

**ASSEMBLY OF STATES PARTIES TO THE  
ROME STATUTE OF THE  
INTERNATIONAL CRIMINAL COURT**

**NINETEENTH SESSION  
THE HAGUE, 14 -16 DECEMBER 2020**

**OFFICIAL RECORDS  
VOLUME I**

*Note*

Symbols of documents of the Assembly of States Parties to the Rome Statute of the International Criminal Court are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a document of the Assembly of States Parties to the Rome Statute of the International Criminal Court. Resolutions of the Assembly bear the letters “Res.”, while its decisions bear the letters “Dec.”.

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## Part I Proceedings

### A. Introduction

1. At the 9th meeting of the eighteenth session, on 6 December 2019, the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”) decided to hold its nineteenth session in New York from 7 to 17 December 2020. As a result of the challenges of holding the nineteenth session in New York due to the restrictions related to the COVID-19 pandemic, the Bureau of the Assembly decided, on 1 October 2020, that the nineteenth session of the Assembly would be held in The Hague from 14 to 16 December 2020 for a total of three working days<sup>1</sup> and decided further, on 23 October 2020, that a resumed nineteenth session would tentatively be held at United Nations Headquarters, New York, from 17 to 23 December 2020.
2. In accordance with the Rules of Procedure of the Assembly of States Parties,<sup>2</sup> (“the Rules of Procedure”), the President of the Assembly invited all States Parties to the Rome Statute to participate in the session. Other States that had signed the Statute or the Final Act were also invited to participate in the session as observers.
3. In accordance with rule 92 of the Rules of Procedure, invitations to participate in the session as observers were also extended to representatives of intergovernmental organizations and other entities that had received a standing invitation from the General Assembly of the United Nations pursuant to its relevant resolutions,<sup>3</sup> as well as to representatives of regional intergovernmental organizations and other international bodies invited to the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, June/July 1998), accredited to the Preparatory Commission for the International Criminal Court or invited by the Assembly.
4. Furthermore, in accordance with rule 93 of the Rules of Procedure, non-governmental organizations invited to the Rome Conference, registered to the Preparatory Commission for the International Criminal Court, or in consultative status with the Economic and Social Council of the United Nations, whose activities were relevant to the activities of the Court or that had been invited by the Assembly, attended and participated in the work of the Assembly.
5. In accordance with rule 94 of the Rules of Procedure, the following States were invited to be present during the work of the Assembly: Bhutan, Democratic People’s Republic of Korea, Equatorial Guinea, Eswatini, Lao People’s Democratic Republic, Lebanon, Mauritania, Micronesia (Federated States of), Myanmar, Niue, Palau, Papua New Guinea, Rwanda, Somalia, South Sudan, Tonga, Turkmenistan and Tuvalu.
6. The list of delegations to the session is contained in document ICC-ASP/19/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Mr. O-Gon Kwon (Republic of Korea), who had been elected for the seventeenth to nineteenth sessions.<sup>4</sup>

<sup>1</sup>[https://asp.icc-](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/Bureau%208.%20Agenda%20and%20decisions%20-%20ENG.pdf)

[cpi.int/iccdocs/asp\\_docs/ASP19/Bureau%208.%20Agenda%20and%20decisions%20-%20ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/Bureau%208.%20Agenda%20and%20decisions%20-%20ENG.pdf)

<sup>2</sup> *Official Records ... First session ... 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

<sup>3</sup> General Assembly resolutions 253 (III), 477 (V), 2011 (XX), 3208 (XXIX), 3369 (XXX), 31/3, 33/18, 35/2, 35/3, 36/4, 42/10, 43/6, 44/6, 45/6, 46/8, 47/4, 48/2, 48/3, 48/4, 48/5, 48/237, 48/265, 49/1, 49/2, 50/2, 51/1, 51/6, 51/204, 52/6, 53/5, 53/6, 53/216, 54/5, 54/10, 54/195, 55/160, 55/161, 56/90, 56/91, 56/92, 57/29, 57/30, 57/31, 57/32, 58/83, 58/84, 58/85, 58/86, 59/48, 59/49, 59/50, 59/51, 59/52, 59/53, 60/25, 60/26, 60/27, 60/28, 61/43, 61/259, 62/73, 62/74, 62/77, 62/78, 63/131, 63/132, 64/3, 64/121, 64/122, 64/123, 64/124, 66/109, 66/113, 69/130, 70/124, 71/153, 71/155, and decision 56/475.

<sup>4</sup> At its sixteenth session, the Assembly had, pursuant to rule 29 of its Rules of Procedure, elected the Bureau for the seventeenth to nineteenth sessions of the Assembly, as follows: *President*: Mr. O-Gon Kwon (Republic of Korea); *Vice-Presidents*: Mr. Momar Diop (Senegal) and Mr. Michal Mlynár (Slovakia); *Other members of the Bureau*: Argentina, Australia, Austria, Colombia, Côte d’Ivoire, Denmark, Ecuador, Estonia, France, Gambia, Ghana, Japan, Mexico, Netherlands, Serbia, Slovenia, State of Palestine and Uganda. See: *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol.I, part I, paras. 16-17. At the 1st plenary meeting of the seventeenth session, pursuant to rule 29 of its Rules of Procedure, the Assembly elected Mr. Jens-Otto Horslund (Denmark) by acclamation as a Vice-President of the Assembly to complete the term of office of Mr. Momar Diop (Senegal) who had been elected Vice-President of the Assembly and who had resigned from that post effective 19 March 2018.

8. At the 1st meeting, on 14 December 2020, a statement was delivered by the keynote speaker, H.E. Mr. Stef Blok, Minister of Foreign Affairs of the Netherlands, via pre-recorded video.

9. Also at its 1st plenary meeting, the Assembly appointed Mr. Idrissa Sadio (Senegal) as Rapporteur for the nineteenth session (The Hague) and Mr. Mamadou Racine Ly (Senegal) as Rapporteur for the resumed nineteenth session (New York).

10. The Director of the Secretariat of the Assembly, Mr. Renan Villacis, acted as Secretary of the Assembly. The Assembly was serviced by the Secretariat.

11. At its 1st plenary meeting, on 14 December 2020, the Assembly observed one minute of silence dedicated to prayer or meditation, in accordance with rule 43 of the Rules of Procedure, and remembered, in particular, victims.

12. At the same meeting, the Assembly adopted the following agenda (ICC-ASP/19/1 and Corr.1):

1. Opening of the session by the President.
2. Silent prayer or meditation.
3. Election of the President for the twentieth to twenty-second sessions.
4. Election of two Vice-Presidents and eighteen members of the Bureau for the twentieth to twenty-second sessions.
5. Adoption of the agenda.
6. States in arrears.
7. Credentials of representatives of States at the nineteenth session:
  - (a) Appointment of the Credentials Committee; and
  - (b) Report of the Credentials Committee.
8. Organization of work.
9. General debate.
10. Report on the activities of the Bureau.
11. Report on the activities of the Court.
12. Report of the Board of Directors of the Trust Fund for Victims.
13. Review of the International Criminal Court and the Rome Statute system.
14. Election of the Prosecutor.
15. Election of six judges.
16. Election of six members of the Committee on Budget and Finance.
17. Consideration and adoption of the budget for the nineteenth financial year.
18. Consideration of the audit reports.
19. Appointment of the External Auditor.
20. Amendments to the Rome Statute and the Rules of Procedure and Evidence.
21. Cooperation.
22. Review of the work and the operational mandate of the Independent Oversight Mechanism.
23. Decision concerning the date of the next session of the Assembly of States Parties.
24. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.
25. Other matters.

13. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/19/1/Add.1/Rev.1).

14. Also at its 1st plenary meeting, on 14 December 2020, the Assembly agreed on a programme of work and decided to meet in plenary session as well as in the working group format. The Assembly established a Working Group on the Programme Budget for 2021.

15. Mr. Andrés Terán Parral (Ecuador) was appointed Coordinator of the Working Group on the Programme Budget for 2021. Mr. Vincent Rittener (Switzerland) was appointed Coordinator for the consultations on the omnibus resolution.

## **B. Consideration of issues on the agenda of the Assembly at its nineteenth session**

### **1. States in arrears**

16. At the 1st plenary meeting, on 14 December 2020, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to nine States Parties.

17. The President of the Assembly renewed the appeal to States Parties in arrears to settle their accounts with the Court as soon as possible. The President also appealed to all States Parties to pay their assessed contributions for 2021 in a timely manner.

18. Pursuant to article 112, paragraph 8, of the Rome Statute, three State Parties in arrears submitted a request to the Assembly for exemption from the loss of their voting rights, with the Assembly approving the request at its 4th plenary meeting on 16 December 2020.

### **2. Credentials of representatives of States Parties at the nineteenth session**

19. At its nineteenth session, the Assembly appointed the following members of the Credentials Committee: Argentina, Belgium, Finland, Hungary, Mexico, Republic of Korea, Romania and Uganda.

20. At its 4th plenary meeting, on 16 December 2020, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

### **3. General debate<sup>5</sup>**

21. At the 1st plenary meeting, the Minister of Foreign Affairs of the Netherlands, H.E. Mr. Stef Blok, addressed the Assembly. At the 2nd plenary meeting, on 14 December 2020, a statement by the President of the Democratic Republic of the Congo, H.E. Mr. Félix Tshisekedi, was delivered on his behalf. Statements were also made by the representatives of Afghanistan; Albania; Andorra; Argentina; Australia; Austria; Bangladesh; Belgium; Bolivia (Plurinational State of); Brazil; Bulgaria; Canada; Chile; Colombia; Costa Rica; Cyprus; Czech Republic; Denmark; Ecuador; El Salvador; Estonia; Finland; France; Gambia; Georgia; Germany (on behalf of the European Union); Greece; Guatemala; Honduras; Ireland; Italy; Japan; Kenya; Liechtenstein; Luxembourg; Malawi; Malta; Mexico; Mongolia; New Zealand; Nigeria; Norway; Panama; Paraguay; Peru; Poland; Portugal; Republic of Korea; Romania; Senegal; Serbia; Sierra Leone; Slovakia; Slovenia; South Africa; Spain; State of Palestine; Sweden; Switzerland; Timor-Leste; Trinidad and Tobago; United Kingdom of Great Britain and Northern Ireland; United Republic of Tanzania, Uruguay; Venezuela (Bolivarian Republic of). Statements were also made by China (People's Republic of); Cuba; and Iran (Islamic Republic of).

22. The following international organizations made a statement: Asian-African Legal Consultative Organization; International Development Law Organization.

<sup>5</sup> Some of the statements were delivered by pre-recorded video, some in-person and some via written submissions. The list of all statements and pre-recorded videos is found on the website of the Assembly at: [https://asp.icc-cpi.int/en\\_menus/asp/sessions/general%20debate/Pages/GeneralDebate\\_19th\\_session.aspx](https://asp.icc-cpi.int/en_menus/asp/sessions/general%20debate/Pages/GeneralDebate_19th_session.aspx).

23. A statement was made by the International Criminal Court Bar Association. The following civil society organizations also made statements: African Network for International Criminal Justice; Asian Legal Resource Centre; Coalition for the International Criminal Court; Georgian National Coalition for the International Criminal Court; Human Rights Watch; Informal Venezuelan NGOs Network; International Criminal Court Project American Bar Association; International Federation for Human Rights - Colectivo de Abogados José Alvear Restrepo; Malaysian National Coalition for the International Criminal Court; Moroccan Centre for Peace and Law; Open Society Justice Initiative; Palestinian Human Rights Organisations; Stop Ecocide Foundation; The Hague Peace Projects; Ukrainian Legal Advisory Group; World Federalist Movement/Institute for Global Policy.

#### **4. Report on the activities of the Bureau**

24. At its 1st plenary meeting, on 14 December 2020, the Assembly took note of the oral report on the activities of the Bureau,<sup>6</sup> delivered by the President, H.E. Mr. O-Gon Kwon. The President noted that, since the eighteenth session, the Bureau had held 14 formal meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

25. On behalf of the Bureau, the President expressed his satisfaction with the work conducted in 2020 by its working groups in The Hague and New York, and by the facilitators and the *ad country* focal points, as they had successfully carried out the mandates of the Assembly under the leadership of their respective Coordinators, Vice-President Ambassador Jens-Otto Horslund (Denmark) and Vice-President Ambassador Michal Mlynár (Slovakia). He was also pleased with the work of the Study Group on Governance under the leadership of Ambassador María Teresa Infante Caffi (Chile) and Ambassador Heinz Walker-Nederkoorn (Switzerland), as well as the focal points of the Study Group. This had enabled the Bureau to submit for the Assembly's consideration the respective reports and recommendations on the issues within its mandate.

#### **5. Report on the activities of the Court**

26. At its 1st plenary meeting, on 14 December 2020, the Assembly heard statements by Judge Chile Eboe-Osuji, President of the Court, by Ms. Fatou Bensouda, Prosecutor of the Court and by Mr. Peter Lewis, Registrar of the Court. At the same meeting, the Assembly took note of the report on the activities of the International Criminal Court.<sup>7</sup>

#### **6. Report of the Board of Directors of the Trust Fund for Victims**

27. At its 1st meeting, on 14 December 2020, the Assembly heard a statement by Ms. Mama Koité Doumbia, Chairperson of the Board of Directors of the Trust Fund for Victims. The Assembly considered and took note of the report on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2019 to 30 June 2020.<sup>8</sup>

#### **7. Review of the International Criminal Court and the Rome Statute system**

28. Further to resolution ICC-ASP/18/Res.7 by which the Assembly commissioned an Independent Expert Review starting 1 January 2020<sup>9</sup> and appointed a Group of Independent Experts,<sup>10</sup> the Assembly considered the report and recommendations of the Independent Expert Review,<sup>11</sup> and decided to continue its consideration of this agenda item at the resumed nineteenth session of the Assembly.

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<sup>6</sup> Annex II.

<sup>7</sup> ICC-ASP/19/9.

<sup>8</sup> ICC-ASP/19/14.

<sup>9</sup> ICC-ASP/18/Res.7, para. 6

<sup>10</sup> *Ibid.*, para. 7 and annex II.

<sup>11</sup> "Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report", dated 30 September 2020 (ICC-ASP/19/16).

## 8. Consideration and adoption of the budget for the nineteenth financial year

29. The Assembly was provided with statements by Mr. Peter Lewis, Registrar of the Court, and Ms. Mónica Sánchez Izquierdo,<sup>12</sup> Chairperson of the Committee on Budget and Finance (“the Committee”).

30. The Assembly, through its Working Group on the Programme Budget, considered the 2021 proposed programme budget, the reports of the Committee on Budget and Finance and the reports of the External Auditor. The Assembly also considered the reports of the Audit Committee.

31. At its 4th meeting, on 16 December 2020, the Assembly adopted the report of the Working Group on the programme budget (ICC-ASP/19/WGPB/1) wherein it, inter alia, conveyed the recommendation of the Working Group that the Assembly endorse the recommendations of the Committee at its thirty-fifth session.

32. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2021.

33. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/19/Res.1, concerning the programme budget in relation to the following:

- (a) Programme budget for 2021, including appropriations totalling €148,259.0 thousand and staffing tables for each of the major programmes. This amount is reduced by the instalments for the host State loan;
- (b) Working Capital Fund for 2021;
- (c) Outstanding contributions;
- (d) Contingency Fund;
- (e) Scale of assessment for the apportionment of expenses of the Court;
- (f) Financing of appropriations for 2021;
- (g) Premises of the Court;
- (h) Transfer of funds between major programmes under the 2020 approved programme budget;
- (i) Audit;
- (j) Budget Management Oversight;
- (k) Development of budget proposals;
- (l) A strategic approach to an improved budgetary process;
- (m) Human Resources;
- (n) Referrals by the Security Council; and
- (o) Five-Year Information Technology and Information Management Strategy.

34. At its 4th meeting, on 16 December 2020, further to the mandate contained in resolution ICC-ASP/18/Res.2 and the report of the Judicial Remuneration Panel,<sup>13</sup> the Assembly adopted by consensus resolution ICC-ASP/19/Res.3 concerning the remuneration of the judges of the International Criminal Court.

## 9. Consideration of the audit reports

35. The Assembly was provided with a statement by Ms. Margaret Wambui Ngugi Shava, Chairperson of the Audit Committee. The Assembly also received a statement from the External Auditor. The Assembly took note with appreciation of the reports of the External

<sup>12</sup> Annex III.

<sup>13</sup> ICC-ASP/19/18.

Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2019<sup>14</sup> and of the Trust Fund for Victims for the same period.<sup>15</sup>

**10. Review of the work and operational mandate of the Independent Oversight Mechanism**

36. By resolution ICC-ASP/18/Res.6,<sup>16</sup> the Assembly requested the Bureau to complete the review of the work and the operational mandate of the Independent Oversight Mechanism. At its 4th plenary meeting, on 16 December 2020, the Assembly adopted, by consensus, resolution ICC-ASP/19/Res.6, which contains the revised operational mandate of the Independent Oversight Mechanism (annex II).

**11. Amendments to the Rome Statute and the Rules of Procedure and Evidence**

37. At its 3rd plenary meeting, on 15 December 2020, the Assembly took note of the report of the Working Group on Amendments.<sup>17</sup>

**12. Cooperation**

38. At its 4th plenary meeting, on 16 December 2020, the Assembly adopted, by consensus, resolution ICC-ASP/19/Res.2 on cooperation.

**13. Decision concerning the dates and venues of the next sessions of the Assembly of States Parties**

39. At its 4th meeting, on 16 December 2020, the Assembly decided to hold its twentieth session in The Hague from 6 to 11 December 2021, and to hold its twenty-first session in The Hague.

**14. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance**

40. At its 4th meeting, on 16 December 2020, the Assembly decided that the Committee on Budget and Finance would hold its thirty-sixth and thirty-seventh sessions in The Hague, from 17 to 21 May 2021 and 6 to 17 September 2021, respectively.

**15. Other matters**

*a) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly*

41. The Assembly expressed its appreciation to Ireland for its contribution to the Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.

42. Given the uncertainties resulting from the coronavirus (COVID-19) pandemic on travel and on the working methods of the nineteenth session of the Assembly, it was not possible to proceed with the use of the Trust Fund.

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<sup>14</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part C.1.

<sup>15</sup> *Ibid.*, part C.2.

<sup>16</sup> Annex I, para. 15.

<sup>17</sup> ICC-ASP/19/28.

## Part II

### External audit, programme budget for 2021 and related documents

#### A. Introduction

1. The Assembly of States Parties had before it the 2021 proposed programme budget submitted by the Registrar of the International Criminal Court, in an advance version, on 30 July 2020,<sup>1</sup> the reports of the thirty-fourth<sup>2</sup> and thirty-fifth<sup>3</sup> sessions of the Committee on Budget and Finance, the reports of the Audit Committee on its eleventh and twelfth sessions,<sup>4</sup> the financial statements for the Court for the period 1 January to 31 December 2019,<sup>5</sup> and the Trust Fund for Victims financial statements for the period 1 January to 31 December 2019.<sup>6</sup> In addition, the Assembly had before it annex III of the report of the Committee on the work of its thirty-fifth session, in which the Court outlined the budgetary implications of the Committee's recommendations on the budgets of the major programmes.

2. The Assembly was provided with statements by the Registrar of the Court, Mr. Peter Lewis, the Chair of the Committee, Ms. Mónica Sánchez Izquierdo, the Chair of the Audit Committee, Ms. Margaret Wambui Ngugi Shava, and the External Auditor (*la Cour des comptes* (France)). The Assembly was further assisted by the Vice-Chair of the Committee, Mr. Werner Druml.

3. The Working Group on the Programme Budget met on 15 December 2020. During the meeting, the draft resolution was considered and finalized.

4. The Working Group noted that, as a result of the restrictions imposed by the COVID-19 pandemic, there had been limited time available for informal consultations throughout 2020. The Coordinator of the Working Group therefore recommended that informal consultations in The Hague Working Group budget facilitation commence early in 2021, in order for all relevant issues to be considered in full.

#### B. External audit

5. The Assembly noted with appreciation the reports of the External Auditor and the related comments of the Committee, contained in the report on the work of its thirty-fifth session.

6. The Assembly decided to appoint the Board of Audit and Inspection of the Republic of Korea as the new External Auditor of the Court and the Trust Fund for Victims for four years starting with the financial year 2021.

#### C. Amount of appropriation

7. The Court's 2021 proposed programme budget amounted to €148,502.3 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

8. The Committee considered the Court's 2021 proposed programme budget at its thirty-fifth session and concluded that there were a number of areas where savings could be made. Accordingly, the Committee recommended that the budget allocation be reduced to a total of €148,259.0 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

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<sup>1</sup>Official Records ... Nineteenth session ... 2020, (ICC-ASP/19/20), vol. II, part A.

<sup>2</sup>Ibid., part B.1.

<sup>3</sup>Ibid., part B.2.

<sup>4</sup>Available on the website of the Assembly at [http://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee/](http://asp.icc-cpi.int/en_menus/asp/AuditCommittee/).

<sup>5</sup>Ibid., part C.1.

<sup>6</sup>Ibid., part C.2.

9. The Assembly endorsed the recommendations contained in the report of the Committee. The Assembly therefore approved a budget appropriation for 2021 of €148,259.0 thousand.

10. The Assembly noted that without Major Programme VII-2 (Host State Loan), the total level of assessed contributions for the 2021 programme budget amounted to €144,673.9 thousand.

#### **D. Contingency Fund**

11. The Assembly decided to maintain the notional level of the Contingency Fund at €7.0 million.

12. The Assembly authorized the Court to transfer funds between major programmes at year end if the costs of unforeseen activities could not be absorbed within one major programme while a surplus existed in other major programmes, to ensure that all appropriations for 2020 were exhausted before accessing the Contingency Fund.

#### **E. Working Capital Fund**

13. The Assembly took note of the recommendations of the Committee on Budget and Finance and decided that the Working Capital Fund for 2021 shall be established in the amount of €11.6 million. The Assembly also decided that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

14. The Assembly noted that the Committee had recommended at its thirty-fifth session, in light of the liquidity risk faced by the Court, that the Bureau and the Assembly keep the level of the Working Capital Fund under review. The Assembly further noted that States Parties will continue to consider this important and urgent matter in The Hague Working Group facilitation on the budget.

#### **F. Financing of appropriations for 2021**

15. The Assembly resolved that, for 2021, the total assessed contributions amounted to €144,673.9 thousand.

## Part III

### Resolutions adopted by the Assembly of States Parties

#### Resolution ICC-ASP/19/Res.1

*Adopted at the 4<sup>th</sup> plenary meeting, on 16 December 2020, by consensus*

#### ICC-ASP/19/Res.1

### Resolution of the Assembly of States Parties on the proposed programme budget for 2021, the Working Capital Fund for 2021, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2021 and the Contingency Fund

*The Assembly of States Parties,*

*Having considered* the 2021 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the reports of the Committee on Budget and Finance (“the Committee”) on the work of its thirty-fourth<sup>1</sup> and thirty-fifth<sup>2</sup> sessions,

*Taking note* of the recommendations in the final report of the Independent Expert Review on the International Criminal Court and the Rome Statute system,<sup>3</sup> in particular as they relate to the budget process, without prejudice to the resolution on the review of the International Criminal Court and the Rome Statute system,

#### A. Programme budget for 2021

1. *Approves* appropriations totalling €148,259,000 in the appropriation sections described in the following table:

<i>Appropriation section</i>			<i>Thousands of euros</i>
Major Programme	I	Judiciary	11,756.3
Major Programme	II	Office of the Prosecutor	47,334.8
Major Programme	III	Registry	75,784.0
Major Programme	IV	Secretariat of the Assembly of States Parties	2,837.0
Major Programme	V	Premises	2,270.0
Major Programme	VI	Secretariat of the Trust Fund for Victims	3,199.6
Major Programme	VII-5	Independent Oversight Mechanism	739.5
Major Programme	VII-6	Office of Internal Audit	752.7
<i>Subtotal</i>			<i>144,673.9</i>
Major Programme	VII-2	Host State Loan	3,585.1
<b>Total</b>			<b>148,259.0</b>

2. *Notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises and have made such payments in full will not be assessed for the contributions corresponding to Major Programme VII-2 Host State Loan, amounting to €3,585,100;

<sup>1</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.1.

<sup>2</sup> *Ibid.*, part B.2.

<sup>3</sup> ICC-ASP/19/16.

3. *Further notes* that these contributions will bring down the level of the 2021 programme budget appropriations that need to be assessed for contributions by States Parties from €148,259,000 to €144,673,900, and that this amount will be assessed following the principles described in section E;

4. *Further approves* the following staffing tables for each of the above appropriation sections:

	<i>Judiciary</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Secretariat, Assembly of States Parties</i>	<i>Secretariat, Trust Fund for Victims</i>	<i>Independent Oversight Mechanism</i>	<i>Office of Internal Audit</i>	<i>Total</i>
USG	-	1	-	-	-	-	-	1
ASG	-	1	1	-	-	-	-	2
D-2	-	-	-	-	-	-	-	-
D-1	-	3	3	1	1	-	1	9
P-5	3	18	22	1	-	1	-	45
P-4	3	36	44	1	4	1	1	90
P-3	21	77	82	1	2	-	1	184
P-2	12	79	90	1	-	1	-	183
P-1	-	25	5	-	-	-	-	30
<i>Subtotal</i>	<i>39</i>	<i>240</i>	<i>247</i>	<i>5</i>	<i>7</i>	<i>3</i>	<i>3</i>	<i>544</i>
GS-PL	1	1	15	2	-	-	-	19
GS-OL	11	79	312	3	2	1	1	409
<i>Subtotal</i>	<i>12</i>	<i>80</i>	<i>327</i>	<i>5</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>428</i>
<b>Total</b>	<b>51</b>	<b>320</b>	<b>574</b>	<b>10</b>	<b>9</b>	<b>4</b>	<b>4</b>	<b>972</b>

## B. Working Capital Fund for 2021

*The Assembly of States Parties,*

*Recalling* that the Working Capital Fund was established to ensure that the Court be able to meet short-term liquidity problems pending receipt of assessed contributions,<sup>4</sup>

*Noting* the recommendation of the Committee at its twenty-seventh session to reinstate the Working Capital Fund to represent approximately one month's expenditure of the Court's 2016 approved budget (€11.6 million),<sup>5</sup>

*Further noting* that the Committee recommended a consideration of a multi-year funding timetable,<sup>6</sup>

1. *Notes* that the Working Capital Fund for 2020 was established in the amount of €11.6 million;
2. *Further notes* that the current level of the Working Capital Fund is €11.5 million;
3. *Resolves* that the Working Capital Fund for 2021 shall be established in the amount of €11.6 million, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court;
4. *Takes note* of the recommendation of the Committee<sup>7</sup> at its thirty-second session that the Working Capital Fund be maintained at one month of the Court's expenditure, therefore recommending an increase of the notional level to €12.3 million, *notes* that the Committee

<sup>4</sup> Financial Regulations and Rules 6.2.

<sup>5</sup> *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part B.2, para. 144.

<sup>6</sup> *Ibid.*, para. 148.

<sup>7</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, para. 66.

recommended at its thirty-fifth session, in light of the liquidity risk faced by the Court, that the Bureau and the Assembly keep the level of the Working Capital Fund under review, and *further notes* that States Parties will continue to consider this important and urgent matter in The Hague Working Group facilitation on the budget; and

5. *Decides* that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

### C. Outstanding contributions

*The Assembly of States Parties,*

*Welcoming* the report of the Bureau on the arrears of States Parties,<sup>8</sup> and in particular the conclusions and recommendations contained in that report,<sup>9</sup>

1. *Urges* all States Parties to make timely payments of assessed contributions and *requests* the Court and States Parties to make serious efforts and take necessary steps to reduce the level of arrears and outstanding contributions as far as possible to avoid liquidity issues for the Court, and *further requests* the Court to communicate to the Committee all information concerning outstanding contributions in advance of the twentieth session of the Assembly of States Parties;

2. *Welcomes* the Court's development of guidelines,<sup>10</sup> consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112, paragraph 8 of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans, *encourages* States Parties in arrears and subject to the provisions of article 112, paragraph 8, to work voluntarily, in coordination with the Court, to develop such payment plans, and *further requests* the Court to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget, including via the monthly financial reports provided to States Parties; and

3. *Takes note* of the recommendations of the Committee<sup>11</sup> and the External Auditor<sup>12</sup> concerning liquidity issues and *notes* that States Parties will continue to consider this matter in The Hague Working Group facilitation on the budget.

### D. Contingency Fund

*The Assembly of States Parties,*

*Recalling* its resolutions ICC-ASP/3/Res.4 establishing the Contingency Fund in the amount of €10,000,000 and ICC-ASP/7/Res.4 requesting the Bureau to consider options for replenishing both the Contingency Fund and the Working Capital Fund,

*Recalling further* that the Contingency Fund was established to ensure that the Court can meet: a) costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; b) unavoidable expenses for developments in existing situations that could not be accurately estimated at the time of the adoption of the budget; and c) costs associated with an unforeseen meeting of the Assembly,<sup>13</sup>

*Taking note* of the advice of the Committee in the reports on the work of its eleventh, thirteenth, nineteenth and twenty-first sessions,

*Recalling* that the Assembly, at its sixteenth session, decided that, should the Contingency Fund fall below €5.8 million by its seventeenth session, the Assembly would

<sup>8</sup> ICC-ASP/19/27.

<sup>9</sup> *Ibid.*, paras. 16 to 17.

<sup>10</sup> ICC-ASP/18/6.

<sup>11</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2. para. 193.

<sup>12</sup> Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 9.

<sup>13</sup> Financial Regulations and Rules 6.6.

assess the need for its replenishment, bearing in mind the report of the Committee on Budget and Finance,<sup>14</sup> and regulation 6.6 of the Financial Regulations and Rules,

1. *Notes* that the current level of the Contingency Fund is €5.2 million;
2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2021; and
3. *Requests* the Bureau to keep the €7.0 million threshold under review in light of further experience on the functioning of the Contingency Fund.

## **E. Scale of assessment for the apportionment of expenses of the Court**

*The Assembly of States Parties,*

1. *Decides* that for 2021, the contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget applied for 2019-2021,<sup>15</sup> and adjusted in accordance with the principles on which the scale is based;<sup>16</sup> and
2. *Notes* that, in addition, any maximum assessment rate for the largest contributors and for the least developed countries applicable for the United Nations regular budget will apply to the Court's scale of assessment.

## **F. Financing of appropriations for 2021**

*The Assembly of States Parties,*

1. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €144,673,900; and
2. *Resolves* that, for 2021, assessed contributions for the budget amounting to €144,673,900 of the budget appropriations approved by the Assembly under section A, paragraph 1 of the present resolution, will be financed in accordance with regulations 5.1 and 5.2 of the Financial Regulations and Rules of the Court.

## **G. Premises of the Court**

*The Assembly of States Parties,*

*Noting* the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,<sup>17</sup>

1. *Approves* capital replacement for the premises of the Court at the level of €378.9 thousand in 2021, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Reiterates* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary, *requests* the Court to continue to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible, and *invites* the Court to submit rolling medium and updated long-term capital replacement plans and estimates in line with these principles;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process;
4. *Welcomes* the intention of the Committee to review the medium and long-term plans and estimates for capital replacement, as well as financial and administrative mechanisms including possible alternatives to current contractual arrangements, at its thirty-sixth and

<sup>14</sup> *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2.

<sup>15</sup> A/RES/73/271.

<sup>16</sup> Rome Statute of the International Criminal Court, article 117.

<sup>17</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, paras. 95 to 107.

thirty-seventh sessions,<sup>18</sup> and *invites* the Committee to continue to undertake a detailed analysis and evaluation of the proposed budget taking into account the need for prioritization;

5. *Recalls* the recommendation of the Committee<sup>19</sup> regarding a mechanism for *pro bono* expert advice from States Parties in the planning and implementation of capital replacement, and *invites* States Parties to further explore this possibility and put forward suggestions in this regard;

6. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, and *requests* that a report on the topic be submitted for consideration by the twentieth session of the Assembly; and

7. *Welcomes with appreciation* the artwork donations to the premises of the Court made by several States Parties in 2020.

## H. Transfer of funds between major programmes under the 2020 approved programme budget

*The Assembly of States Parties,*

*Recognizing* that under regulation 4.8 of the Financial Regulations and Rules no transfer between appropriation sections may be made without authorization by the Assembly,

1. *Decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2020 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

## I. Audit

*The Assembly of States Parties,*

*Having regard to* the Charter of the Audit Committee, adopted at its fourteenth session,<sup>20</sup> as amended,

*Noting* the reports of the Audit Committee on the work of its eleventh and twelfth sessions,<sup>21</sup>

*Further noting* the recommendations of the Committee on Budget and Finance concerning audit matters,<sup>22</sup>

1. *Welcomes* the reports of the Audit Committee on the work of its eleventh and twelfth sessions;

2. *Decides* to appoint the Board of Audit and Inspection of the Republic of Korea as the External Auditor of the International Criminal Court and the Trust Fund for Victims for four years starting with the financial year 2021;

3. *Recalls* its request to the External Auditor, the *Cour des comptes*, to conduct an evaluation of the oversight bodies of the Court as part of its work in 2020, replacing the performance audit, and to recommend possible actions on their respective mandates and reporting lines, while fully respecting the independence of the Court as a whole, and *looks forward* to considering the outcome of that evaluation as soon as it is available; and

<sup>18</sup> *Ibid.*, paras. 105 and 106.

<sup>19</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 116 and *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 104.

<sup>20</sup> *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. II, part B.3, annex IV.

<sup>21</sup> AC/11/5 and AC/12/5, available on the website of the Audit Committee at:

[https://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee](https://asp.icc-cpi.int/en_menus/asp/AuditCommittee).

<sup>22</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.1, paras. 20 to 24 and *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, paras. 214 to 227.

4. *Takes note* of the proposed amendments to the Charter of the Audit Committee contained in annex III to the report of the Audit Committee on its tenth session<sup>23</sup> and *decides* to consider those amendments, taking into consideration the outcome of the evaluation to be undertaken by the External Auditor and the report of the Independent Expert Review,<sup>24</sup> in order to take a decision as appropriate.

## **J. Budget Management Oversight**

*The Assembly of States Parties,*

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims are dynamic and updated on a regular basis;
2. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor the Registry and the Trust Fund for Victims;
3. *Welcomes* the report of the Office of the Prosecutor on the implementation of its Strategic Plan for 2016-2018, and *requests* the Court to continue to assess, develop and apply the lessons learned contained therein;
4. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;
5. *Recalls* its invitation to the Court to hold annual consultations with the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year, including on use of and improvements on performance indicators;
6. *Invites* the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans; and
7. *Notes* the oversight roles of the Audit Committee, the Committee on Budget and Finance, the External Auditor, the Independent Oversight Mechanism, and the Office of Internal Audit, and *recommends* that these bodies continue to expand their coordination in order to improve the timely exchange of information and reporting of results amongst them, the organs of the Court, the Bureau, and the Assembly, to optimize their oversight capacities, and to avoid duplication of competence and work.

## **K. Development of budget proposals**

*The Assembly of States Parties,*

1. *Requests* the Court to present a sustainable budget proposal for its 2022 programme budget, based on transparent and strict financial assessments and needs-analysis. Proposed increases above the level of the 2021 approved budget should be requested only when necessary for the purpose of mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;
2. *Recalls* that the proposed programme budget should present the costs for the following year by first highlighting the costs of maintaining current activities, then proposing changes to those activities including full costings of such changes;
3. *Invites* the Court to continue to ensure a stringent internal budgetary process steered by the Registry as part of an annual cycle taking into account past expenditure and leading to a sound and transparent budget proposal, thus allowing the Court to manage its financial situation responsibly, *encourages* the Court to make all efforts to ensure a balanced budget,

<sup>23</sup> AC/10/5, available on the website of the Audit Committee at: [https://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee](https://asp.icc-cpi.int/en_menus/asp/AuditCommittee).

<sup>24</sup> ICC-ASP/19/16.

as appropriate, across organs, and *emphasizes* that the Court should strive to present accurate and sustainable budget proposals based on robust forecasts;

4. *Welcomes* the recommendation of the External Auditor<sup>25</sup> that the Court question the nature of current appropriations when preparing the annual budget proposal, to avoid a gradual drift in budget appropriations;

5. *Recalls* the conclusions of the External Auditor with regard to financial trade-offs<sup>26</sup> and *further recalls* that States Parties support the Court in many ways, also outside the normal budgetary process;

6. *Welcomes* the constructive dialogue between the Committee on Budget and Finance and the Court at the thirty-second session of the Committee on the presentation of budget proposals and *requests* the Court to set Court-wide annual efficiency targets and to present an annex to the 2022 programme budget on the achievements of these efficiency targets, as well as detailed information which clearly distinguishes, to the extent possible, between savings, efficiencies, non-recurrent cost reductions and additional cost reductions achieved in 2021 and estimations for 2022, and which, as recommended by the External Auditor,<sup>27</sup> refers to those savings and efficiencies which result from genuine managerial initiatives and have an impact on the baseline; and

7. *Further welcomes* the recommendations of the Committee in relation to the presentation of the budget proposals and the efforts made by the Court in this regard, *encourages* continued improvement, and *notes* that the Committee will be updated ahead of its thirty-sixth session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties.

## **L. A strategic approach to an improved budgetary process**

*The Assembly of States Parties,*

*Bearing in mind* the independence and confidentiality required to allow the Judiciary and the Office of the Prosecutor to carry out their duties,

1. *Considering* that the Court was able to mitigate the detrimental effects of the COVID-19 pandemic, and ensure business continuity through flexibility and versatility in its sound management of operations, and *noting* that, in part, cost reductions in the budget were related to these exceptional circumstances;

2. *Emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, and *requests* the Committee to ensure that its reports are published as soon as possible after each session;

3. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee in both working languages of the Court;

4. *Stresses* the utmost importance of achieving economies of scale, streamlining activities, identifying potential duplications and promoting synergies within as well as between the different organs of the Court;

5. *Welcomes* the Court's continued efforts to fully implement the "One-Court principle" when establishing the proposed programme budget, which has resulted in improvements to the budgetary process;

6. *Welcomes* the inclusion of comparative tables in the report of the Committee showing the yearly increases in approved programme budgets 2013-2020<sup>28</sup> and budget allocation per active investigation in Major Programme II and *invites* the Court to include updated versions of these tables in future budget proposals;

<sup>25</sup> Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 2.

<sup>26</sup> *Ibid.*, para. 213.

<sup>27</sup> *Ibid.*, recommendation 3.

<sup>28</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, annex V.

7. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions, in particular with regard to effective leadership and management, and *encourages* the Court to continue this work in light of the recommendations of the External Auditor and to share with States Parties any update on the development of performance indicators;

8. *Notes*, in relation to the report of the Independent Oversight Mechanism (November 2019) on the evaluation of the Secretariat of the Trust Fund for Victims, the decision of the Board of Directors of the Trust Fund for Victims in December 2019 to accept the report's recommendations and to request the Executive Director to submit an action plan to implement the recommendations; *notes also* the Board's approval of the action plan in March 2020 and its integration in the revised Strategic Plan of the Trust Fund for Victims and its activity tracker, as both adopted in August 2020; *takes note* of the notification by the Trust Fund for Victims of the public versions of the activity tracker, as well as of the Management Brief of October 2020, thus accounting in a transparent and comprehensive manner for the activities of the Trust Fund for Victims, including in relation to the Independent Oversight Mechanism recommendations; and *encourages* the Board and Secretariat of the Trust Fund for Victims, in close cooperation with the Court and in particular with the Registry, to continue the implementation of measures to improve the performance of the Trust Fund for Victims and increase efficiency and effectiveness in relation to its mandate and its strategic goals of impact for victims and organizational performance;

9. *Notes* the importance of frequently reconsidering the value of current activity, including any opportunities for redeployment,<sup>29</sup> and *recalls* that careful prioritization is an important principle of efficient and effective management and is key to achieving successful outcomes;

10. *Requests* the Court, in consultation with the Committee, to continue to develop its budgetary process, guided by the Registry, by:

(a) Further strengthening the "One-Court principle" by ensuring that the budget process and its underlying assumptions and objectives are based on coordinated and robust strategic planning and prioritization;

(b) Further enhancing dialogue and information sharing between the Court and States Parties on the assumptions, objectives and priorities which underpin the draft programme budget at an early stage;

(c) Employing maximum flexibility in the management of its human resources in reacting to unexpected situations, and to the extent possible redeploying resources based on actual workload requirements;

(d) Continuing to explore ways to preserve the Court's long-term ability to deliver on its mandate effectively and efficiently, while being mindful of the financial constraints of States Parties;

(e) Enhancing the dialogue and information sharing between the Court and States Parties on potential medium-term cost drivers with a view to enhancing budget predictability; and

(f) Continuing to make all efforts to ensure accurate forecasting and expenditure in all budget lines;

11. *Requests* the Court to continue submitting its annual report on activities and programme performance including, as appropriate, relevant information on the approved budget, expenditure and variance at the sub-programme level with all budget lines, as well as the provisional expenditures and revenues for all trust funds administered by the Court, also being provided by the Court in its financial statements;

12. *Requests* the Court to continue striving for structural and sustainable enhancements in the efficiency of its work;

13. *Welcomes* the monthly financial reports provided by the Court to States Parties, showing monthly figures on cash flow, balances of the General Fund, the Working Capital

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<sup>29</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 27.

Fund and the Contingency Fund, the status of assessed contributions, and monthly and annual cash flow forecasts, and *emphasizes* the usefulness of these reports; and

14. *Commits* itself to financial practices which give utmost priority to the annual budget cycle and *calls for* a restrictive use of multi-annual funds administered outside the cycle.

## M. Human Resources

*The Assembly of States Parties,*

*Recalling* its decision, during its fifteenth session,<sup>30</sup> to approve the implementation of all the elements of the new compensation package applicable as of 1 January 2017, in alignment with the changes and timelines approved by the United Nations General Assembly,

*Noting* the report of the Committee on Budget and Finance on the work of its twenty-eighth session, which welcomed the development of the policy put forward by the Court regarding the compensation review package,<sup>31</sup>

*Noting also* that the Court submitted the amended text of the Staff Rules relating to the United Nations education grant, special education grant and related benefits to the Committee on Budget and Finance at its thirty-second session and that the Committee recommended that the Assembly approve the proposed changes,<sup>32</sup>

1. *Welcomes* the work undertaken by the Court to implement the changes with respect to the new compensation package for staff members in the Professional and higher categories in conformity with the United Nations common system standards;

2. *Recalling* that the Court submitted the text of the amended provisional Staff Rules relating to the United Nations education grant, special education grant and related benefits, *notes* that the Court intends to promulgate the amended Staff Rules in early 2021;

3. *Notes* the Administrative Instruction on the Classification and Reclassification of Posts promulgated by the Registrar,<sup>33</sup> *requests* the Committee to continue monitoring the implementation of the Administrative Instruction at its thirty-sixth and thirty-seventh sessions and to report to the Assembly, *recalls its decision* that no new requests for reclassifications should be submitted by the Court until the new review of the Administrative Instruction is finalized,<sup>34</sup> *stresses* that reclassifications of posts cannot be used as a promotion tool or as a consequence of increased workloads and *recalls* the importance of fairness and transparency in all Human Resources decision-making;

4. *Notes* the External Auditor's recommendations that the Court strive to apply a unified set of Human Resources management policies<sup>35</sup> and develop and publish an ethics charter,<sup>36</sup> and *encourages* the Court to update States Parties on the implementation of those recommendations; and

5. *Encourages* prudent management of the Court's human resources to ensure full budget discipline, and *notes* that all new staff of any category, including temporary, must be properly justified.<sup>37</sup>

## N. Referrals by the Security Council

*The Assembly of States Parties,*

*Noting with concern* that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council<sup>38</sup> have been borne exclusively by States Parties,

<sup>30</sup> ICC-ASP/15/Res.1, section N, para. 1.

<sup>31</sup> *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.1, para. 105.

<sup>32</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, para. 121.

<sup>33</sup> ICC/AI/2018/002, 22 November 2018.

<sup>34</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 43.

<sup>35</sup> Final audit report on Human Resources Management (ICC-ASP/17/7), recommendation 2.

<sup>36</sup> *Ibid.*, paras. 238-240.

<sup>37</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 37.

<sup>38</sup> United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

*Recalling* that, pursuant to article 115 of the Rome Statute, expenses of the Court and the Assembly shall be provided, inter alia, by funds of the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council,

*Mindful* that, pursuant to article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations, the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements,

1. *Notes* the report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council,<sup>39</sup> and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €70 million, borne exclusively by States Parties;
2. *Encourages* States Parties to continue discussions on a possible way forward on this issue; and
3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the twentieth session of the Assembly.

## O. Five-Year Information Technology and Information Management Strategy

*The Assembly of States Parties,*

*Noting* the recommendation of the Committee at its thirty-first session with regard to multi-year budgeting of the Five-Year Information Technology and Information Management Strategy (“the Strategy”),<sup>40</sup>

*Recalling* its request<sup>41</sup> to the Court to provide the Committee, at its thirty-second session, with a solution within the parameters of the Financial Regulations and Rules for the transfer of unspent funds of the Strategy, caused by objective delays in procurement, from one financial year to the following,

*Noting* the recommendation of the Committee at its thirty-third session<sup>42</sup> that the Court continue to implement the Strategy on the basis of the maximum cost estimates for the years 2019-2021 as presented in the report of the Committee on the work of its thirty-first session (2019: €2,168.5 thousand; 2020: €2,072.5 thousand and 2021: €2,559.5 thousand),<sup>43</sup>

*Noting also* the recommendation of the Committee at its thirty-fifth session<sup>44</sup> to extend the Strategy until the end of 2022, with new expenditure ceilings in an amount of €2,052.5 thousand for 2021 and €158.0 thousand for 2022,

*Noting further* that the Strategy would result in foreseen total savings of €403.9 thousand, based on the forecast execution of €8,267.0 thousand and the Committee’s original endorsed total of €8,670.9 thousand,<sup>45</sup>

1. *Decides*, in view of the nature of this long-term project, that a portion of the 2020 approved budget for the Strategy amounting to €165,000, and resulting from objective delays in procurement, shall remain available in 2021; and
2. *Requests* the Registrar to report annually to the Assembly, through the Committee, on the implementation of the Strategy.

<sup>39</sup> ICC-ASP/19/17.

<sup>40</sup> *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 104.

<sup>41</sup> ICC-ASP/18/Res.4, section P, para. 1.

<sup>42</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 86.

<sup>43</sup> *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 98, table 5.

<sup>44</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 75.

<sup>45</sup> *Ibid.*, Table 3, para. 74.

## Resolution ICC-ASP/19/Res.2

*Adopted at the 4<sup>th</sup> plenary meeting, on 16 December 2020, by consensus*

### ICC-ASP/19/Res.2 Resolution on cooperation

*The Assembly of States Parties,*

*Recalling* the provisions of the Rome Statute, the Declaration on Cooperation (RC/Dec.2) agreed by States Parties at the Review Conference in Kampala and previous resolutions and declarations of the Assembly of States Parties with regard to cooperation, including ICC-ASP/8/Res.2, ICC-ASP/9/Res.3, ICC-ASP/10/Res.2, ICC-ASP/11/Res.5, ICC-ASP/12/Res.3, ICC-ASP/13/Res.3, ICC-ASP/14/Res.3, ICC-ASP/15/Res.3, ICC-ASP/16/Res.2, ICC-ASP/17/Res.3, ICC-ASP-18/Res.3 and the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2,

*Determined* to put an end to impunity by holding to account the perpetrators of the most serious crimes of concern to the international community as a whole, and *reaffirming* that the effective and expeditious prosecution of such crimes must be strengthened, inter alia, by enhancing international cooperation,

*Stressing* the importance of effective and comprehensive cooperation and assistance by States Parties, other States, and international and regional organizations, to enable the Court to fulfil its mandate as set out in the Rome Statute and that States Parties have a general obligation to cooperate fully with the Court in its investigation and prosecution of crimes within its jurisdiction, including with regard to the execution of arrest warrants and surrender requests, as well as other forms of cooperation set out in article 93 of the Rome Statute,

*Welcoming* the report of the Court on cooperation<sup>1</sup> submitted pursuant to paragraph 36 of resolution ICC-ASP/18/Res.3,

*Noting* that contacts with persons in respect of whom an arrest warrant issued by the Court is outstanding should be avoided when such contacts undermine the objectives of the Rome Statute,

*Further noting* the arrest guidelines issued by the Office of the Prosecutor for the consideration of States, including inter alia, the elimination of non-essential contacts with individuals subject to an arrest warrant issued by the Court and that, when contacts are necessary, an attempt is first made to interact with individuals not subject to an arrest warrant,

*Noting* the guidelines setting out the policy of the United Nations Secretariat on contacts between United Nations officials and persons who are the subject of arrest warrants or summonses issued by the Court, as annexed to a letter dated 3 April 2013 by the Secretary General of the United Nations to the President of the General Assembly and the President of the Security Council,

*Recognizing* that requests for cooperation and the implementation thereof should take into account the rights of the accused,

*Commending* international and regional organizations support for strengthening cooperation in the area of voluntary agreements,

*Recalling* the pledges relating to cooperation made by States Parties at the Review Conference in Kampala and *noting* the importance of ensuring adequate follow-up with regard to the implementation of pledges,

*Taking note* of the resolution on Review of the International Criminal Court and the Rome Statute system<sup>2</sup> adopted by the Assembly at its eighteenth session requesting “the Bureau to address the following issues as a matter of priority in 2020 through its working groups and facilitations, in a fully inclusive manner, in line with their mandates [...]: (a) Strengthening cooperation”; the “Matrix over possible areas of strengthening the Court and the Rome Statute System”, dated 11 October 2019, prepared by the Presidency of the

<sup>1</sup> ICC-ASP/19/25.

<sup>2</sup> Resolution ICC-ASP/18/Res.7, adopted at the 9th plenary meeting, on 6 December 2019.

Assembly, which identifies as a priority issue to be addressed by the Bureau and its working groups, the strengthening of cooperation,

*Taking note also* of the “Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report”,<sup>3</sup> dated 30 September 2020, prepared by the Independent Experts,

1. *Emphasizes* the importance of timely and effective cooperation and assistance from States Parties and other States under an obligation or encouraged to cooperate fully with the Court pursuant to Part 9 of the Rome Statute or a United Nations Security Council resolution, as the failure to provide such cooperation in the context of judicial proceedings affects the efficiency of the Court and *stresses* that the non-execution of cooperation requests has a negative impact on the ability of the Court to execute its mandate, in particular when it concerns the arrest and surrender of individuals subject to arrest warrants;

#### **Execution of arrest warrants**

2. *Expresses* serious concerns that arrest warrants or surrender requests against 13 individuals remain outstanding despite the arrest and surrender to the Court of two suspects in June 2020 and November 2020 and *urges* States to cooperate fully in accordance with their obligation to arrest and surrender to the Court;

3. *Notes* the OTP and the Registry common efforts to devise and implement common strategies and missions to foster the arrest of suspects within the inter-organ working group on arrest strategies created in March 2016;

4. *Reaffirms* that concrete steps and measures to securing arrests need to be considered in a structured and systematic manner, based on the experience developed in national systems, the international ad hoc and mixed tribunals, as well as by the Court, regarding both tracking efforts and operational support;

5. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;

6. *Urges* States Parties to avoid contact with persons subject to a warrant of arrest issued by the Court, unless such contact is deemed essential by the State Party, *welcomes* the efforts of States and international and regional organizations in this regard, and *acknowledges* that States Parties may, on a voluntary basis, advise the ICC of their own contacts with persons subject to a warrant of arrest made as a result of such an assessment;

#### **Implementation legislation of the Rome Statute**

7. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, in particular through implementing legislation and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such legislative and to set up effective procedures and structures so as to ensure that they can fully meet their obligations under the Rome Statute regarding cooperation and judicial assistance;

8. *Acknowledges* efforts by States, by civil society organizations and by the Court, including through the Legal Tools Project, to facilitate exchange of information and experiences, with a view to raising awareness and facilitating the drafting of national implementing legislation and underlines the need to further exchange experience and best practices between States Parties;

#### **Informal consultations and establishment of focal points**

9. *Encourages* States to establish a national focal point and/or a national central authority or working group tasked with the coordination and mainstreaming of Court related issues, including requests for assistance, within and across government institutions, as part of efforts aimed at making national procedures for cooperation more efficient, where appropriate;

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<sup>3</sup> ICC-ASP/19/16.

10. *Recalls* the report to the thirteenth session of the Assembly on the feasibility study of establishing a coordinating mechanism of national authorities, and *encourages* States Parties to continue the discussion;

11. *Emphasizes* the on-going efforts made by the Court in providing focused requests for cooperation and assistance which contribute to enhancing the capacity of States Parties and other States to respond expeditiously to requests from the Court, *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance and *invites* the States to consider offering consultations and facilitating meetings between the Court organs formulating the requests and the competent national authorities ultimately in charge of executing them with a view to finding solutions together on ways to assist or transmit the information sought and when appropriate, to follow up on execution of requests and discuss on the most efficient way forward;

#### **Financial investigations and freezing of assets**

12. *Recognizes* that effective and expeditious cooperation with regard to the Court's requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crime is crucial to the provision of reparations to victims and for potentially addressing the costs of legal aid;

13. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible; *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;

14. *Recalls* the importance of the non-legally binding Paris Declaration on asset recovery annexed to resolution ICC-ASP/16/Res.2;

15. *Welcomes* the launch of the digital platform to reinforce exchange of relevant information between States Parties to encourage inter-State cooperation and to strengthening States' capacity to cooperate with the Court; to identify the practical challenges to the effective execution of the Court's requests for cooperation and to further raise awareness of the Court's mandate and requirements for financial investigations and asset recovery, and *decides* to continue the work with the Court and the Secretariat of the Assembly in order to enhance the platform in 2021;

#### **Cooperation with the defence**

16. *Urges* States Parties to cooperate with requests of the Court made in the interest of Defence teams, in order to ensure the fairness of proceedings before the Court;

#### **Agreement on Privileges and Immunities of the International Criminal Court**

17. *Calls upon* States Parties as well as non-States Parties that have not yet done so to become parties to the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority, and to incorporate it in their national legislation, as appropriate;

#### **Voluntary cooperation**

18. *Acknowledges* the importance of protective measures for victims and witnesses for the execution of the Court's mandate, *welcomes* the new relocation agreement concluded since the last resolution on cooperation, and *stresses* the need for more relocation agreements or arrangements with the Court for the expeditious relocation of witnesses;

19. *Calls upon* all States Parties and other States, to consider strengthening their cooperation with the Court by entering into agreements or arrangements with the Court, or any other means concerning, inter alia, protective measures for victims and witnesses, their families and others who are at risk on account of testimony given by witnesses;

20. *Acknowledges* that, when relocation of witnesses and their families proves necessary, due account should be given to finding solutions that, while fulfilling the strict safety requirements, also minimize the humanitarian costs of geographical distance and change of linguistic and cultural environment and *urges* all States Parties to consider making voluntary contributions to the Special Fund for Relocations;

21. *Emphasizes* that the need for cooperation with the Court on the enforcement of sentences, and on interim and final release is likely to increase in the coming years as more cases proceed toward conclusion, *recalls* the principle enshrined in the Rome Statute that States Parties should share the responsibility for enforcing sentences of imprisonment and for the interim and final release, in accordance with principles of equitable distribution, and *calls upon* States Parties to actively consider the conclusion of agreements with the Court to this end;

22. *Commends* and *further encourages* the work of the Court on framework agreements or arrangements, or any other means in areas such as interim release, final release - also in cases of acquittal - and sentence enforcement which may be essential to ensuring the rights of suspects and accused persons, in accordance with Rome Statute and guaranteeing the rights of convicted persons and *urges* all States Parties to consider strengthening cooperation in these areas;

23. *Requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twentieth session;

#### **Cooperation with United Nations**

24. *Welcomes and further encourages* the increased cooperation between the Court and the United Nations, and other international and regional organizations, relevant mechanisms for collecting and preserving evidence, and other inter-governmental institutions with a view to foster prosecution of crimes falling within the jurisdiction of the Court;

25. *Urges* States Parties to explore possibilities for facilitating further cooperation and communication between the Court and international and regional organizations, including by securing adequate and clear mandates when the United Nations Security Council refers situations to the Court, ensuring diplomatic and financial support; cooperation by all United Nations Member States and follow-up of such referrals, as well as taking into account the Court's mandate in the context of other areas of work of the Security Council, including the drafting of Security Council resolutions on sanctions and relevant thematic debates and resolutions;

#### **Diplomatic support**

26. *Emphasizes* the importance of States Parties enhancing and mainstreaming diplomatic, political and other forms of support for, as well as promoting greater awareness and understanding of the activities of the Court at the international level, and *encourages* States Parties to use their capacity as members of international and regional organizations to that end;

#### **Promoting dialogue with all stakeholders**

27. *Welcomes* the work undertaken on the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>4</sup> *recalls* the flyer prepared by the Court that can be used by all stakeholders to promote the 66 recommendations and increase their understanding and implementation by relevant national actors and the Court;

28. *Welcomes* the joint panel discussion on strengthening cooperation with the Court organized by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;

29. *Takes note* of the report at the Bureau on cooperation,<sup>5</sup> covering inter alia, the follow-up to the Paris Declaration on financial investigations and asset recovery and the work on a secured digital platform on cooperation; considerations on the Court's relationship with the United Nations; and proposals concerning the follow-up action regarding cooperation issues identified in the framework of the review and strengthening process of the Court and the Rome Statute System, and priority areas for 2021;

30. *Requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant

<sup>4</sup> Resolution ICC-ASP/6/Res.2, annex II.

<sup>5</sup> ICC-ASP/19/33.

organizations and non-governmental organizations in order to further strengthen cooperation with the Court;

31. *Requests* the Bureau, through its Working Groups to speed up its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate;

32. *Requests* the Bureau, through the facilitation on cooperation, bearing in mind the mechanism created to follow up the assessment and the implementation of the independent experts' recommendations to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its twentieth session, in line with the overall reporting framework set by the Assembly for the Mechanism;

33. *Requests* the Bureau, through the facilitation on cooperation, to continue to address a number of issues that have been priorities in recent years, and with a matter of priority: to continue the work to further develop the content of the Secured Platform on Cooperation; to hold consultations on the advisability of developing regional thematic focal points on cooperation, of creating a permanent structure for a network of national practitioners and focal points on cooperation, and on the deepening of the relationship between the United Nations and its agencies and entities, including for capacity building purpose in order to foster cooperation with the Court;

34. *Encourages* the Bureau to identify issues for the Assembly to continue holding plenary discussions on specific topics related to cooperation, including on the issue of financial investigations and arrests;

35. *Recognizes* the importance of ensuring a safe environment for strengthening and fostering cooperation between civil society and the Court and of taking all necessary action to address threats and intimidation directed at civil society organizations;

36. *Takes note* that due to the COVID-19 pandemic, the Court was not able to organize its 7th Focal Points Seminar on Cooperation during the reporting period, which is expected to take place in 2021, *underlines* that those seminars constitute important platforms to enhance dialogue and cooperation between the Court and States Parties including on new developments in technical areas of cooperation, and *encourages* all stakeholders, including civil society organizations, to continue organizing events that allow for exchange of information with the purpose of enhancing cooperation and constructively seeking solutions to identified challenges;

37. *Recognizing* the importance of the Court's contribution to the Assembly's efforts to enhance cooperation, *welcomes* the Court report on cooperation,<sup>6</sup> which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges, *requests* the Court to submit an updated report on cooperation to the Assembly at its twentieth session.

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<sup>6</sup> ICC-ASP/19/33.

## Resolution ICC-ASP/19/Res.3

Adopted at the 4<sup>th</sup> plenary meeting, on 16 December 2020, by consensus

### ICC-ASP/19/Res.3

#### Resolution on the remuneration of judges of the International Criminal Court

*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,<sup>1</sup>

*Welcoming* the report of the Judicial Remuneration Panel<sup>2</sup> submitted to the Bureau of the Assembly of States Parties in accordance with those Terms of Reference,

*Bearing in mind* the recommendations<sup>3</sup> of the Judicial Remuneration Panel regarding the remuneration package as a whole,

1. *Decides* to amend the conditions of service and compensation of full-time<sup>4</sup> judges of the International Criminal Court by replacing them with those of the Under-Secretary General of the United Nations common system, including participation in the United Nations Joint Staff Pension Fund, in addition to the allowances established in annex I to the present resolution. The alignment of the new conditions of service and compensation with the United Nations common system standards, and any subsequent amendments thereto, is subject to article 49 of the Rome Statute of the International Criminal Court;
2. *Decides also* to amend the conditions of service and compensation of non-full-time judges<sup>5</sup> of the International Criminal Court as set out in annex II to the present resolution;
3. *Decides further* that the new conditions of service and compensation for full-time judges and non-full-time judges, as provided for in paragraphs 1 and 2 above, shall enter into force on 11 March 2021;
4. *Decides* to give sitting judges the possibility to opt, for the remainder of their terms of office, to be subject either to (a) the current conditions of service and compensation,<sup>6</sup> or (b) the new conditions of service and compensation, as provided for in paragraph 1 above;
5. *Decides also* that the judges elected during the nineteenth session of the Assembly, and subsequent sessions, shall be subject during their terms of office exclusively to the new conditions of service and compensation, as provided for in paragraphs 1 and 2 above, as applicable;
6. *Requests* the Court, in consultation with the Judicial Remuneration Panel, to adopt the transitional measures deemed necessary, including to ensure compliance with article 49 of the Rome Statute of the International Criminal Court, in relation to the sitting judges who opt for the new conditions of service and compensation, pursuant to paragraph 4(b) above;
7. *Invites* the Court to make any necessary operational arrangements, in consultation with the sitting judges as per paragraph 4(b) above, for their transition to the new conditions of service and compensation as of 11 March 2021; and
8. *Notes* that the costs of the new conditions of service and compensation in 2021 shall be met from within the approved budget of the Court.

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

<sup>2</sup> ICC-ASP/19/18.

<sup>3</sup> ICC-ASP/19/18, para. 20.

<sup>4</sup> 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.

<sup>5</sup> As adopted by the Assembly during its first session in September 2002 and revised and reissued in Part III.A of document ICC-ASP/2/10.

<sup>6</sup> 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.

## **Annex I**

### **Additional allowances**

1. The President shall receive a special annual allowance in the amount of €18,000 net.
2. The First or Second Vice-President, or, in exceptional circumstances, any other judge assigned to act as President, shall be entitled to a special allowance of €100 net per day for each working day acting as President, up to a maximum of €10,000 per year.

## Annex II

### **Conditions of service and compensation of non-full-time judges of the International Criminal Court**

*These conditions of service and compensation of non-full-time judges of the International Criminal Court replace those which were adopted by the Assembly during its first session in September 2002 and revised and reissued in Part III.A of document ICC-ASP/2/10.*

#### **A. Allowances**

##### **Annual allowance**

1. An annual allowance, payable monthly, equivalent to one-ninth of the net salary (comprising both base salary and post adjustment) of the Under-Secretary General in the United Nations common system.
2. In addition to an annual allowance, a judge who declares, on an annual basis to the President of the Court, that his or her net income, including the annual allowance referred to in paragraph 1 above, is less per annum than the equivalent of one-third of the net salary (comprising both base salary and post adjustment) of the Under-Secretary General in the United Nations common system, will receive an allowance, payable monthly, to supplement his or her declared net income up to one-third of the net salary of the Under-Secretary General in the United Nations common system.

##### **Special allowance when engaged on the business of the Court**

3. A special allowance of 270 euros for each day that a judge is engaged on the business of the Court, as certified by the Presidency.

##### **Subsistence allowance**

4. A subsistence allowance, at the United Nations rate in euros, applicable to the Under-Secretary General in the United Nations common system, for each day that a judge attends meetings of the Court.

#### **B. Benefits**

##### **Pension**

5. The judges on non-full-time status are not entitled to a pension benefit. Once they are called to serve as a full-time judge, the pension benefit regime of a full-time judge will be applicable.

##### **Health insurance**

6. The judges on non-full-time status will be responsible for their own health insurance. Once they are called to serve as a full-time judge, the health insurance regime of a full-time judge will be applicable.

##### **Travel costs**

7. Travel to official meetings of the Court. All travel shall be by business-class travel between the declared home and the seat of the Court by the most direct route.

## Resolution ICC-ASP/19/Res.4

*Adopted at the 4th plenary meeting, on 16 December 2020, by consensus*

### ICC-ASP/19/Res.4

#### **Resolution on the procedure for adoption of decisions by the Assembly during the nineteenth session of the Assembly of States Parties to the Rome Statute owing to the coronavirus disease (COVID-19) pandemic**

*The Assembly of States Parties,*

*Noting with concern* the situation related to the coronavirus disease (COVID-19) and the guidance provided by the World Health Organization Key Planning Recommendations for Mass Gatherings in the context of COVID-19<sup>1</sup> aimed at containing risks of transmission,

1. *Authorizes* the President of the nineteenth session of the Assembly and the President of the twentieth session of the Assembly, if convening an in-person meeting of the Assembly is not possible, to circulate draft decisions of the Assembly under a silence procedure of at least 72 hours;
2. *Decides* that, if silence is not broken, the decision shall be considered adopted, and the nineteenth and twentieth session of the Assembly shall take note of the decision at its first face-to-face meeting convened as soon as the circumstances allow, and that this decision on the procedure for adoption of decisions by the Assembly shall be in effect until the first face-to-face meeting of the twentieth session of the Assembly; and
3. *Decides further* that during the nineteenth session and the resumed session of the Assembly, the Credentials Committee may apply *mutatis mutandis* the procedure set out above.

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<sup>1</sup> Interim guidance, 29 May 2020, available at <http://www.who.int/publications/i/item/10665-332235>

## Resolution ICC-ASP/19/Res.5

*Adopted at the 4<sup>th</sup> plenary meeting, on 16 December 2020, by consensus*

### ICC-ASP/19/Res.5

#### **Resolution concerning a possible second resumption of the nineteenth session of the Assembly and the term of the current Bureau in relation thereto**

*The Assembly of States Parties,*

*Recalling* its decision to hold its nineteenth session in New York from 7 to 17 December 2020,<sup>1</sup>

*Taking note* of the challenges posed by the COVID-19 pandemic in relation to the holding of the elections scheduled for the nineteenth session in New York,

*Mindful* of the provisions of article 112, paragraph 3, of the Rome Statute and rule 29 of the Rules of Procedure of the Assembly of States Parties concerning the term of the Bureau,

*Taking into account* that it may be necessary to extend the nineteenth session beyond the calendar year in which the completion of the Bureau's three-year term falls,

1. *Decides* to mandate the Bureau to consider the practicalities of holding a second resumption of the nineteenth session as soon as possible in the first two months of 2021 in New York, to enable the Assembly to conclude its consideration of the agenda items "Election of the Prosecutor" and "Election of six judges" which may remain open at the end of the resumption of the nineteenth session on 23 December 2020, including the timing and financial implications, and if appropriate to proceed with the convening of the second resumption;
2. *Decides also* that the Bureau elected for the seventeenth to nineteenth sessions<sup>2</sup> will continue to hold office until the close of the nineteenth session or until 28 February 2021, whichever comes earlier; and
3. *Decides further* that the decision in paragraph 2 of the present resolution is applicable only to the nineteenth session of the Assembly in the context of the COVID-19 pandemic and shall not constitute a precedent for the term of any future Bureau.

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<sup>1</sup> ICC-ASP/18/Res.6, para. 47 and annex I, para. 19 (b).

<sup>2</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixteenth session, New York, 4 - 14 December 2017* (ICC-ASP/16/20), vol. I, paras. 16-17.

## Resolution ICC-ASP/19/Res.6

*Adopted at the 4<sup>th</sup> plenary meeting, on 16 December 2020, by consensus*

### ICC-ASP/19/Res.6

## Strengthening the International Criminal Court and the Assembly of States Parties

*The Assembly of States Parties,*

*Mindful* that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent and the duty to end the most serious crimes of concern to the international community and to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

*Convinced* that the International Criminal Court (“the Court”) is an essential means of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

*Convinced also* that justice and peace are complementary and mutually reinforce each other,

*Welcoming* that the international community has agreed to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and, in this regard, encouraging societies facing conflicts to move from war to peace through peaceful solutions,

*Convinced* that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

*Welcoming* the Court’s central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

*Noting* the primary responsibility of national jurisdictions to prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of prosecuting such crimes,

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

*Welcoming* the efforts and achievements of the Court in bringing those most responsible for the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes and *noting* the jurisprudence of the Court on the issue of complementarity,

*Welcoming also* in this regard relevant contributions from the Court relating to sexual and gender-based crimes, such as the Office of the Prosecutor’s Policy Paper on Sexual and Gender-Based Crimes,<sup>1</sup> as well as contributions from States Parties and other relevant actors, including initiatives for advancing the knowledge and understanding of such crimes, and *convinced* that these initiatives should be an integral part of strategic dialogues and actions

<sup>1</sup><https://www.icc-cpi.int/iccdocs/otp/OTP-Policy-Paper-on-Sexual-and-Gender-Based-Crimes--June-2014.pdf>.

to strengthen the Court and national courts in the fight against impunity, while fully respecting their judicial independence,

*Recalling* that the application of articles 17, 18 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

*Recalling further* that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

*Recognizing* that crimes within the jurisdiction of the Court threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

*Underscoring* its respect for the judicial independence of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

*Taking note with appreciation* of the annual United Nations General Assembly resolutions concerning the Court,

*Welcoming* the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

*Deeply concerned* by the on-going lack of effective follow-up by the Security Council to its resolutions referring situations to the Court and its consequences, despite efforts by States Parties,

*Recalling* the full range of justice and reconciliation mechanisms with restorative measures that are complementary to criminal justice processes, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms, including guarantees of non-recurrence,

*Acknowledging* relevant decisions of the Court that have recognized that contributions to the promotion of peace and reconciliation may be a relevant consideration in sentencing decisions, on a case by case basis,

*Recalling* the success of the first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010,

*Recalling also* the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

*Appreciating* the invaluable assistance that has been provided by civil society to the Court,

*Reaffirming* the importance of States Parties' cooperation with the Court to the fulfilment of its mandate, and gravely concerned by attempts at intimidation to deter cooperation,

*Concerned* by the recent reports of threats and intimidation directed at some civil society organizations cooperating with the Court,

*Welcoming* the efforts undertaken by the Bureau and its Working Groups to identify ways to strengthen the International Criminal Court and the Rome Statute system through concrete, actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court,

*Emphasizing* the importance of equitable geographical representation and gender balance in the organs of the Court and, as appropriate, in the work of the Assembly and its subsidiary bodies,

*Mindful* of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

*Recognizing* that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims and *determined* to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system,

*Conscious* of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

*Conscious also* of the risks faced by personnel of the Court in the field,

*Recalling* that the Court acts within the constraints of an annual programme budget approved by the Assembly,

1. *Reconfirms* its unwavering support for the Court as an independent and impartial judicial institution, *reiterates* its commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any threats against the Court, its officials and those cooperating with it, *expresses concern* over measures against Court officials, and *renews* its resolve to stand united against impunity;

## A. Universality of the Rome Statute

2. *Welcomes* the State that has become a Party to the Rome Statute of the International Criminal Court since the eighteenth session of the Assembly and *invites* States not yet parties to the Rome Statute of the International Criminal Court to become parties to the Rome Statute, as amended, as soon as possible and *calls upon* all States Parties to intensify their efforts to promote universality;

3. *Notes with deep regret* the notification of withdrawal submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;<sup>2</sup>

4. *Welcomes with appreciation* the continuation by the President of the Assembly of the dialogue on the "Relationship between Africa and the International Criminal Court" initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and *invites* the Bureau to further widen and deepen this dialogue as needed with all interested States Parties;

5. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice<sup>3</sup> as well as those to commemorate the 20th anniversary of the Rome Statute and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly<sup>4</sup> and otherwise;

6. *Calls upon* all international and regional organizations as well as civil society to intensify their efforts to promote universality;

7. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties

<sup>2</sup> Depositary Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

<sup>3</sup> *Official Records... Review Conference... 2010 (RC/11)*, part II.B, Kampala declaration (RC/Decl.1), para 12.

<sup>4</sup> See ICC - Secretariat of the Assembly of States Parties at [https://asp.icc-cpi.int/en\\_menus/asp/asp%20events/ICJD/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJD/Pages/default.aspx).

with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));<sup>5</sup>

8. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law, and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as and when appropriate;

9. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute<sup>6</sup> and *notes with appreciation* the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on Privileges and Immunities, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

10. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, *endorses* the Bureau decision of 18 October 2017 whereby it adopted an Understanding on the Participation of Observer States in Meetings of the Assembly of States Parties,<sup>7</sup> and *underscores* the importance of promoting universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

## **B. Agreement on Privileges and Immunities**

11. *Welcomes* the States Parties that have become a party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

12. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on Privileges and Immunities in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

## **C. Cooperation**

13. *Refers* to its resolution ICC-ASP/19/Res.2 on cooperation;

14. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *also calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;

15. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court

<sup>5</sup> ICC-ASP/5/Res.3, annex I.

<sup>6</sup> ICC-ASP/19/30.

<sup>7</sup> See: Agenda and decisions of the sixth meeting of the Bureau, annex II, appendix: [https://asp.icc-cpi.int/iccdocs/asp\\_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2017-Bureau-06.pdf).

to fulfil its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;

16. *Further calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;

17. *Welcomes* the Court's report and comprehensive presentation on cooperation,<sup>8</sup> which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges;

18. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants following the seminar organized by the facilitators on cooperation on 7 November 2018 in The Hague;

19. *Welcomes* the joint panel discussion on strengthening cooperation with the Court organized by the co-facilitators on cooperation and the focal points on non-cooperation on 5 October 2020;

20. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;

21. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;

22. *Welcomes* the creation of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery;

23. *Notes* the recommendations on cooperation contained in the 30 September 2020 Independent Experts Report;<sup>9</sup>

24. *Recalls* the Procedures relating to non-cooperation adopted by the Assembly in ICC-ASP/10/Res.5 and revised by the Assembly in resolution ICC-ASP/17/Res.5, *recognizes* with concern the negative impact that the non-execution of Court requests continues to have on the ability of the Court to execute its mandate, and *takes note* of the past decisions of the Court on non-cooperation;

25. *Recalls* the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation,<sup>10</sup> which was revised as annex III to ICC-ASP/17/31<sup>11</sup> and *encourages* States Parties to make use of it as they see fit in order to improve the implementation of the Assembly procedures relating to non-cooperation;

26. *Takes note* of the report of the Bureau on non-cooperation,<sup>12</sup> *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation, *recalls* that the President serves ex officio as focal point for his or her region,<sup>13</sup> and *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly, including when accomplishing his or her task with the support of the regional focal points for non-cooperation;

27. *Recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, and *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council;

<sup>8</sup> ICC-ASP/19/33.

<sup>9</sup> ICC-ASP/19/16.

<sup>10</sup> ICC-ASP/15/31, Add.1, annex II.

<sup>11</sup> ICC-ASP/17/31 (Report of the Bureau on non-cooperation – Annex III, updated Toolkit).

<sup>12</sup> ICC-ASP/19/23.

<sup>13</sup> ICC-ASP/11/29, para. 12.

28. *Calls upon* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *encourages* the President of the Assembly and the Bureau to continue consulting with the Security Council and *also encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

29. *Takes note with appreciation* of the positive development in Sudan after a situation of non-cooperation that prevailed over a decade and *encourages* the new authorities to meaningfully contribute through effective cooperation to the fulfilment of the mandate of the Court and Security Council resolution 1593;

30. *Noting* the past orders of the Pre-Trial Chamber to the Registrar concerning action to be taken in case of information relating to travel of suspects, *urges* States to share with the focal points on non-cooperation any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued;

#### **D. Host State**

31. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters Agreement and *notes with appreciation* the on-going commitment of the host State to the Court with a view to its more efficient functioning;

#### **E. Relationship with the United Nations**

32. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals;

33. *Welcomes* the twice-yearly reports of the Prosecutor on the situations referred by the United Nations Security Council pursuant to resolutions 1593 (2005) and 1970 (2011), and *noting* the Prosecutor's repeated requests for effective Security Council follow-up, *recognizes* the efforts of some members of the Security Council in this regard, and *urges* all members of the Security Council to support future such requests;

34. *Recognizes* that ratification or accession to the Rome Statute by members of the United Nations Security Council enhances joint efforts to combat impunity for the most serious crimes of concern to the international community as a whole;

35. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

(a) providing effective follow-up of situations referred by the Council to the Court and on-going political support;

(b) enabling financial support by the United Nations for expenses incurred by the Court due to referrals of the Council;

(c) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council, including by considering extending best practices with respect to the drafting of mandates of peacekeeping operations while respecting their basic principles, and increased cooperation between Sanctions Committees and the Court;

(d) considering mandating peacekeeping and special political missions to contribute, where appropriate, to the strengthening of national justice systems through training, outreach and other forms of assistance;

(e) enhanced engagement by the Council with Court representatives and on matters related to the Court in various formats; and

(f) institutionalizing Council cooperation with and support for the Court in this regard;

36. *Recalls* the report of the Court on the status of on-going cooperation with the United Nations, including in the field;<sup>14</sup>

37. *Encourages* all United Nations Offices, Funds and Programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as focal point for cooperation between the United Nations system and the Court;

38. *Recalls* article 4 of the Relationship Agreement between the Court and the United Nations, and *stresses* the continuing need to ensure the ability of the Court to fully exercise its capacity of observer to the United Nations and its ability to interact and engage in dialogue with the United Nations, including through its attendance and participation as observer in the activities of the United Nations General Assembly, and through the Court's officials' regular visits to the United Nations to provide briefings and updates on its activities;

39. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

40. *Welcomes* that States Parties have been informed throughout 2020 on Court-related developments at the United Nations and in particular at the Security Council, notably through regular briefings provided by the designated State Party member of the Security Council, and *calls upon* Bureau members and other States Parties to continue providing States Parties with information about their efforts at the United Nations and in any other international or regional fora to promote the fight against impunity;

41. *Welcomes* the presentation of the annual report of the Court to the General Assembly of the United Nations<sup>15</sup> and in particular its focus on the relationship between the Court and the United Nations, *also welcomes* the adoption of resolution A/RES/75/3 by the General Assembly and *encourages* States Parties to continue their constructive engagement with United Nations Member States to further strengthen this resolution;

42. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and *notes* that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €70 million;

43. *Stresses* that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;

44. *Urges* States Parties to pursue, within the General Assembly of the United Nations, the implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly shall be subject to separate arrangements;

45. *Encourages* the Court to further engage with the relevant Sanctions Committees of the United Nations Security Council with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern;

46. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

## **F. Relationships with other international organizations and bodies**

47. *Welcomes* the efforts undertaken by various regional and other international organizations to support the Court in the fulfilment of its mandate;

48. *Recalls* the memoranda of understanding and agreements on cooperation concluded by the Court with the European Union, the Asian-African Legal Consultative Organization, the Organization of American States, the Commonwealth, the Organisation internationale de

<sup>14</sup> ICC-ASP/12/42.

<sup>15</sup> United Nations document A/75/324.

la Francophonie, the Parliament of the MERCOSUR, and the Inter-American Court of Human Rights;

49. *Welcomes* the efforts of the Court to engage with various regional bodies and entities, including through its participation in the bi-annual meeting of the Organization of American States on strengthening cooperation with the ICC, the EU Day against Impunity and the organization of a roundtable with the European Union, the briefing to the African, Caribbean and Pacific (“ACP”) Group of States in Brussels, Belgium, as well as the annual session of the Asian-African Legal Consultative Organization;

50. *Emphasizes* the need to pursue efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *welcomes* the Court’s further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office, *recognizes* the engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

51. *Welcomes* the series of meetings previously held in Addis Ababa which took the form of joint seminars between the Court and the African Union, in July 2011, October 2012, July 2014 and October 2015, and consequent retreats in October 2016 and in November 2017 organized by the Court to enable a frank and constructive dialogue between the Court and the African States Parties to the Rome Statute as a key measure to strengthen relations between the Court and its African partners and address challenges within the context of this relationship;

52. *Further welcomes* the organization of a retreat on 12 June 2019 in Addis Ababa, Ethiopia, between the Court and African States Parties to the Rome Statute, with the participation of the Office of the Legal Counsel of the African Union and the Trust Fund for Victims;

53. *Welcomes* the organization of joint seminars between the Court and the Caribbean Community (“CARICOM”) in Port of Spain, Trinidad and Tobago from 16 to 17 May 2011, and from 10 to 11 January 2017, on the importance of working towards the universality of the Rome Statute, adopting implementing legislation and increasing participation in meetings of the Assembly of States Parties;

54. *Also welcomes* the efforts to further the presence of the Court at meetings of regional organizations, including through the organization of a side event at the 48th Pacific Islands Forum held in Apia, Samoa, from 4 to 8 September 2017, and the address by the President of the Court to the 55th Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States, in Abuja, Nigeria, on 29 June 2019;

55. *Recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

## **G. Activities of the Court**

56. *Takes note* of the latest report on the activities of the Court to the Assembly;<sup>16</sup>

57. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court’s activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council<sup>17</sup> referred to the Court or which the Prosecutor initiated *proprio motu*;

58. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations, tribunals and mechanisms, including those gained by national institutions that have already investigated and prosecuted crimes that fall

<sup>16</sup> ICC-ASP/19/9.

<sup>17</sup> United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

within the Court's jurisdiction, in solving challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

59. *Encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

60. *Recognizes* the importance of achieving accountability for all Rome Statute crimes while recalling that there is no hierarchy between them, *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twentieth session of the Assembly;

61. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

62. *Welcomes* the continued implementation by the Office of the Prosecutor of its Policy Papers on Case Selection and Prioritization, on Children, and on Sexual and Gender-Based Crimes, and, in this regard, *stresses* the importance of the effective investigation and prosecution of sexual and gender-based crimes and crimes against children by the Court and by national courts, in order to end impunity for perpetrators of such crimes, *calls upon* States Parties to consider the Policy Papers to strengthen the investigation and prosecution of these crimes domestically and *notes* the on-going preparation of the Office of the Prosecutor's Policy Paper on the Protection of Cultural Property within the Rome Statute framework;

63. *Expresses its appreciation* to the Office of the Prosecutor for consulting with States Parties and other stakeholders before the issuance of its policies and strategies and *welcomes* the contributions made by States Parties in this regard;

64. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance, efficient use of financial resources and sound management;

65. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;

66. *Notes with appreciation* the continued efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices and activities in close cooperation with the United Nations, as appropriate, in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

67. *Welcomes* the on-going efforts undertaken by the Court to improve its use of alternative sources of information and evidence as well as its capacities to this end, including in the field of financial investigations, *encourages* the Court to continue these efforts and *notes* the importance of providing the Court with the appropriate means for this purpose;

68. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

69. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic

Plan for Outreach<sup>18</sup> in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

70. *Recalls* that the issues of public information and communication about the Court and its activities constitute a shared responsibility of the Court and States Parties, while *acknowledging* the significant contribution of other stakeholders to developing a coordinated and comprehensive approach;

## H. Elections

71. *Refers* to resolution ICC-ASP/18/Res.4, which, inter alia, adopted amendments to the procedure set out in ICC-ASP/3/Res.6 for the nomination and election of judges, and amendments to the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19;

72. *Stresses* the importance of nominating and electing as judges qualified, competent and experienced persons of the highest quality and of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices, in accordance with article 36 of the Rome Statute, and for this purpose *encourages* States Parties to conduct thorough and transparent processes to identify the best candidates;

73. *Stresses* the importance of elected judges who have made their solemn undertaking being available to take up their full-time service when the Court's workload so requires;

74. *Takes note* of the report of the Advisory Committee on Nominations of Judges<sup>19</sup> on the work of its seventh session, containing recommendations for the election of six judges during the nineteenth session of the Assembly;

75. *Recalls* its decision that the Advisory Committee on Nominations hold its sessions in The Hague or in New York, depending on the cost effectiveness of the particular venue;

76. *Reiterates* the importance of interviews with candidates, including by videoconference or similar means, to the effective discharge of its mandate and *stresses* the responsibility of the nominating States to ensure that candidates attend an interview with the Advisory Committee on Nominations;

77. *Recalls* the terms of reference of the Advisory Committee on Nominations of Judges of the International Criminal Court adopted by the Assembly via resolution ICC-ASP/10/Res.5, paragraph 19, as amended via resolution ICC-ASP/18/Res.4, and *requests* States Parties which may be considering nominations of their nationals as members of the Advisory Committee to bear in mind that the composition of the Committee should reflect, inter alia, "a fair representation of both genders";

78. *Welcomes* the process established by the Bureau of the Assembly of States Parties for the election of the third Prosecutor of the International Criminal Court and *calls upon* the Bureau, through transparent and inclusive consultations with States Parties and civil society, and with the feedback of the Committee on the Election of the Prosecutor and the Panel of Experts on the implementation of their mandate, within existing resources, to examine ways to continue strengthening the process by which the Prosecutor is elected;

## I. Secretariat of the Assembly of States Parties

79. *Recognizes* the important work done by the Secretariat of the Assembly of States Parties ("the Secretariat"), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3,

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<sup>18</sup> ICC-ASP/5/12.

<sup>19</sup> ICC-ASP/19/11.

and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

80. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;<sup>20</sup>

81. *Welcomes* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;<sup>21</sup>

## **J. Counsel**

82. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

83. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association;<sup>22</sup>

84. *Invites* the International Criminal Court Bar Association to report to the Assembly, through the Bureau, on its activities in advance of the twentieth session;

85. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel and thus *continues to encourage* applications to the list of counsel established as required under rule 21, sub-rule 2, of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

## **K. Legal aid**

86. *Acknowledges* the Court's efforts to continue implementing the legal aid remuneration policy and *stresses* the need for continuous monitoring of the efficiency of the legal aid system to uphold and strengthen the principles of the legal aid system, namely fair trial, objectivity, transparency, economy, continuity and flexibility;<sup>23</sup>

87. *Takes note* of the information provided by the Registrar<sup>24</sup> and the recommendations made by the Committee on Budget and Finance regarding this matter;<sup>25</sup>

88. *Recalls* the fundamental importance of the legal aid system to ensuring the fairness of judicial proceedings as well as the right of the defendants and victims to appropriate legal representation;

## **L. Study Group on Governance**

89. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

90. *Takes note* of the Bureau's report on the Study Group on Governance<sup>26</sup> covering the considerations of the following issues: election of the Registrar; performance indicators; procedure for amending the Rules of Procedure and Evidence; and management of transitions in the judiciary;

91. *Extends* for another year the mandate of the Study Group, established in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICC-

<sup>20</sup> ICC-ASP/2/Res.3, annex, para. 10.

<sup>21</sup> ICC-ASP/17/39.

<sup>22</sup> ICC-ASP/19/32.

<sup>23</sup> ICC-ASP/3/16, para. 16.

<sup>24</sup> CBF/32/11 and CBF/32/7.

<sup>25</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2. paras. 93, 96, 97 and 98.

<sup>26</sup> ICC-ASP/19/21.

ASP/12/Res.8, ICC-ASP/13/Res.5, ICC-ASP/14/Res.4, ICC-ASP/15/Res.5, ICC-ASP/16/Res.6, ICC-ASP/17/Res.5 and ICC-ASP/18/Res.6;

92. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions;

93. *Encourages* the Court to continue its work in 2021 on developing common practice, in particular on performance indicators;

94. *Takes note* of the “Independent Expert Review of the International Criminal Court and the Rome Statute System, Final Report,”<sup>27</sup> dated 30 September 2020, prepared by the Independent Experts, and *notes* that the Study Group on Governance will consider recommendations falling within its ambit, including with respect to the procedure for amending the Rules of Procedure and Evidence; performance indicators; and management of transitions in the judiciary and election of the Registrar;

## M. Proceedings of the Court

95. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution and the promotion of the universality of the Statute, as well as the best possible use of the Court’s resources;

96. *Welcomes* the Court’s efforts to enhance the efficiency and effectiveness of proceedings, as well as the efforts on the part of States Parties and civil society in this regard, *mindful* of the importance of continued dialogue on this matter and *noting* the shared responsibility of the Court and States Parties in this regard;

## N. Working methods review

97. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

98. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods;

99. *Decides* to continue improving the working methods of the Bureau and the governance of the Assembly, and to that effect:

(a) *recalls* the revised general roadmap for facilitations contained in annex II of resolution ICC-ASP/15/Res.5 and *stresses* the need for its full implementation;

(b) *welcomes* the holding of Bureau meetings both in New York and in The Hague;

(c) *acknowledges* the importance of ensuring that the agenda of the Assembly allows sufficient time for substantive discussions;

(d) *recognizes* the importance of exchange of information as well as mutual consultations between the New York Working Group and The Hague Working Group on matters of joint concern with a view to enhancing efficiency while avoiding duplication of efforts;

(e) *encourages* all States Parties to use the Extranet designed for the work of the subsidiary bodies of the Bureau and the Assembly containing all necessary documentation on the work in progress; and

(f) *also encourages* States Parties to deliver statements no longer than five minutes and to submit written statements instead of oral ones;

100. *Recognizes* the importance of the work carried out by the facilitators and the focal points;

101. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective

<sup>27</sup> ICC-ASP/19/16.

regional group to inform the discussion of the Bureau, including by establishing appropriate mechanisms for providing regular updates on the work of the Bureau;

102. *Reiterates* that the Bureau shall have representative character in its composition, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world, and *requests* the Bureau to remain seized of the matter and report on the matter in the annual report on its activities;

103. *Requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau and to make recommendations to improve efficiency;

104. *Requests also* the Bureau to address in its report under paragraph 103 the proposal to hold the Assembly sessions as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled;

## **O. Victims and affected communities, reparations and Trust Fund for Victims**

105. *Refers* to its resolution ICC-ASP/13/Res.4 on victims and affected communities, reparations and Trust Fund for Victims;

106. *Reiterates* that victims' right to present and have considered their views and concerns at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected and to protection of their safety, physical and psychological well-being, dignity and privacy, under article 68 of the Rome Statute, as well as access to relevant information are essential components of justice and, in this regard, *emphasizes* the importance of effective outreach to victims and affected communities in order to give effect to the mandate of the Court;

107. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and *emphasizes* the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims;

108. *Recalls* article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court, and *notes* that assistance and reparations to victims may promote reconciliation and contribute to peace-building;

109. *Acknowledges* the importance of protective measures for victims and witnesses, including considering the best interests, rights and well-being of children and maintaining the physical and psychological welfare of witnesses, particularly victims of sexual and gender-based crimes, for the execution of the Court's mandate, *stresses* the need for States to conclude agreements with the Court in order to facilitate expeditious international relocation of persons at risk, *urges* all States to consider concluding such relocation agreements and *encourages* all States to contribute to the Special Fund for Relocations;

110. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court, as required;

111. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,<sup>28</sup> and therefore *requests* the Court to submit an updated strategy, including measurable and time-bound objectives, to the Assembly at its twentieth session;

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<sup>28</sup> ICC-ASP/13/Res.4, para. 1.

112. *Renews its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims and affected communities;
113. *Notes* the significant growth in the activities of the Trust Fund, to include the four on-going reparations proceedings as well as the expansion of assistance programmes to more situations before the Court, including Central African Republic and Côte d'Ivoire;
114. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to make voluntary contributions, in accordance with their financial ability, to the Trust Fund for Victims in order to broaden its resource base, improve the predictability of funding and maintain responsiveness to harm suffered by victims as well as to the Court's judicial developments, and *renews its appreciation* to those that have done so;
115. *Invites* States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and *expresses its appreciation* to those that have already done so;
116. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and *expresses its appreciation* to those that have already done so;
117. *Notes* the intention of the Trust Fund for Victims to raise €10 million annually in voluntary contributions and private donations, in order to ensure the implementation of Court-ordered reparations and assistance activities to the benefit of victims in cases and situations before the Court;

## **P. Recruitment of staff**

118. *Takes note* of the Court's report on Human Resources Management,<sup>29</sup> and requests the Court to further strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties, gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children, and *encourages* further progress in this regard;
119. *Calls upon* the Court to report the outcome of its efforts to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance to the Assembly at its twentieth session, including, but not limited to, improvements in the recruitment process and annual recruitment data;
120. *Takes note* of the continued dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, and *welcomes* the report of the Bureau and its recommendations;<sup>30</sup>
121. *Urges* States Parties to undertake efforts to identify and enlarge pools of potential applicants to the Court's professional positions from States Parties from non- and under-represented regions and countries, including through the financing by the Assembly of the Court's internship and visiting professional programmes, and by States Parties of Junior Professional Officer ("JPO") programmes, through targeted outreach initiatives and through the dissemination among relevant national institutions and organizations of the Court's vacancies;
122. *Welcomes* the establishment by the Court of a programme to fund, through voluntary contributions, the placement of interns and visiting professionals from developing regions with a particular focus on candidates from non-represented and under-represented States Parties, *welcomes* the voluntary contributions received thus far and *calls upon* States Parties to contribute to this programme;

<sup>29</sup> ICC-ASP/19/4.

<sup>30</sup> ICC-ASP/19/29.

123. *Requests* the Court to further devise mechanisms that can ensure in a more sustainable and systematic manner the funding of placements of interns and visiting professionals from developing regions, and *further requests* the Court to explore and propose modalities for implementing JPO programmes for candidates from non- and under-represented States Parties, particularly from developing regions, to be funded through voluntary contributions;

124. *Requests* the Court to look into measures to introduce a rotation policy at the International Criminal Court and *further requests* the Court to report the outcome to the Assembly;

125. *Welcomes* the Registry Strategic Plan for 2019-2021 and its three-year programme of action to improve the geographical representation and gender balance as one of the Registry's priorities;

126. *Takes note* of the report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,<sup>31</sup> and *notes* that the facilitation on geographical representation and gender balance will consider recommendations falling within its ambit;

## Q. Complementarity

127. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

128. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

129. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

130. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity-building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society;

131. *Welcomes*, in this regard, the adoption of the 2030 Agenda for Sustainable Development<sup>32</sup> and *acknowledges* the important work being undertaken with regard to promoting the rule of law at the national and international levels and ensuring equal access to justice for all;

132. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

133. *Welcomes* the report of the Bureau on complementarity,<sup>33</sup> *takes note* of the recommendations made on future consultations set out therein and without prejudice to any decision of the Assembly on future processes regarding the Report of the Independent Expert Review, and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of

<sup>31</sup> ICC-ASP/19/16.

<sup>32</sup> United Nations General Assembly resolution 70/1.

<sup>33</sup> ICC-ASP/19/22.

partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

134. *Also welcomes* the information by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions; *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twentieth session of the Assembly;

135. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities and *further welcomes* the efforts made by the international community and national authorities, including national capacity-building activities to investigate and prosecute sexual and gender-based crimes that may amount to Rome Statute crimes, in particular the continued efforts on the strategic actions to ensure access to justice and to enhance empowerment of victims at national level, recalling the recommendations presented by the International Development Law Organization<sup>34</sup> during the fourteenth session of the Assembly;

136. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and *also encourages* continued inter-State cooperation, including on engaging international, regional and national actors in the justice sector, as well as civil society, in exchange of information and practices on strategic and sustainable efforts to strengthen national capacity to investigate and prosecute Rome Statute crimes and the strengthening of access to justice for victims of such crimes, including through international development assistance;

## R. Independent Oversight Mechanism

137. *Recalls* its decisions in resolutions ICC-ASP/15/Res.5 and ICC-ASP/16/Res.6 to fully review the work and the operational mandate of the Independent Oversight Mechanism at its seventeenth session and its decisions in resolutions ICC-ASP/17/Res.5 and ICC-ASP/18/Res.6 to request the Bureau to continue the review and to complete it, including the consideration of amendments to the mandate to cover investigations of allegations against former officials, and to report thereon to the Assembly at its nineteenth session;

138. *Welcomes* the discussions held during 2020 on the review of the work and operational mandate of the Independent Oversight Mechanism, which is a subsidiary body of the Assembly of States Parties;

139. *Welcomes* the draft revised operational mandate for the Independent Oversight Mechanism, annexed to the report on the review of the work and operational mandate of the Independent Oversight Mechanism,<sup>35</sup> as a result of thorough discussions held among States Parties, with representatives of the Court's organs and the Independent Oversight Mechanism;

140. *Takes note* of the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,<sup>36</sup> in particular its recommendations related to the work and operational mandate of the Independent Oversight Mechanism, which deserves thorough discussions among States Parties and consideration and may call for further revisions of the mandate;

<sup>34</sup> International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.

<sup>35</sup> ICC-ASP/19/24.

<sup>36</sup> ICC-ASP/19/16.

141. *Decides* to adopt the revised operational mandate for the Independent Oversight Mechanism annexed to the present resolution, which shall replace the provisions of the mandate in the annex to resolution ICC-ASP/12/Res.6, and shall apply provisionally until, and without prejudice to, any decision of the Assembly to amend or replace the mandate after its consideration of the report and the recommendations of the Independent Expert Review;

142. *Welcomes* the complementary initiatives undertaken by the Bureau, the Assembly oversight bodies and the Court to try to ensure that the different organs of the Court have streamlined and updated ethics charters/codes of conduct, which should be consistent to the extent possible;

143. *Reiterates* the critical importance of the Independent Oversight Mechanism in carrying out its work in an independent, transparent and impartial manner free from any undue influence;

144. *Takes note* of the Annual report of the Head of the Independent Oversight Mechanism;<sup>37</sup>

145. *Reaffirms* the importance of the Independent Oversight Mechanism reporting to States Parties on the results of its activities;

146. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *notes* the efforts being made to further strengthen the professional and ethical framework for elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, *welcomes* the steps that continue to be taken by the Court to investigate the potential impact on the Court's work in light of allegations of misconduct surrounding former officials, *welcomes* that following the Office of the Prosecutor's recommendations and ensuing consultations, the revised operational mandate of the Independent Oversight Mechanism enables it to investigate the alleged conduct of former elected officials and staff both while they were in office and when they separated from service as prescribed in its paragraph 10, *takes note* of the status report provided by the Office of the Prosecutor, and *urges* the Court to complete this investigation fully and transparently, to identify any necessary follow-up action for the Court and/or the Assembly, and to report to the Assembly in advance of its twentieth session;

147. *Welcomes* the progress reported in formally aligning the Regulations of the Court with the mandate of the Independent Oversight Mechanism and *encourages* the Court, with the support of the Independent Oversight Mechanism, as necessary, to ensure that all relevant documents are updated and aligned with the mandate of the Independent Oversight Mechanism in order to harmonize the applicable rules;

## S. Programme budget

148. *Takes note* of the important work done by the Committee on Budget and Finance, and *reaffirms* the independence of the members of the Committee;

149. *Recalls* that, according to its Rules of Procedure,<sup>38</sup> the Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

150. *Takes note with concern* of the report of the Bureau on the arrears of States Parties;<sup>39</sup>

151. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and *urges* all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

<sup>37</sup> ICC-ASP/19/26.

<sup>38</sup> ICC-ASP/18/Res.1, annex.

<sup>39</sup> ICC-ASP/19/27.

152. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court and *expresses its appreciation* to those that have done so;

## T. Review Conference

153. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime<sup>40</sup> and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character;<sup>41</sup>

154. *Notes* that those amendments are subject to ratification or acceptance and shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute, *notes with appreciation* the recent ratifications of the amendments<sup>42</sup> and *notes* that two States Parties have lodged declarations in accordance with article 15 *bis*, paragraph 4, of the Rome Statute;<sup>43</sup>

155. *Calls upon* all States Parties to consider ratifying or accepting these amendments;

156. *Welcomes* the activation of the International Criminal Court's jurisdiction over the crime of aggression as of 17 July 2018, as decided by consensus by the Assembly of States Parties in its resolution ICC-ASP/16/Res.5, marking the first time that a permanent international court has the authority to hold individuals accountable in respect of this crime, thereby completing the achievements of the Rome and Kampala Conferences of 1998 and 2010;

157. *Recalls* the discussions on the issue of peace and justice at the stock-taking exercise held at the Review Conference, *notes* the interest to resume the discussions on this issue and *invites* interested States Parties to do so;

158. *Recalls with appreciation* pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls upon* these States and the regional organization to ensure the swift implementation of these pledges and *also calls upon* States and regional organizations to submit additional pledges and to report further at the twentieth session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

## U. Consideration of amendments

159. *Welcomes* the report of the Working Group on Amendments;<sup>44</sup>

160. *Calls upon* all States Parties to ratify or accept the amendment to article 124;

161. *Also calls upon* all States Parties to ratify or accept the amendments to article 8 adopted at the sixteenth and eighteenth sessions of the Assembly;<sup>45</sup>

## V. Participation in the Assembly of States Parties

162. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

<sup>40</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

<sup>41</sup> *Ibid.*, RC/Res.5.

<sup>42</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-b&chapter=18&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&lang=en) and [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-a&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-a&chapter=18&clang=_en).

<sup>43</sup> <https://www.icc-cpi.int/resource-library#>.

<sup>44</sup> ICC-ASP/19/28.

<sup>45</sup> ICC-ASP/16/Res.4 and ICC-ASP/18/Res.5.

163. *Encourages* the continuation of efforts undertaken by the President of the Assembly to hold an on-going dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in his undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

164. *Recalls* the long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society, and *reaffirms* resolution ICC-ASP/2/Res.8 on recognition of the coordinating and facilitating role of the NGO Coalition for the ICC; and

165. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Independent Oversight Mechanism, the Secretariat, and the Board of Directors and the Secretariat of the Trust Fund for Victims, as appropriate, with the mandates contained in the annex to the present resolution.

## Annex I

### Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
  - (a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute;<sup>1</sup> and
  - (b) *requests* the Bureau to continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its twentieth session;
2. With regard to the **Agreement on Privileges and Immunities**, *requests* the Bureau to continue to support the ratification of the Agreement;
3. With regard to **cooperation**,
  - (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
  - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twentieth session;
  - (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
  - (d) *invites* the Bureau, through its Working Groups, to continue to strengthen the relationship between the United Nations and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court;
  - (e) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
  - (f) *requests* the Bureau, through its Working Groups, to speed up its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>2</sup> in close cooperation with the Court, where appropriate;
  - (g) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
  - (h) *requests* the Bureau, through the facilitation on cooperation, and in accordance with the resolution on the Review of the International Criminal Court and the Rome Statute system, to examine the issues and challenges related to cooperation, with a view to identify concrete measures and follow-up action in order to address those challenges and to report thereon to the Assembly at its twentieth session;
  - (i) *requests* the Court to continue to submit an updated report on cooperation to the Assembly at its annual session, containing disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
  - (j) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris, including by continuing the work to further develop the secured digital platform;
  - (k) *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders in accordance with the Assembly procedures

<sup>1</sup> ICC-ASP/19/30.

<sup>2</sup> ICC-ASP/6/Res.2, annex II.

relating to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly;

(l) *requests* that any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued be promptly shared with the Court by the focal points on non-cooperation; and

(m) *requests* the Bureau to continue to actively engage throughout the intersessional period with all relevant stakeholders to continue to ensure effective implementation of the Assembly procedures relating to non-cooperation and to submit a report on its activities to the Assembly at its twentieth session;

4. With regard to the **relationship with the United Nations**,

(a) *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court; and

(b) *requests* the Registry to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council<sup>3</sup> ahead of the twentieth session of the Assembly;

5. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;

6. With regard to **elections**,

(a) *decides* to continue to review the procedure for the nomination and election of judges as set forth in resolution ICC-ASP/3/Res.6, as amended, with a view to making any improvements as may be necessary, taking into account the work conducted so far as reflected in the facilitator's report;<sup>4</sup> and

(b) *requests* the Bureau to update the Assembly, at its twentieth session, on the progress of the review of the procedure for the nomination and election of judges;

7. With regard to the **Secretariat**, *invites* the President to report to the twentieth session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;<sup>5</sup>

8. With regard to **legal aid**,

(a) *mindful* of the recommendation of the Committee on Budget and Finance that the Court make every effort to present a reform that can be achieved within existing resources by exploring opportunities to contain the administrative burden without jeopardizing the need for accountability and by setting priorities accordingly, *requests* the Court to continue its review of the functioning of the legal aid system and to present, following further consultation with States Parties, proposals for adjustments to the legal aid remuneration policy for the consideration of the Assembly, through the Committee, at its twentieth session, taking into account the recommendations of the Group of Independent Experts<sup>6</sup> on legal aid, without prejudice to any decision of the Assembly on the broader review process;

(b) *requests* the Bureau to continue its work on legal aid to discuss the proposals from the Court and the recommendations of the Group of Independent Experts regarding the legal aid policy, and to report to the Assembly thereon at its twentieth session; and

(c) *encourages* further consultations between the Court and the host State regarding issues related to the taxation of legal aid counsel and support staff, taking into account the recommendations of the Group of Independent Experts on legal aid;

<sup>3</sup> ICC-ASP/19/17.

<sup>4</sup> Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/19/35).

<sup>5</sup> ICC-ASP/17/39.

<sup>6</sup> ICC-ASP/19/16.

9. With regard to the **Study Group on Governance**,

(a) *invites* the Court to further engage in a structured dialogue with States Parties with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

(b) *encourages* the Court to continue to share with the Study Group any update on the development of qualitative and quantitative indicators;

(c) *acknowledges* the importance of avoiding duplication and *invites* the Study Group to closely cooperate with the Court, subsidiary bodies and other facilitations established by the Assembly on the examination and implementation of the Independent Experts' recommendations that address governance issues; and

(d) *requests* the Study Group to consider the following issues listed in the Matrix, mindful of the relevant recommendations made by the Group of Independent Experts, and to report thereon to the twentieth session of the Assembly:

- (i) 1.4 Election of Registrar;
- (ii) 1.8 Performance indicators;
- (iii) 1.13 Procedure for amending Rules of Procedure and Evidence; and
- (iv) 2.9 Management of transitions in the judiciary.

10. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice;

(b) *encourages* the Bureau, including through the two working groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings;

(c) *encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court; and

(d) *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twentieth session of the Assembly;

11. With regard to the **working methods review**,

(a) *decides* that its annual session shall have a duration of seven working days with a possible extension of up to two additional days in election years, as required, and to focus, in such cases, the first two days on the elections of judges;

(b) *also decides* that its annual sessions shall include one or two plenary segments on specific agenda items;

(c) *invites* the facilitators and focal points, when appropriate, to present their work to the Assembly;

(d) *also invites* the facilitators and focal points to commit themselves for a period of up to three years considering the particularities and the complexity of each mandate and to submit, in addition to their regular reports, a final written report to the Assembly at the end of their mandate, including lessons learnt;

(e) *invites* the Bureau to implement the recommendations of the 2013 working methods report;<sup>7</sup>

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<sup>7</sup> ICC-ASP/12/59.

(f) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;<sup>8</sup>

(g) *invites* the Bureau to use existing technologies such as video-conferencing in order to ensure participation of members of the Bureau not represented at the venue of the Bureau meeting;

(h) *requests* the Bureau to continue conducting evaluations of the established mandates and, where appropriate, consider the inclusion of end-dates and that it prepare recommendations on the reduction of the number and length of reports;

(i) *requests* the Bureau, in consultation with all States Parties, the Court and civil society, both in New York and The Hague, to submit a report, by the next session of the Assembly, assessing the benefits and challenges with regard to current schedule, including the proposal to hold the future Assembly meetings in the first six months of each calendar year, length, including the proposal to shorten the Assembly, location of the meetings of the Assembly and of the Bureau, and to make recommendations to improve efficiency; and

(j) *requests* all facilitators and focal points, in consultation with States Parties, to undertake an exercise to streamline the present resolution for the twentieth session;

12. With regard to **victims and affected communities, reparations and the Trust Fund for Victims**,

(a) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;

(b) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its on-going dialogue with the organs of the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(c) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(d) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;

(e) *requests* the Court to submit an updated Revised Strategy in Relation to Victims, including measurable and time-bound objectives, to the Assembly at its twentieth session;

(f) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism; and

(g) *requests* the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings; such statistics may include, as appropriate, information on gender, criminal offense and situation, among other pertinent criteria as determined by the relevant Chamber;

13. With regard to **recruitment of staff**,

(a) *endorses* the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its thirty-fifth session<sup>9</sup> and urges the Court to take the necessary steps to implement them;

<sup>8</sup> As outlined, e.g., in paras. 21(a) and 23(b) of the report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

<sup>9</sup> *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2.

(b) *requests* the Court to submit a comprehensive report on human resources by the end of May 2021, to be considered by the Assembly at its twentieth session, which would include an update on the implementation of the recommendations on the topic made by the Committee in 2020;

(c) *requests* the Court to include in that report an outline of its efforts to improve the recruitment process in seeking equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance, including annual recruitment data;

(d) *requests* the Bureau to continue engaging with the Court to identify ways to improve equitable geographical representation and gender balance in professional posts, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the twentieth session of the Assembly; and

(e) *urges* the Court to continue to seize the opportunities of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;

14. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes; and

(b) *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twentieth session of the Assembly;

15. With regard to the **Independent Oversight Mechanism**,

(a) *requests* the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering recommendations of the Independent Expert Review in this regard, subject to relevant decisions of the Assembly on the implementation of the Report of the Independent Expert Review, and to report thereon to the Assembly at its twentieth session;

16. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that the Bureau, through the President of the Assembly, the Coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and via the annual facilitation on the topic of arrears, report thereon to the Assembly at its twentieth session; and

(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

17. With regard to the **Review Conference**, *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

18. With regard to **consideration of amendments**,

(a) *invites* the Working Group on Amendments to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the Working Group to submit a report for the consideration of the Assembly at its twentieth session;

19. With regard to **participation in the Assembly of States Parties**,

(a) *decides* that the Committee on Budget and Finance shall hold its thirty-sixth session from 17 to 21 May 2021 and its thirty-seventh session from 6 to 17 September 2021; and

(b) *also decides* that the Assembly shall hold its twentieth session in The Hague from 6 to 11 December 2021, and its twenty-first session in The Hague.

## **Annex II**

### **Operational mandate of the Independent Oversight Mechanism**

#### **I. Mission of the IOM**

1. The Independent Oversight Mechanism (hereinafter “IOM”) is a subsidiary body of the Assembly of States Parties to the Rome Statute (hereinafter “the Assembly”), established in accordance with article 112, paragraph 4, of the Rome Statute, by Assembly resolution ICC-ASP/8/Res.1, as amended by the present resolution.

2. As prescribed by article 112, paragraph 4 of the Rome Statute, the purpose of the IOM is to provide comprehensive oversight of the Court through the conduct of independent internal administrative investigations, evaluations, and inspections, in order to enhance its economy and efficiency.

3. The IOM shall exercise complete operational independence in the fulfilment of its functions and will report to the Assembly as provided for in paragraph 15 of resolution ICC-ASP/8/Res.1.

4. The IOM shall have the authority to initiate on a reasonable basis, carry out and report on any action which it considers necessary to fulfil its responsibilities with regard to its functions without any hindrance or need for prior authorisation, except as set forth in the present resolution. The IOM shall not be prohibited from carrying out any action within the purview of its mandate. In the case of any inconsistency between this mandate and any provision of the Court’s internal regulatory framework, the former shall prevail.

#### **Oversight activities**

5. The authority of the IOM does not in any way impede the authority or independence granted by the Rome Statute to the Presidency, judges, Registrar, or Prosecutor. In particular, the IOM will fully respect judicial and prosecutorial independence and minimize any impact by the conduct of its activities on the effective functioning of the Court.

6. Should the IOM deem that actions are required to fulfil its mandate that may potentially affect judicial or prosecutorial independence, or affect ongoing Court proceedings or investigations, it shall first consult the Presidency or Prosecutor to determine a course of action which would both respect the judicial or prosecutorial independence and not unduly interfere with Court proceedings or prosecutorial activities, while allowing the IOM to provide the oversight required. Should there be no agreement in respect of such course of action, the Presidency or Prosecutor shall agree with the Head of the IOM on an independent third-party procedure to facilitate and mediate the disagreement. In addition, the IOM will alert the relevant Head of organ about any planned evaluation, inspection, or investigation, unless it determines that it would be inappropriate to do so. Upon such consultation, the Presidency or Prosecutor may raise any concerns connected to judicial or prosecutorial independence which have not been identified by the IOM.

7. In matters concerning judicial and prosecutorial independence, the IOM and relevant Head of organ shall proceed in good faith at all times with a view to ensuring accountability, in accordance with the Rome Statute and the Rules of Procedure and Evidence.

## A. Investigation

### Legal mandate

8. The IOM shall promptly receive all allegations of misconduct<sup>1</sup> against any staff member or consultant/contractor retained by the Court, and determine after an initial review those that should be further assessed by the IOM. These include the making of allegations against an elected official, staff, or consultant/contractor in bad faith.

9. In accordance with relevant provisions of the Rome Statute and of the Rules of Procedures and Evidence,<sup>2</sup> the IOM shall also be the only body authorized to receive and investigate complaints of misconduct and serious misconduct against any elected official. The outcome of any investigation under this paragraph should be reported in accordance with Rule 26 of the Rules of Procedure and Evidence.

10. The IOM also has the discretionary authority to assess or investigate any allegations of misconduct, serious misconduct, or unsatisfactory conduct against any former elected official, staff member, or consultant/contractor, provided the elected official, staff member, or consultant/contractor was in the service of the Court at the time the alleged misconduct took place. This paragraph also covers allegations of misconduct with respect to obligations undertaken by elected officials, staff members, or consultants/contractors during their service and that extend after their term of service.

11. The IOM will not investigate contractual disputes or human resources management issues, including work performance, conditions of employment or personnel-related grievances. The IOM will also not investigate offences under article 70 of the Rome Statute.

### Procedure

12. Following the IOM's initial review under paragraph 8, the IOM may decide to investigate the matter, in which case no further action should be taken by any other body within the Court until such time as the IOM has completed its investigation, unless after consultation the IOM has agreed that this would not affect the conduct of its investigation.

13. Should the IOM decide, further to an initial review under paragraph 8, not to investigate a matter, it may refer the matter to the relevant Head of organ if appropriate. Should the Head of organ nevertheless decide to carry out an investigation, it should be conducted, whether by a staff designated by the Head of organ or an external investigator, in accordance with the Court's Regulatory framework with respect to the conduct of administrative investigations.

14. Should the IOM find, following a formal investigation that any allegation of unsatisfactory conduct under paragraph 8 above has been substantiated, it should present its report to the relevant Head of organ, along with its recommendation on whether to initiate disciplinary proceedings. The Head of organ shall report back to the IOM on whether disciplinary proceedings were initiated, and if so, whether any disciplinary measure was imposed, and the nature of the measure. If no disciplinary proceedings were initiated or no disciplinary measure imposed, it should inform the IOM as to the reason for not doing so.

15. Where an investigation reveals that criminal acts may have been committed by elected officials, staff members or consultants/contractors, the IOM may also refer the matter to the relevant Head of organ, and recommend that the matter be further referred to the relevant national authorities.

<sup>1</sup> For the purposes of this mandate, misconduct is used interchangeably with unsatisfactory conduct, defined in Chapter X of the Court Staff Rules as: "Failure by a staff member to act in accordance with any official document of the Court governing rights and obligations of staff members, such as the Staff Regulations and Rules and the Financial Regulations and Rules, or any relevant resolutions and decisions of the Assembly of States Parties, or failure to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory conduct within the meaning of staff regulation 10.2(a), leading to the institution of disciplinary proceedings and the imposition of disciplinary measures."

<sup>2</sup> Articles 46 and 47 of the Rome Statute, and Rules 24-26 of the Rules of Procedure and Evidence.

16. The IOM may also, including in cases of unsubstantiated allegations, make observations and recommendations to any Head of organ, Division, or Section if investigation findings reveal weaknesses in adherence to administrative or operations policies, guidelines, procedures or practices, or if specific issues arising from the investigation require immediate corrective action to strengthen internal controls and prevent similar incidents from happening in the future.

17. The confidentiality of sources of allegations should be strictly safeguarded, and any relevant identifiable information not included in any IOM report, unless disclosure is necessary to guarantee the rights of any elected official, staff member, or consultant/contractor. Such disclosure should only occur after the consent of the source has been obtained.

18. The IOM shall assist the Court in adapting the Court's internal regulatory framework for the review of allegations of misconduct, consistent with this mandate.

## **B. Evaluation**

19. An evaluation is a rigorous, impartial, systematic and independent assessment of an activity, project, programme, strategy, policy, topic, theme, sector, operational area or institutional performance. It analyses the level of achievement of both expected and unexpected results using criteria such as relevance, effectiveness, efficiency, impact and sustainability. In sum, evaluation assesses what works, what does not and why, highlighting both intended and unintended consequences concerning the subject evaluated.<sup>3</sup>

20. After consultation with the Heads of organs, the IOM shall prepare an independent annual programme of evaluations to propose to the Assembly, taking into account the IOM's capacity in this respect. The Assembly or Bureau may also request the IOM to conduct evaluations other than those in the IOM annual programme of evaluations, providing also a rationale for such evaluations and a suitable budget and resources as required. The IOM will assess such requests on the basis of evaluability criteria to determine whether an evaluation can be carried out. If the result of an evaluability assessment is that the evaluation cannot be carried out, the IOM will consult with the requesting authority regarding alternative options.

21. Should part of or the entire annual programme of evaluations proposed by the IOM be rejected by the Bureau, without any other evaluation request made by the Assembly or the Bureau, the Heads of organ will be encouraged to request the IOM to conduct an evaluation. Such request will also be reviewed by the IOM to determine its suitability, and an alternative proposed if necessary. In the absence of any evaluation request from the Assembly, the Bureau or the Heads of organ, the IOM has the independent and discretionary power to initiate an evaluation on its own accord, after consultation with the relevant Head of organ.

22. The IOM may, upon request of the Assembly, Bureau or any Head of organ, provide quality assurance, coordination and secretariat support for any evaluation conducted by an external consultancy or by any high-level peer-review panel established by the Assembly, Bureau or Head of organ, for the purposes of evaluating any aspect of the Court's operations.

23. The IOM may provide, upon request of a Head of organ, technical support to the relevant organ in establishing or reviewing an internal monitoring and evaluation system of any project, programme or initiative.

24. The IOM shall be the custodian of all evaluations, including those conducted under the purview of Heads of organs. The Heads of organ will report to the IOM all internal evaluations planned and completed by providing general information on these, such as the topic, scope, and timeline. Such internal evaluations are defined according to the evaluation principles of the UNEG Norms and Standards for Evaluation, and excludes reviews, performance indicators and audits, monitoring and other similar analyses not considered

<sup>3</sup> The definition of evaluation is adapted from the United Nations Evaluation Group's (UNEG) Norms and Standards for Evaluation (2016).

formal evaluations. The IOM shall have unrestrained access to all internal evaluation reports conducted by the Court.

25. Notwithstanding the confidentiality obligations attached to IOM work as found in this resolution, the IOM's annual programme of evaluations, all evaluation requests made by the Assembly or the Bureau, as well as evaluation executive summary reports will be made public. Where publication of any report regarding any evaluation would be inappropriate for reasons of confidentiality, or where it could place in jeopardy the safety and security of any individual, or run the risk of violating the due process rights of individuals, the report may be redacted or in exceptional cases withheld at the direction of the President of the Assembly or the Head of organ, as appropriate.

26. The IOM will issue the final report for an evaluation requested by the Assembly or the Bureau to the President of the Assembly, who will then be responsible for any subsequent dissemination.

27. For evaluation requested by a Head of organ pursuant to paragraph 21, the report will be submitted to the Head of organ, who will be responsible for its dissemination. The IOM will also include a summary of any such evaluation in its Annual Report.

### **C. Inspection**

28. The IOM may conduct unscheduled or *ad hoc* inspections of any premises or processes, as requested by the Bureau or a Head of organ. Such inspections are defined as special, unscheduled, on-the-spot verifications made of an activity directed towards the resolution of problems which may or may not have been previously identified.<sup>4</sup>

29. All requests of the Bureau to the IOM to conduct inspections will be notified to the appropriate Head of organ, and shall be preceded by a consultation with the appropriate Head of organ. The concerned Head of organ may appoint a representative of his/her office to witness the inspection.

30. Upon completion of an inspection requested by the Bureau, the IOM shall deliver the report to the President of the Assembly, who shall forward it to the Assembly or its Bureau, as appropriate. The Assembly or the Bureau is solely responsible for any subsequent distribution or publication.

31. In those cases where the IOM agrees to conduct an inspection following a request from a Head of organ, it shall deliver its inspection report to the Head of organ upon completion, who will be solely responsible for any subsequent distribution or publication. The IOM will report on any such inspection in its Annual Report.

## **II. Powers and authority**

32. The IOM shall have full, free and prompt access to all (electronic or otherwise) Court records files, documents, books or other materials, assets and premises, and shall have the right to obtain such information and explanations as they consider necessary to fulfil their responsibilities.

33. The IOM shall also have full and free access to all elected officials, staff, contractors, or any other personnel of the Court, and all such personnel shall have the duty to cooperate promptly with any IOM request, including requests for information, to be interviewed and/or to provide explanations. Failure to provide such cooperation, without reasonable excuse, may result in disciplinary action.

34. Any IOM request under paragraphs 32 and 33 above must be kept confidential and not shared with anyone, including any other elected official, staff or consultant/contractor,

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<sup>4</sup> See *JIU Glossary of Evaluation Terms* (JIU/REP/78/5).

unless explicitly provided for in the Court's regulatory framework or expressly authorized by the IOM. Failure to maintain such confidentiality may result in disciplinary action.

35. Notwithstanding the provisions outlined in paragraphs 32 and 33 above, the right of access granted to the IOM shall be subject to confidentiality considerations necessary for the exercise of the Court's mandate under the Rome Statute, in particular in the context of criminal investigations, judicial proceedings, any pre-existing obligation of confidentiality to the originator of the information or document, the safety and security of witnesses, victims and third parties, and the protection of national security information of States Parties.

36. Any objection to comply with any IOM request under paragraphs 32 and 33 should be raised by the elected official, staff member, or consultant/contractor concerned at the earliest opportunity with the IOM, who will then consult with the appropriate Head of organ. If the Head of organ is of the view that the request would violate one of the confidentiality considerations of paragraph 35, the Head of organ should formally notify the Head of the IOM accordingly. The IOM and Head of organ shall make all reasonable efforts to allow the IOM access to material that will allow it to fulfil its functions, without jeopardizing the confidentiality considerations contained in paragraph 35, including by providing redacted information that could satisfy both the mandate of the IOM and the confidentiality of the information.

37. Despite their best efforts, should the Head of organ and Head of the IOM not agree regarding whether the information is protected from disclosure under paragraph 35, or if the Head of the IOM considers that unrestricted access to the information is nevertheless necessary to fulfil the mandate of the IOM, the Head of organ and Head of the IOM should agree on an independent third-party procedure to facilitate and mediate the disagreement, while ensuring that all confidentiality obligations under the Rome Statute are duly respected.

### **III. Reporting**

38. The IOM shall provide an annual report on its operations to the Assembly. The annual report shall provide information regarding investigations, evaluations and inspections carried out by the IOM, ensuring that it respects privacy rights of elected officials, staff members, and consultants/contractors. In particular, the annual report shall not contain the names or publicly identifiable information regarding any individual involved in any investigations.

39. Prior to its submission, the draft should be circulated to each Head of organ, who may provide comments for the IOM's consideration. Any Head of organ may also provide formal comments to the annual report which shall be annexed to the annual report and submitted with it to the Assembly.

40. The annual report (including any annexes) shall be a public document.

41. The IOM shall also provide an interim report to the Bureau of the Assembly, covering the six-month period following the previous annual report, and which shall include a summary of the IOM's operations for this period. The interim report shall be copied to the Heads of organs and the Committee on Budget and Finance, and any further disclosure should be done only with the approval of the President of the Assembly.

42. Both the interim report and the annual report shall be presented at a Bureau meeting, and the Head of the IOM shall be available to provide further information, without disclosing information that is confidential and/or would be prejudicial to the rights of any elected official, staff member, or consultant/contractor, or would interfere with Court proceedings or investigations.

43. The IOM shall also provide *ad hoc* reports to the Bureau upon its request, or at the discretion of the Head of the IOM, who may do so after consultation with the President of the Assembly.

#### **IV. Staff and accountability**

44. In carrying all its activities, the IOM will implement recognized best practices and adhere to the highest ethical standards.

45. Except where explicitly provided in this resolution, the work of the IOM shall be confidential, and the IOM shall be responsible for safeguarding all confidential information provided to it. Unauthorized disclosure of any confidential information by staff members of the IOM shall constitute unsatisfactory conduct, for which appropriate disciplinary measures may be imposed.

46. Staff members of the IOM shall not be engaged in any non-IOM related operational duties for the Court, nor engage in any activity that might give an appearance of jeopardizing their independence, such as membership in any body that requires election or nomination.

47. The IOM exercises full operational independence from the Court, and accordingly reports directly to the President of the Assembly.

48. The Head of the IOM shall be selected by the Bureau of the Assembly. The evaluation of the work performance of the Head of the IOM shall be undertaken by the President of the Assembly. The Head of the IOM may be removed only for cause and by the decision of the Bureau of the Assembly.

49. Notwithstanding paragraph 47, the IOM is nevertheless bound by the regulatory framework of the Court. For administrative purposes, therefore, the Head of the IOM shall follow the Court processes for approvals related to Human Resources, Budget and Finance, and Procurement, including requiring the approval of the Registrar for any action in these areas. However, the Registrar shall not use its discretion to deny any IOM request, provided that the proper administrative processes have been followed. Any disagreement between the Registrar and the Head of the IOM in this respect shall be resolved by the President of the Assembly, whose decision shall be final.

50. All staff members of the IOM are considered staff of the Court. As such, and unless otherwise inconsistent with the present mandate, their appointment, conditions of employment and standard of conduct must be in accordance with the Staff and Financial Regulations and Rules and relevant administrative issuances of the Court. Therefore, as part of the Court, the staff members of the IOM shall enjoy the same rights, duties, privileges and immunities, benefits of all staff members. The Registry shall facilitate any administrative arrangements.

51. Any allegation of unsatisfactory conduct by any staff member of the IOM shall be promptly reported to the Head of the IOM, who upon consultation with the President of the Assembly, will decide on the proper course of action.

52. Any allegation of unsatisfactory conduct by the Head of the IOM shall be reported to the President of the Assembly, who shall decide on the proper course of action.

53. Any investigation into the conduct of any staff member of the IOM should be carried out in accordance with the standards applicable to investigations of any other staff member of the Court.

54. Any disciplinary measure imposed on a staff member of the IOM should be imposed by the Registrar in consultation with the Head of the IOM. Any disciplinary measure against the Head of the IOM shall be made by the Bureau of the Assembly upon recommendation by the Registrar. Any disciplinary measure against any staff member of the IOM should be taken or recommended only following the disciplinary process of the Court, including the due process rights of the staff member of the IOM in question.

## Annexes

### Annex I

#### Report of the Credentials Committee

*Chairperson: Ambassador Mario Oyarzábal (Argentina)*

1. At its first and third plenary meetings, on 14 and 15 December 2020 respectively, the Assembly of States Parties to the Rome Statute of the International Criminal Court, in accordance with rule 25 of the Rules of Procedure of the Assembly of States Parties, appointed a Credentials Committee for its nineteenth session, consisting of the following States Parties: Argentina, Belgium, Finland, Hungary, Mexico, Republic of Korea, Romania and Uganda.
2. The Credentials Committee held two meetings, on 14 and 16 December 2020.
3. At its meeting on 14 December 2020, the Credentials Committee had before it a memorandum by the Secretariat, dated 14 December 2020, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the nineteenth session of the Assembly of States Parties.
4. Formal credentials of representatives to the nineteenth session of the Assembly of States Parties, in the form required by rule 24 of the Rules of Procedure, had been received as at the time of the 16 December 2020 meeting of the Credentials Committee from the following 64 States Parties: Albania, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bulgaria, Botswana, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, France, Finland, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Italy, Ireland, Japan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Mexico, Mongolia, Netherlands, New Zealand, North Macedonia, Norway, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Senegal, Serbia, Slovenia, Slovakia, South Africa, Spain, State of Palestine, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of).
5. Information concerning the appointment of the representatives of States Parties to the nineteenth session of the Assembly of States Parties had been communicated to the Secretariat, as at the time of the 16 December 2020 meeting of the Credentials Committee, by means of a cable, telefax or other electronic communication from the Head of State or Government or the Minister for Foreign Affairs, by the following 18 States Parties: Afghanistan, Bangladesh, Brazil, Canada, Côte d'Ivoire, Djibouti, Gambia, Honduras, Jordan, Liberia, Madagascar, Mali, Nigeria, Paraguay, Peru, Sierra Leone, Uganda and United Republic of Tanzania.
6. During the meeting held on 16 December 2020, the Chairperson recommended that the Committee accept the credentials of the representatives of all States Parties mentioned in the present report, on the understanding that formal credentials for representatives of the States Parties referred to in paragraph 5 of the present report would be communicated to the Secretariat as soon as possible.
7. On the proposal of the Chairperson, the Committee adopted the following draft resolution:
 

*“The Credentials Committee,*

*Having examined the credentials of the representatives to the nineteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court, referred to in paragraphs 4 and 5 of the present report;*

*Accepts the credentials of the representatives of the States Parties concerned.”*
8. The draft resolution proposed by the Chairperson was adopted without a vote.

9. The Chairperson then proposed that the Committee recommend to the Assembly of States Parties the adoption of a draft resolution (see paragraph 11 below). The proposal was adopted without a vote.

10. In the light of the foregoing, the present report is submitted to the Assembly of States Parties.

### **Recommendation of the Credentials Committee**

11. The Credentials Committee recommends to the Assembly of States Parties to the Rome Statute of the International Criminal Court the adoption of the following draft resolution:

**“Credentials of representatives to the nineteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court**

*The Assembly of States Parties to the Rome Statute of the International Criminal Court,*

*Having considered* the report of the Credentials Committee on the credentials of representatives to the nineteenth session of the Assembly and the recommendation contained therein,

*Approves* the report of the Credentials Committee.”

## Annex II

### **Oral report on the activities of the Bureau, presented by the President of the Assembly at the 1st plenary meeting of the eighteenth session of the Assembly, on 14 December 2020**

1. As the President of the Assembly, I have the honour to report to the Assembly of States Parties on the activities carried out by its Bureau during the inter-sessional period 2019-2020 and my term for the past three years.

#### **A. Meetings and mandates**

2. Since the eighteenth session of the Assembly, the Bureau has, in 2020, held 14 meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

3. In 2020, on account of the unprecedented circumstances caused by the impacts of the COVID-19 pandemic, and following the lock-down of the Court in mid-March, taking into account the guidance and measures by the World Health Organization (WHO), host States, the United Nations and other international/regional organizations and the three heads of organs of the Court, I recommended that all Assembly-related meetings, including the subsidiary bodies of the Assembly, should be postponed until further notice. Meetings of the Bureau resumed on 28 May and, since then, have been held via the Court's WebEx platform, with the exception of the 4 December meeting of the Bureau, which was held both in-person in New York and virtually in accordance with the document "Election of the Prosecutor: Way-forward", adopted by the Bureau on 13 November. The working groups of the Bureau also resumed their meetings as of June, and have held nine joint meetings to discuss important issues of concern to both working groups. I have found this mode of joint meetings to be very beneficial to all States, as delegations in both New York and The Hague, as well as in some capitals, were able to participate. The Study Group on Governance, the Working Group on Amendments, all facilitations, the Advisory Committee on Nominations of Judges, the Committee on Budget on Finance, as well as the Group of Independent Experts carried out their work during 2020 via virtual meetings. I am grateful to them for their efforts to ensure the continuity of the work of the Assembly despite the challenges that arose in 2020.

4. Pursuant to the mandates given to the Bureau by the eighteenth session of the Assembly in December 2019, the Bureau assigned mandates to its working groups and appointed, on the basis of recommendations of the working groups, the facilitators and focal points for 2020.

5. The Bureau is pleased with the work conducted by its working groups during 2020, as they have successfully carried out the mandates of the Assembly despite the impact of the pandemic.

6. I wish to also acknowledge here the crucial work done by the Advisory Committee on Nominations of Judges, and note that the Committee's work was similarly impacted by the COVID-19 restrictions. The members carried out their expanded mandate to provide to States Parties a report containing a qualitative evaluation, information, and analysis on the suitability of each candidate for a judicial role at the Court. The Committee held 11 meetings and interviewed 20 candidates by virtual means, which was a challenge and not the ideal circumstances, but the Committee and the Secretariat, found innovative ways to conduct the meetings and interviews with remote interpretation.

7. I wish to express my sincere appreciation for the work carried out by the two Vice- Presidents of the Assembly, Ambassador Michal Mlynár (Slovakia) and Ambassador Jens-Otto Horslund (Denmark) under the circumstances, including as the Coordinators of the New York Working Group and The Hague Working Group.

## B. Independent Oversight Mechanism

8. In accordance with the mandate of the Assembly, the Independent Oversight Mechanism (IOM) has submitted periodic reports to the Bureau and the “Annual report of the Head of the Independent Oversight Mechanism to the Assembly”.<sup>1</sup> On 28 May 2020, the Bureau requested the IOM to conduct an evaluation on the theme “Evaluation of the interaction of victims with the International Criminal Court”. The IOM is expected to finalize the evaluation by the first quarter of 2021.

9. The review of the mandate of the IOM continued in 2020 and culminated with a complete revised draft mandate of the Independent Oversight Mechanism which was proposed for the consideration for the Assembly at this session. The new draft IOM mandate streamlines its operational mandate, its reporting obligations, its operational independence and its investigatory powers, while respecting judicial and prosecutorial independence and confidentiality.

10. In view of the recommendations of the Independent Expert Review, and subject to decisions of the Assembly on the implementation of their report, the review of the mandate of the IOM will require additional consultations in 2021.<sup>2</sup>

## C. Working methods

11. Pursuant to the “Understanding on the participation of Observer States in meetings of the Assembly”, which was adopted by a Bureau decision of 18 October 2017, the Bureau took note, at its fourteenth meeting, on 11 December 2020, of a list of meetings of the Assembly and its subsidiary bodies with general membership which had been held in private in 2020.

## D. Non-cooperation/United Nations Security Council

12. It is the responsibility of Assembly under article 112, paragraph 2, of the Rome Statute to consider, pursuant to article 87 of the Statute, any question relating to non-cooperation. As requested by the Assembly, I have engaged for the past three-year term of my service actively and constructively with all relevant stakeholders in accordance with the Assembly procedures relating to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly.

13. Throughout those years, I have, together with the focal points on non-cooperation, closely monitored and reacted to instances of travels of persons sought by the Court to States Parties and non-States Parties, including but not limited to consultations with the authorities of the United Nations Secretariat in charge of establishing and overseeing policies in relation to non-essential contacts with those persons by the high-level officials of the United Nations. In particular, I have shared relevant information with the members of the Bureau in coordination with the United Nations Secretariat, and through the *ex officio* focal point. I have also encouraged that the Secretariat of the Assembly may take a further active role in sharing information with broader States Parties in accordance with the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation. The Bureau ought to continue to engage in the application of these procedures, especially their formal aspects, which are triggered once there is a judicial finding on non-cooperation.

14. In July 2018, I addressed the Arria-formula meeting organized by the United Nations Security Council for the first time as the President of the Assembly on the topic of achievements, challenges and synergies in the relationship between the Security Council and the International Criminal Court.<sup>3</sup>

15. The focal points, following public consultations during 2018-19, recommended that the Assembly adopt the amended "Assembly Procedures on Non-Cooperation" and the updated "Toolkit for the implementation of the information dimension of the Assembly procedures relating to non-cooperation" at its eighteenth session.

16. In October 2020, I delivered opening remarks in a joint panel discussion co-organized

<sup>1</sup> ICC-ASP/19/26.

<sup>2</sup> ICC-ASP/19/24.

<sup>3</sup> ICC-ASP/17/17.

by the focal points on non-cooperation and the cooperation facilitators on strengthening cooperation with the Court, highlighting the importance of relevant activities under the current international political climate and challenges that the ICC would have to navigate.

#### **E. Arrears**

17. I thank those States Parties that have paid their contributions in a timely manner. Unfortunately, as was the case in prior years, the Bureau took note that the Court could face a liquidity shortfall by December 2020.

18. Such a situation would not exist if all States Parties would pay their outstanding assessed contributions in a timely manner. I thus urge once more all States Parties with outstanding contributions to make every effort to pay those contributions.

#### **F. Secretariat of the Assembly**

19. Throughout the year, the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies both in The Hague and New York, in accordance with resolution ICC-ASP/2/Res.3.

20. The Assembly, through its Bureau assisted by the Secretariat, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities.

21. The Secretariat continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 26 November, the Secretariat had received three responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute.<sup>4</sup>

22. Further to the year-long assessment of the Secretariat which the Bureau conducted in 2018, the Secretariat has been implementing the measures foreseen in the respective Bureau report.<sup>5</sup> An updated Extranet for States Parties, which includes a database with contact information of States Parties, was launched on 18 November 2019.

23. The virtual format of the meetings posed additional challenges for the Secretariat of the Assembly including, inter alia, scheduling meetings across multiple time zones, additional testing of numerous platforms required prior to meetings, and finding solutions for the provision of interpretation, where necessary. The Secretariat designed an in-house interpretation system which allowed for a combination of simultaneous and consecutive remote interpretation into Arabic, English and French for the Advisory Committee on Nominations of Judges (ACN). On 19 November, the Secretariat pioneered at the ICC the use of the Zoom platform to provide English and French remote simultaneous interpretation for the virtual meetings of the Bureau and The Hague Working Group, with the Language Services Section of the Registry providing the interpretation teams. This innovation is particularly noteworthy as it does not require the interpreters to be physically present in the ICC courtroom, thus diminishing their risk of exposure to COVID-19, and this is also less resource intensive than the Interactio platform.

#### **G. Election of the next Prosecutor of the International Criminal Court**

24. On 3 April 2019, the Bureau adopted the Terms of Reference for the Election of the Prosecutor.<sup>6</sup> Those Terms of Reference established a Committee on the Election of the Prosecutor, assisted by a panel of experts, to facilitate the nomination and election of the next Prosecutor of the International Criminal Court. In 2020, pursuant to that mandate, the Committee decided on a confidential list of 16 candidates to be interviewed for the position, and undertook competency-based interviews, via virtual means, with the assistance of the panel of experts. The Committee submitted its final report,<sup>7</sup> containing an unranked shortlist of four candidates for the position of Prosecutor, on 30 June 2020.

25. Following the submission of the report, public hearings were held with the shortlisted

<sup>4</sup> See at: [https://asp.icc-cpi.int/en\\_menus/asp/sessions/plan%20of%20action/Pages/2019-Plan-of-Action.aspx](https://asp.icc-cpi.int/en_menus/asp/sessions/plan%20of%20action/Pages/2019-Plan-of-Action.aspx)

<sup>5</sup> ICC-ASP/17/39.

<sup>6</sup> ICC-ASP/18/INF.2.

<sup>7</sup> ICC-ASP/19/INF.2, Add.1 and Add.2.

candidates on 29 and 30 July, and a consultation process commenced to identify a consensus candidate. On 13 November 2020, the Bureau adopted the “Election of the Prosecutor: Way forward”,<sup>8</sup> which supplemented the Terms of Reference. The “Way forward” provided that the list of candidates for Prosecutor would be expanded to include the remaining individuals who were originally interviewed by the Committee and who were still willing to be considered for the position.

26. As mandated by the “Way forward”, on 25 November the Committee submitted an addendum<sup>9</sup> to its initial report, containing appraisals of five additional candidates. Public hearings with the expanded list of nine candidates were held on 9 and 10 December 2020. The consultation process to identify a consensus candidate continues, supported by a group of five focal points.

## H. Review of the Court

27. The Review of the International Criminal Court and the Rome Statute system took place in 2020. The Group of Independent Experts was appointed by the Assembly at the eighteenth session via resolution ICC-ASP/18/Res.7 and began its work in January 2020. The Experts, whose work was guided by the Chair, Mr. Richard Goldstone (South Africa), were drawn from all regions of the world, and brought a mix of backgrounds and experience which undoubtedly enriched the work of the Group. Their mandate was to make recommendations to the Assembly of States Parties and the Court on specific complex technical issues under the following clusters of issues: (a) Governance; (b) Judiciary; and (c) Investigations and prosecutions. The IER Experts submitted their interim report on 30 June 2020 and their final report on 30 September. Despite the challenges posed by the COVID-19 restrictions, they met with representatives of the States Parties, the Court and civil society, both in-person and by virtual means, in order to gather views and information that would help them in their task. As the Experts indicated in their report, they received the fullest cooperation from the Assembly Presidency, the Court and the Secretariat of the Assembly; and spoke with many present and former officials and staff members of the Court, and many others agreed to do so at the request of the Experts. They also had discussions with numerous States Parties and civil society organizations. I welcome the support provided to the Experts by all stakeholders, without which it would have been more difficult for them to complete their mandate. The Presidency of the Assembly was pleased to provide any support and assistance that was possible to the Experts.

28. The Experts made 384 recommendations, and recommended that some be given priority. I wish to thank and commend all the Experts for persevering in their task during 2020. They have presented a report that is broad in scope and that contains an in-depth analysis of very many areas of the Court and the Rome Statute system that will require follow-up by States Parties and the Court. I urge States Parties, the Court and all stakeholders to now dedicate the necessary efforts to ensure that appropriate action is taken on the recommendations. Overall, I am pleased with the outcome of the Review of the Court and I have every confidence that, moving forward, the work of the IER Experts will be of tremendous benefit to the Court and all stakeholders.

## I. Overview of the President’s activities

29. As indicated previously, I recommended that all meetings be suspended in mid-March, in view of the COVID-19 pandemic. I also communicated with the Court’s leadership in order to keep the Court’s business continuity and ensure the resilience of its functions while encouraging States Parties and other stakeholders to show support for the Court in various meetings including those of the Assembly.

30. As part of my risk-management activities for the Assembly during the COVID-19 pandemic, I consulted States Parties, the Court, civil society and the United Nations and proposed optimal solutions for the fulfilment of the various mandates of the Assembly, in close coordination with the Vice-Presidents and with the assistance of the Secretariat. These mandates included the review of the Court and the Rome Statute system by the Group of

<sup>8</sup> Available at [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19/Election%20of%20the%20Prosecutor%20-%20Way%20Forward%20-%20ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/Election%20of%20the%20Prosecutor%20-%20Way%20Forward%20-%20ENG.pdf).

<sup>9</sup> ICC-ASP/19/INF.2/Add.3 and Add.4.

Independent Experts, the work of the Committee on the Election of the Prosecutor and related consultation processes, and the activities of the Advisory Committee on Nominations of Judges.

31. In consultation with the two Vice-Presidents and the Bureau, I took emergency measures needed for the Bureau to take up its responsibility of convening the nineteenth session of the Assembly safely and effectively, taking into account the local circumstances and restrictions put in place to mitigate the impacts of the COVID-19 pandemic and the availability of venues in New York and The Hague. These measures were taken on the condition that they shall not constitute a precedent for future meetings of the Assembly and its Bureau. I also added virtual arrangements to ensure as much inclusivity as possible.

32. I issued press statements addressing the serious concerns of the Assembly about external measures directed against the Court and its personnel, while expressing solidarity and unwavering support by the Assembly for the Court. I also convened various meetings to consider how the Assembly might respond to these unprecedented measures, and discussed ideas and actions to protect the independence of the Court in the face of these challenges. I also stressed the importance of States Parties promoting the principles and values enshrined in the Rome Statute in fighting against impunity.

33. I participated in several meetings throughout the past three years where cooperation, complementarity and universality were major themes of discussion. I also held a series of meetings and was present in events as a keynote speaker or panellist throughout the years, including those held at The Hague, New York and Seoul as well as in Bangkok, Bled, Jakarta, Kyiv, Leiden, Tokyo and Port Vila, Vanuatu. At those meetings, I encouraged States, particularly Observer States, to become Parties to the Rome Statute and the Agreement on Privileges and Immunities of the International Criminal Court. I listened to challenges associated with their prospective decision to become parties, discussed with them ways to overcome these challenges, and stressed the importance of States adopting implementing legislation at the national level.

34. In this endeavour, I had meetings with delegates of Asia-Pacific countries, and participated as a keynote speaker in the Pacific Islands roundtable on the ratification and implementation of the Rome Statute held in Vanuatu on 31 May 2019, where I shared my focus on promoting the universality of the Statute. I also took part in Ambassadorial working luncheons on the International Criminal Court and the Pacific region, where I had interactive discussions on concerns raised by the delegations of the Pacific Islands States. In this context, I wish to express my appreciation for the strong support and efforts made by States Parties and civil society, including Australia, the Republic of Korea, the Coalition for the International Criminal Court and Parliamentarians for Global Action in promoting the universality of the Rome Statute in the Asia-Pacific region. As an outcome of the concerted endeavours, Kiribati deposited its instrument of accession to the Rome Statute and joined the Rome Statute family on 26 November 2019.

35. Throughout the three years, I actively reached out to different civil society organizations and Bar associations, in order to bring their perspectives to the work of the Assembly and the Court. This included regularly meeting them to discuss the ongoing issues and challenges that the Court faces, and communicating with States Parties and the Court to accommodate the suggestions and inputs made by civil society in the diverse aspects of the work of the Assembly and the Court.

36. I am heartened by the continuous and strengthened show of support to the Rome Statute system which the different stakeholders have reiterated during my term of office, including the Court's commitment to continued improvement in how it carries out its essential mandate. I fully trust that this nineteenth session of the Assembly will contribute to that common objective, especially in the context of the review of the Court and the Rome Statute system.

37. The Court is encouraged by the strong support, not only of the 123 States Parties to the Rome Statute, but also by the support it has received from other States and international organizations and civil society in carrying out its mandate. For the entire term of my service, I witnessed this commitment being reaffirmed, particularly on the occasion of the 20<sup>th</sup> anniversary of the Rome Statute that we celebrated together in 2018 and other events to mark the Day of International Criminal Justice in 2018, 2019 and 2020, including in the face of

external challenges. I have every confidence that the Court will continue to count on the commitment of the Assembly of States Parties to uphold and defend the principles and values enshrined in the Rome Statute, including the judicial independence of the Court.

## Annex III

### Statement of the Chair of the Committee on Budget and Finance at the nineteenth session of the Assembly of States Parties

1. I would like to thank you for the opportunity to address you today and to present the main outcomes of our discussions at the thirty-fourth and thirty-fifth sessions of the Committee on Budget and Finance (“the Committee”).
2. At the outset, I would like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions, and to the representatives of the Court for their availability and cooperation especially during these difficult times. I also extend my thanks and appreciation to the Executive Secretary and his team for their outstanding support.
3. During its thirty-fourth session, which was held virtually on 18-19 May and on 11-12 June 2020, the Committee focused on the consideration of the impact of the COVID-19 pandemic on the operation of the Court, as well as other time-sensitive matters such as the liquidity situation and the appointment of the new External Auditor. During its thirty-fifth session, which was held virtually from 14-25 September 2020, the Committee focused on the consideration of the 2021 proposed programme budget of the Court, and the budget performance of the Court in 2019. In addition, the Committee considered a range of issues including: the impact of COVID-19; the liquidity of the Court; and the work of its major programmes. Other major topics such as the IT/IM Strategy were also reviewed.
4. In addition, I would like to confirm that the Committee addressed the queries received from States Parties through the Budget facilitator, Ambassador Teran. The Committee welcomed such interaction with States Parties and the Assembly’s Subsidiary Bodies and considered that it leads to a better outcome.
5. I will now briefly outline the main observations of the Committee on the 2021 proposed programme budget, and budget performance for 2019.

#### A. Budgetary issues across major programmes

##### I. General observations and macro-analysis

6. The Court presented a proposed programme budget for 2021 of **€144,917.2 thousand**, excluding the host State loan, representing a decrease of €703.3 thousand (0.5 per cent) from the previous year.
7. The Committee noted that the budget for the Court had become stable and achieved near zero growth in the most recent five years (2017-2021).
8. The Committee noted that the 2021 proposed programme budget was impacted by an increase in staff costs of €6.5 million pursuant to the application of the United Nations Common System (“UNCS”). In addition, the provision of support by the Registry to additional judicial proceedings anticipated in 2021 was estimated to cost an additional €2.0 million.
9. In order to reduce the level of resource requirements for the 2021 budget, the Court applied a higher vacancy rate in Major Programme III, from 10 to 12 per cent (or €1.1 million reduction), and further reduced resources in the staff costs category by €2.8 million through unfunded positions and other reductions in staff and judges costs. Furthermore, the Court proposed reductions in non-staff costs through reductions in travel (€2.1 million), other non-staff costs (€0.4 million), operational requirements in country offices and field activities (€1.8 million), and the postponement of planned infrastructure improvements (€1.1 million).
10. However, the Committee noted that the majority of the cost reductions related to either postponement of recruitment or infrastructure investment, or anticipated travel restrictions into 2021. As such, these were considered largely one-time in nature and not a result of structural enhancements in the efficiency of the work of the Court.

## II. Update on the situation regarding COVID-19

11. The Committee observed that the Court had perceived the detrimental effects of COVID-19 and thereby continued to exercise flexibility and versatility in its operations to ensure business sustenance, for example, prudent financial management, encouraging working at home, and voluntary shifts at the office in order to offer safety and security to the workforce.

12. The Committee also recognized the work of the CMT in its quest to craft comprehensive mechanisms that ensured sustainable operational activities, synergies and a transitional framework towards gradual shifts to the workplace. In addition, the Committee recollected that the Court was mindful of implementing and retaining all the savings and efficiencies in light of the unpredictability of the COVID-19 pandemic, which brings uncertainties.

13. The Committee was conscious that new ways of working have been adopted during the ongoing COVID-19 pandemic. These new practices, if maintained, could have a potential positive impact on the future operating costs of the Court. The Committee requested the Court to provide a plan to the Committee at its thirty-sixth session that demonstrates how, from within its current budget envelope, the Court intends to implement and benefit from these changes. The Committee was particularly keen to understand the impact these changes have on efficiency, operating costs, flexibility and resilience.

## III. Budget performance for 2019

14. The Committee considered the “Report on activities and programme performance of the International Criminal Court for the year 2019” and noted that in 2019, the Court’s total actual expenditure including the Contingency Fund amounted to €147.6 million, which represents 99.6 per cent of the approved 2019 budget of €148.1 million. The remaining balance of €0.5 million included unspent provisions of €0.3 million for the multi-year IT/IM Strategy project that would be carried forward to the 2020 year, thus the net unspent balance amounted to €0.2 million.

15. The implementation rate of the regular budget was 96.3 per cent or a total of €145.67 million against an approved budget of €148.13 million.

16. Four Contingency Fund notifications were submitted to the Committee with a total notified amount of €2.7 million, whereby €1.9 million was actually needed. The Committee welcomed the Court’s efforts in order to absorb the expenditures for unforeseen situations and developments within its regular budget.

## IV. Budget performance in the first half of 2020

17. The Committee had before it the “Report on Budget Performance of the International Criminal Court as at 30 June 2020”, as well as the forecast performance as at 31 December 2020. The Committee noted that the implementation rate at mid-year was 52.4 per cent, or €76.25 million, against the 2020 approved budget of €145.62 million (excluding the host State loan). The Committee noted that this represented a decrease of 2.1 per cent compared to the implementation rate of 54.5 per cent as at 30 June 2019.

18. The forecast implementation rate for the Court as at 31 December 2020, including the interest and capital repayments of the host State loan, was estimated at 98.2 per cent (or €146.53 million) against the approved budget for 2020 of €149.21 million.

## V. Liquidity

19. On the matter of liquidity of the Court, the Committee reiterated its concern regarding the trend of increasing arrears in recent years, which resulted in a significant risk of a liquidity shortfall. This risk had also been highlighted in the performance audit report of the External Auditor on the Court’s budget process.

20. Despite the prevailing difficulties and uncertainties due to the global economic situation, the Committee recommended that the Court, if liquidity issues are realised, seek to effectively manage the available resources throughout the remaining months of the year. In addition, in case a liquidity shortage occurred before the session of the Assembly, the Committee

recommended that the Bureau, upon recommendation of the Committee, consider available options to deal with the situation.

21. The Committee recommended that the Court use and further develop different forms of interactions with States Parties to minimise the risk to liquidity as illustrated in the report. Upon the recommendation of the Committee the Secretariat of the Assembly has notified States Parties in arrears once again in November 2020 prior to the nineteenth session of the Assembly, highlighting the importance of their contributions for the budget and the financial stability of the Court, and for the States Parties themselves to regain their voting rights.

## **VI. Capital replacement**

22. The Court presented medium-term and long-term capital replacement plans. The Committee recommended reassessing them in light of budgetary appropriations for 2021, taking into account the need to minimize operational risks for the Court and giving priority to maintenance over replacement whenever economically sensible, in line with the principle of sustainability.

## **VII. IT/IM Strategy**

23. The Committee noted that the Court had followed the agreed investment plan for the Five-Year IT/IM Strategy, as indicated in the Court's report. However, due to the COVID-19 crisis there had been delay in delivery of the major component of the strategy, the Judicial Workflow Platform, resulting in the Court requesting extension of the deadline of the Five-Year IT/IM Strategy by one year and use of Strategy funds of €158.0 thousand in 2022. Nonetheless, the total costs of the whole Five-Year IT/IM Strategy implementation would be €403.9 thousand lower than estimated in 2017.

## **VIII. Judges' salaries and entitlements**

24. The Committee observed that the lower number of judges in full-time service and a change in the pension scheme provider had resulted in a decrease of the requested resources for judges' pensions (from €1,574.4 thousand in 2020 to €921.9 thousand in 2021) in addition to other entitlements.

25. However, the Committee also noted that on 11 March 2021, a new Presidency will be elected, and in accordance with article 35(3) of the Rome Statute, it may decide, based on workload and in consultation with fellow judges, the extent to which any newly elected judge who is not a member of the Presidency shall be required to serve full-time. The Committee recommended that the Court make its utmost efforts to absorb all unforeseen expenditures in relation to the newly elected judges within the approved budget for 2021.

26. The Committee also addressed some institutional reform and administrative matters, namely Human resources matters pertaining to geographical distribution and gender balance.

### *a) Geographical distribution*

The Committee noted that the Court listed measures and activities which had been taken in an attempt to mitigate the existing imbalances in geographical representation. The Committee reiterated its previous recommendations that the Court come back with a medium to long-term plan and well-defined objectives for addressing the situation.

The Court reported that the number of Professional staff who belong to non-ratified States Parties was 59 as of 31 July 2020, compared to 58 over the same period in 2019. The Committee recommended that whenever any of those 59 posts from non-ratified States became vacant the Court should try to fill it by recruiting candidates from non-represented and under-represented States.

### *b) Gender balance*

The Court's report revealed significant gender imbalance in favor of male staff at the higher professional grade levels, and a reverse situation prevailed at the lower professional scale levels, where females comprised a majority of the total staff in those posts. The Committee recommended that the Court continue its efforts directed at narrowing gender disparity at the senior professional posts.

27. I will now report the Committee's key recommendations for the main major programmes.

#### **I. Major Programme I: Judiciary**

##### *Travel costs*

28. The Committee noted that the travel budget was proposed at the same level as in 2020 (€100.7 thousand) despite the fact that in the 2020 budget non-recurrent costs of €25.5 thousand were allocated for travel to attend the session of the Assembly in New York. The Committee believed such non-recurrent costs were not needed and should be removed from the 2021 proposed budget.

#### **II. Major Programme II: The Office of the Prosecutor**

##### *Staff costs*

29. The Committee noted that, notwithstanding all efforts, the OTP requested one additional GTA position for an Associate Human Resources Liaison and Coordination Officer at (P-2) level for six months within the Immediate Office of the Prosecutor, in order to address the high demands placed on the OTP HR Liaison Office. However, the Committee was of the view that due to enhanced synergies and coordination with Registry's functions, such demand could be met within existing resources and thus recommended that the post should not be approved.

#### **III. Major Programme III: Registry**

##### *Staff costs*

30. The Registry requested several new GTA positions. After careful review of the requests and taking into consideration the existing resources and the unique skill set required, the Committee recommended approval of all languages positions and one Associate Legal Officer (P-2) for six months only.

##### *Legal aid*

31. The Committee noted that an amount of €300 thousand had been allocated for duty and ad hoc counsel. Based on an examination of the actual duty and ad hoc counsel costs in the past, as well as the resources needed as at 30 June 2020 (€86,630 compared to €220 thousand approved in the budget), the Committee recommended to reduce the funds for duty and ad hoc counsel by €80 thousand.

#### **IV. Major Programme VI: Secretariat of the Trust Fund for Victims**

##### *Staff costs*

32. The Committee noted that no new established posts were proposed by the STFV for 2021. The STFV requested an increase by €149.1 thousand (9.5 per cent) due to UNCS costs, which does not reflect an increase in staff capacity.

33. The STFV is applying 10 per cent as "Delayed recruitment factors" on its Professional and General Services budget line items. The requested amount for 2021 was €1.191.1 thousand for the Professional and General Services categories.

34. The Committee reviewed the trend of the implementation rate for the STFV and recommended the application rate for the "Delayed recruitment factors" be raised to 12 per cent, thus the reduction achieved would be €26.5 thousand.

35. The Committee recommended that the Assembly approve all GTA positions for the STFV.

## V. Major Programme VII-6: Office of Internal Audit

### *Training*

36. The Committee noted that the requested budget included training costs of €28.8 thousand in order to provide the necessary continuing professional education for auditors. In response to a query from the Committee the Office indicated that it was considering the option of procuring a customized training course, to address its specific needs within the working environment of the Court, at an estimated cost of €25 thousand. The Committee therefore recommended a reduction of €3.8 thousand from training in 2021, and also recommended that the Office of Internal Audit continue to seek value for money in its training options in the future, for example through online training courses run by institutions such as the Institute of Internal Auditors.

37. After carefully scrutinizing the 2020 proposed programme budget, its addendum and the justifications provided, the Committee recommended that total reductions could be achieved of €1.4 million. The adjusted 2020 proposed programme budget would thus amount to €146 million (or €149.6 million with host State loan). This represents an increase of €1.4 million (or 1 per cent) compared to the 2019 approved budget.

38. In regards to the **Independent Expert Review report**, the Committee did not have the chance to comment on this report as it was issued after the conclusion of the Committee's thirty-fifth session, however, on a personal note, I support this initiative and believed that there are good recommendations that will improve the work of the Court in the judicial and governance areas. The Experts pointed out the growing number of agenda items that are considered by the CBF members each session, which is due mainly to the extensive mandate of the CBF set up by the Assembly that the CBF shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications or any other matter of a financial, budgetary or administrative nature, as may be entrusted to it by the Assembly. The Committee as a subsidiary body of the Assembly welcomes any opportunity to conduct a meaningful and productive dialogue with the States Parties and the Court for the benefit of the Court and international justice.

39. Moreover, in relation to the **review of the oversight bodies of the Court by the External Auditor**, the Committee supports this review and recommended that the External Auditor share the paper he prepared well in advance of the workshop that he intended to conduct in order to give sufficient time for proper review and analysis. I would also like to emphasize the importance of including the Committee in all the discussions about the review of the oversight bodies and be kept informed at all stages.

40. In conclusion, allow me reiterate that the Committee will continue analysing budgetary, financial and administrative matters on their technical merits, in line with its mandate. It will continue providing expert recommendations to the Assembly in close coordination with the other oversight bodies and based on the guidance by the Assembly.

## Annex IV

### **Statements to the Assembly concerning the adoption of the budget resolution at its 4th plenary meeting, on 16 December 2020**

#### **A. Statement by Belgium after adoption**

1. On behalf of Argentina, Austria, Belgium, Costa Rica, Finland, Ireland, Liechtenstein, Luxembourg, Mongolia, the Netherlands, Norway, Slovenia, South Africa, Sweden and Switzerland we wish to reiterate our call for a budget that is in line with the needs of the Court and express our concern about the extremely fragile liquidity situation of the Court.

2. In our view, it is essential to find the right balance between the search for efficiency in the use of resources and an adequate budget to enable the Court to implement its mandate. Only then will the Court be able to effectively produce the best results in the fight against impunity.

3. We acknowledge that this year's budget negotiations have been smoother than in previous years. There was only a small difference to be noted between the budget proposal of the Court and the budget recommended by the Committee on Budget and Finance. The Committee on Budget and Finance recognizes the efforts done by the Court to identify savings and efficiencies, taking into account the unique economic consequences of the Covid-19 pandemic. We commend the Court for these efforts and we hope that this budget, for the first time below the budget approved for the year before, will be sufficient for the Court to accomplish its mission next year even if its activities are still growing and salaries are rising.

4. Both in 2018 and 2019 a call was made by Belgium and other States Parties to address the liquidity situation. We take note that, once again, this issue has not been sufficiently addressed due to the refusal of some States Parties to take concrete and actionable measures in this regard.

5. For several years, the Court, the Committee on Budget and Finance and auditors have warned States Parties of the Court's vulnerable cash flow situation. Ensuring sufficient precautionary reserves, such as in the Working Capital Fund, is a matter of responsible fiscal management.

6. We regret that States Parties have not been able to agree on meeting the recommended minimal requirements for sufficient precautionary reserves.

7. The high amount of arrears is a cause for great concern. We call upon States Parties to fulfil their obligation to pay their outstanding contributions .

8. Today, in an increasingly challenging environment, we must ensure that the Court has adequate resources to meet the growing demand for justice in order to ensure that victims have access to the justice they deserve.

9. Finally, we would like to thank the facilitator H.E. Ambassador Andrés Terán and his team for their commitment and work.

## **B. Statement by the Republic of Korea after adoption**

1. On behalf of the Board of Audit and Inspection of the Republic of Korea, I am privileged to take the floor before the Assembly on the occasion of our appointment as the External Auditor of the Court for the financial years 2021-2024.
2. The Republic of Korea would like to express its heartfelt gratitude to the Audit Committee and the Committee on Budget and Finance (CBF) for recommending and endorsing the appointment of the BAI as the External Auditor of the Court, and to States Parties of the Assembly for adopting the resolution that appoints the BAI as a new External Auditor.
3. We would also like to extend our deepest appreciation to the Court of Accounts of France (*Cour des comptes*) for the hard work it has performed as the External Auditor for the nine-year period from 2012 to 2020.
4. With boundless gratitude for the confidence placed in us, we will do our best to demonstrate an unwavering commitment to performing our duties and fulfilling our responsibilities as the External Auditor of the Court in a way that maximizes efficiency and provides the highest quality of audit services.

## Annex V

### List of documents

Document symbol	Title
ICC-ASP/19/1	Provisional agenda
ICC-ASP/19/1/Corr.1	Provisional agenda
ICC-ASP/19/1/Add.1/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/19/2/Rev.2	Seventh election of judges of the International Criminal Court
ICC-ASP/19/2/Rev.3	Seventh election of judges of the International Criminal Court
ICC-ASP/19/2/Add.1/Rev.1	Seventh election of judges of the International Criminal Court
ICC-ASP/19/2/Add.1/Rev.2	Seventh election of judges of the International Criminal Court
ICC-ASP/19/2/Add.2	Seventh election of judges of the International Criminal Court
ICC-ASP/19/2/Add.3	Seventh election of judges of the International Criminal Court
ICC-ASP/19/3/Rev.1	Election of judges of the International Criminal Court: guide for the seventh election
ICC-ASP/19/4	Report of the Court on Human Resources Management
ICC-ASP/19/5	Report of the Committee on Budget and Finance on the work of its thirty-fourth session
ICC-ASP/19/6	Election of members of the Committee on Budget and Finance
ICC-ASP/19/7	Report on activities and programme performance of the International Criminal Court for the year 2019
ICC-ASP/19/8	Report of the Court on updated and detailed plans and multi-year financing mechanism for capital replacements
ICC-ASP/19/9	Report on the activities of the International Criminal Court
ICC-ASP/19/10	Proposed Programme Budget for 2021 of the International Criminal Court
ICC-ASP/19/10/Corr.1	Proposed Programme Budget for 2021 of the International Criminal Court
ICC-ASP/19/11	Report of the Advisory Committee on the Nominations of Judges on the work of its seventh session
ICC-ASP/19/12	Financial statements of the International Criminal Court for the year ended 31 December 2019
ICC-ASP/19/13	Financial statements of the Trust Fund for Victims for the year ended 31 December 2019
ICC-ASP/19/14	Report to the Assembly of States Parties on the projects and the activities of the Board of Directors of the Trust Fund for Victims for the period 1 July 2019 to 30 June 2020
ICC-ASP/19/15	Report of the Committee on Budget and Finance on the work of its thirty-fifth session
ICC-ASP/19/16	Report of the Independent Expert Review of the ICC and the Rome Statute System
ICC-ASP/19/17	Report of the Registry on approximate cost of UNSC referrals
ICC-ASP/19/18	Report of the Judicial Remuneration Panel
ICC-ASP/19/21	Report of the Bureau on the Study Group on Governance
ICC-ASP/19/22	Report of the Bureau on complementarity
ICC-ASP/19/23	Report of the Bureau on non-cooperation
ICC-ASP/19/24	Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism
ICC-ASP/19/25	Report of the Court on cooperation
ICC-ASP/19/26	Annual report of the Head of the Independent Oversight Mechanism
ICC-ASP/19/27	Report of the Bureau on the arrears of States Parties

Document symbol	Title
ICC-ASP/19/28	Report of the Working Group on Amendments
ICC-ASP/19/29	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/19/30	Report of the Bureau on the Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court
ICC-ASP/19/31	Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises
ICC-ASP/19/32	Report on the constitution and activities of the International Criminal Court Bar Association
ICC-ASP/19/33	Report of the Bureau on cooperation
ICC-ASP/19/34	Proposal by the Bureau on the decision making
ICC-ASP/19/35	Report to the Bureau on the review of the procedure for the nomination and election of judges
ICC-ASP/19/36	Report of the Bureau on the scheduling of Assembly sessions
ICC-ASP/19/INF.1	Delegations to the nineteenth session of the Assembly of States Parties to the Rome Statute of the International Criminal Court
ICC-ASP/19/INF.2	Report of the Committee on the Election of the Prosecutor
ICC-ASP/19/INF.2/Add.1	Report of the Committee on the Election of the Prosecutor: vacancy announcement
ICC-ASP/19/INF.2/Add.2	Report of the Committee on the Election of the Prosecutor: candidate reference material
ICC-ASP/19/INF.2/Add.3	Report of the Committee on the Election of the Prosecutor: appraisals of additional candidates
ICC-ASP/19/INF.2/Add.4	Report of the Committee on the Election of the Prosecutor: additional candidates – reference material
ICC-ASP/19/INF.3	Proposed Programme Budget for 2021 of the International Criminal Court - Executive Summary