R374	positive	2022	
R375	positive with modifications	2022	Modifications concern different form of providing information on the procedure followed leading to the nomination instead of a certificate.
R376	modified	2022	Instead of the process leading to harmonization of national nomination procedures, preparation of a non-binding document for the attention of States Parties when forming or amending the rules governing their national nomination procedures was agreed. Implementation being considered together with R377. Recommended timeline in the course of 2021 was not possible.
R377	positive with modifications	2022	Modifications concern preparation of a non-binding document for the attention of States Parties when forming or amending the rules governing their national nomination procedures instead of a set of criteria, which should be applied in national nomination procedures along with guidelines on their conduct. Implementation being considered together with R376.
R378	positive	2022	Implementation of the recommendation in its part related to casting of votes might not be fully feasible due to minimum voting requirements.

R379	negative		The 16 June 2022 report of the facilitation indicated an assessment of “not positive” since there was no consensus on the RM assessment categories of positive, negative or modified. The RM has adjusted this assessment to conform to its categories of assessment.
R380	modified	2022	Recommendation to be included in the mandate of the review of procedure for nomination and election of judges for future consideration.
R381	positive	2022	Modalities of implementation to be further discussed in SGG
R382	positive	2022	See comment on R381.
R383	positive	2022	See comment on R381.
R384	positive	2022	See comment on R381.

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