

*Advance version*

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

**NINETEENTH SESSION (FIRST AND SECOND  
RESUMPTIONS)  
NEW YORK, 17 - 23 DECEMBER 2020 AND 12  
FEBRUARY 2021**

**OFFICIAL RECORDS**

*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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## **CHAPTER I**

### **NINETEENTH SESSION (FIRST RESUMPTION)**

## Part I Proceedings

### A. Introduction

1. At the 9th meeting of the eighteenth session, on 6 December 2019, 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 of the nineteenth session in New York due to the restrictions related to the COVID-19 pandemic, the Bureau of the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”) decided at its 12th meeting, on 19 November 2020, that the first resumption of the nineteenth session of the Assembly would be held at United Nations Headquarters in New York from 17 to 23 December 2020.<sup>1</sup>
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.
3. The list of delegations to the session is contained in document ICC-ASP/R19/INF.1.
4. The first resumption of the nineteenth session was opened by the Vice-President of the Assembly of States Parties, Mr. Michal Mlynár (Slovakia), in place of Assembly President O-Gon Kwon who could not attend due to restrictions related to the COVID-19 pandemic.
5. At the 4th meeting of the nineteenth session, on 16 December 2020, the Assembly decided that the Bureau elected for the seventeenth to nineteenth sessions would continue to hold office until the close of the nineteenth session or until February 2021, whichever came earlier, and that this decision would be applicable only to the nineteenth session in the context of the COVID-19 pandemic and shall not constitute a precedent for the term of any future Bureau.<sup>3</sup>
6. The Bureau of the nineteenth session thus continued as follows:  
*President:*  
 Mr. O-Gon Kwon (Republic of Korea)  
  
*Vice-Presidents:*  
 Mr. Jens-Otto Hørslev (Denmark)  
 Mr. Michal Mlynár (Slovakia)  
  
*Other members of the Bureau:*  
 Argentina, Australia, Austria, Bangladesh, Colombia, Côte d’Ivoire,  
 Ecuador, Estonia, France, Gambia, Ghana, Mexico,  
 Netherlands, Senegal, Serbia, Slovenia, State of Palestine and Uganda.
7. The Assembly, at the 1st meeting of the nineteenth session, on 14 December 2020, appointed Mr. Mamadou Racine Ly (Senegal) as Rapporteur for the first resumption of the nineteenth session.
8. The Credentials Committee continued to serve at the first resumption of the nineteenth session with the following membership: Argentina, Belgium, Finland, Hungary, Mexico, Romania and Uganda.<sup>4</sup>

<sup>1</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19/Bureau12.agenda%20and%20decisions.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/Bureau12.agenda%20and%20decisions.pdf). Due to inclement weather which did not allow for meetings on 17 December 2020 at United Nations Headquarters, the first resumption started on 18 December.

<sup>2</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

<sup>3</sup> Resolution ICC-ASP/19/Res.5, paras. 2 and 3.

<sup>4</sup> The Credentials Committee normally consists of seven members, but no candidature was put forward for the seventh seat.

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

10. At its 5th plenary meeting, on 18 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.

11. At the same meeting, the Assembly decided to continue its consideration of the items on the agenda of the nineteenth session<sup>5</sup> which had not been closed at that session.

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

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

### **1. Election of the President for the twentieth to twenty-second sessions**

13. On 25 November 2020, the Bureau decided to recommend that Ms. Silvia Fernández de Gurmendi (Argentina) be elected President of the Assembly for the three-year period commencing at the close of the nineteenth session of the Assembly. In accordance with article 112, paragraph 3, of the Rome Statute and rule 29 of the Rules of Procedure of the Assembly of States Parties, as amended by resolution ICC-ASP/12/Res.8, annex III, the Assembly, at its 5th plenary meeting, on 18 December 2020, elected Ms. Silvia Fernández de Gurmendi (Argentina) by acclamation as President of the Assembly for the twentieth to twenty-second sessions.

### **2. Election of two Vice-Presidents and eighteen members of the Bureau for the twentieth to twenty-second sessions**

14. At its 5th plenary meeting, on 18 December 2020, the Assembly, pursuant to rule 29 of its Rules of Procedure, elected the following States Parties as members of the Bureau for the twentieth to twenty-second sessions of the Assembly:

Argentina, Bangladesh, Brazil, Canada, Côte d'Ivoire, Cyprus, Czech Republic, Ecuador, Ghana, Kenya, Liechtenstein, Mexico, Norway, Romania, Senegal, Serbia, Slovakia, Spain, the State of Palestine, Uganda and the United Kingdom.<sup>6</sup>

15. The Assembly decided to revert at a later stage to the election of the two Vice-Presidents and the appointment of the Rapporteur of the new Bureau.

### **3. States in arrears**

16. At its 5th meeting, on 18 December 2020, the Assembly was informed that six States Parties in arrears submitted a request for exemption under article 112, paragraph 8, second sentence of the Rome Statute, in addition to those whose requests were approved at the nineteenth session.<sup>7</sup> The requests of the six States Parties were approved by the Assembly at the same meeting.

### **4. Credentials of representatives of States Parties at the first resumption of the nineteenth session**

17. At its 5th plenary meeting, on 18 December 2020, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

<sup>5</sup> *Official Records ...Nineteenth session... 14-16 December 2020*, vol.I, part I, para.12.

<sup>6</sup> At its 17<sup>th</sup> meeting, on 12 January 2021, the Bureau took note of the seat-sharing arrangements agreed to by the Asia-Pacific Group States and the Western European and other States Group, [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19R/Bureau17.agenda%20and%20decisions%20-%20ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19R/Bureau17.agenda%20and%20decisions%20-%20ENG.pdf), annex.

<sup>7</sup> *Official Records ... Nineteenth session, The Hague, 14-16 December 2020*, vol.I, part I., para.18

## 5. Election of the Prosecutor

18. At its 5th plenary meeting, on 18 December 2020, the Assembly decided to defer the consideration of this agenda item to the second resumption of the nineteenth session. The specific date of the second resumption would be determined by the Bureau, on the basis of consultations with the UN Secretariat. No specific details on the availability of conference rooms had been received from the UN at the time, but the President's intention was to convene the second resumption of the nineteenth session in late January or early February 2021.

## 6. Election of six judges

19. At its 5th meeting, on 18 December 2020, the Assembly, on the recommendation of the Bureau, decided that for the purposes of electing judges of the International Criminal Court, any meeting of the Assembly should continue until as many candidates as were required for all seats to be filled had obtained, in one or more ballots, the highest number of votes and a two-thirds majority of the States Parties present and voting. Consequently, all candidates elected as judges should be considered as having been elected at the same meeting, irrespective of whether or not the ballot continued for one or more days.

20. At its 5th meeting, held from 18 to 23 December 2020, the Assembly proceeded to elect six judges of the International Criminal Court in accordance with the relevant provisions of the Rome Statute, as well as of resolution ICC-ASP/3/Res.6.<sup>8</sup>

21. The following candidates were elected judges of the International Criminal Court:

- (a) Althea Violet Alexis-Windsor (Trinidad and Tobago) (GRULAC, list A, F);
- (b) María del Socorro Flores Liera (Mexico) (GRULAC, list B, F);
- (c) Joanna Korner (United Kingdom) (WEO, list A, F);
- (d) Gocha Lordkipanidze (Georgia) (EEG, list B, M);
- (e) Miatta Maria Samba (Sierra Leone) (AFR, list A, F) and
- (f) Sergio Gerardo Ugalde Godinez (Costa Rica) (GRULAC, list B, M).<sup>9</sup>

22. The Assembly conducted 8 ballots. In the first round, 122 ballots were cast, of which 5 were invalid and 117 were valid; the number of States Parties voting was 117 and the required two-thirds majority was 78. The following candidate obtained the highest number of votes (85) and a two-thirds majority of the States Parties present and voting: Joanna Korner.

23. In the second round, 120 ballots were cast, of which 10 were invalid and 110 were valid; the number of States Parties voting was 110 and the required two-thirds majority was 74. Gocha Lordkipanidze obtained the highest number of votes (76) and a two-thirds majority of the States Parties present and voting.

24. In the third round, 123 ballots were cast, of which 5 were invalid and 118 were valid; the number of States Parties voting was 118 and the required two-thirds majority was 79. Miatta Maria Samba obtained the highest number of votes (83) and a two-thirds majority of the States Parties present and voting.

25. In the fourth round, 122 ballots were cast, of which 3 were invalid and 119 were valid; the number of States Parties voting was 119 and the required two-thirds majority was 80. The following candidates obtained the highest number of votes and a two-thirds majority of the States Parties present and voting: María del Socorro Flores Liera (87) and Sergio Gerardo Ugalde Godinez (87).

26. In the eighth round, 118 ballots were cast, of which none was invalid and 118 were valid; the number of States Parties voting was 118 and the required two-thirds majority was

<sup>8</sup> As amended by resolutions ICC-ASP/5/Res.5, ICC-ASP/12/Res.8, annex II, ICC-ASP/13/Res.5, annex II, ICC-ASP/14/Res.4, annex II, and ICC-ASP/18/Res.4, annex I.

<sup>9</sup> WEO = Western European and other States; AFR = African States; ASIA-PACIFIC = Asia-Pacific States; EEG = Eastern European States; GRULAC = Group of Latin American and Caribbean States; M = male; and F = female.

79. Althea Violet Alexis-Windsor obtained the highest number of votes (86) and a two-thirds majority of the States Parties present and voting.

*Commencement of terms of office of judges*

27. At its 5th meeting, on 18 December 2020, the Assembly, on the recommendation of the Bureau, decided that the terms of office of judges of the International Criminal Court elected by the Assembly shall begin to run as from 11 March following the date of their election.

**7. Election of six members of the Committee on Budget and Finance**

28. In a note dated 19 November 2020, the Secretariat informed States that it had received six candidatures and submitted to the Assembly a list of the six candidates nominated by States Parties for election to the Committee on Budget and Finance.<sup>10</sup>

29. At its 5th plenary meeting, on 18 December 2020, in accordance with resolution ICC-ASP/1/Res.5<sup>11</sup> of 12 September 2003 and the 25 November 2020 recommendation of the Bureau, the Assembly dispensed with a secret ballot<sup>12</sup> and elected the following six members of the Committee on Budget and Finance by consensus:

- (a) Mr. Werner Druml (Austria)
- (b) Mr. Fawzi Gharaibeh (Jordan)
- (c) Ms. Yukiko Harimoto (Japan)
- (d) Ms. Mónica Sánchez Izquierdo (Ecuador)
- (e) Ms. Margaret Wambui Ngugi Shava (Kenya)
- (f) Ms. Elena Sopková (Slovakia)

30. Pursuant to the 12 November 2019 recommendation of the Bureau,<sup>13</sup> taken pursuant to the recommendation of the Committee on Budget and Finance,<sup>14</sup> the Assembly decided that the members of the Committee on Budget and Finance elected at the nineteenth session shall be elected for terms beginning on 21 April 2021 and ending on 31 December 2023.

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

31. At its 5th plenary meeting, on 18 December 2020, the Assembly adopted, by consensus, resolution ICC-ASP/19/Res.7 on the review of the International Criminal Court and the Rome Statute system.

<sup>10</sup> ICC-ASP/19/6.

<sup>11</sup> As amended by resolution ICC-ASP/2/Res.4.

<sup>12</sup> ICC-ASP/1/Res.5, para. 11.

<sup>13</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP18/ICC-ASP-18-Bureau-10.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/ICC-ASP-18-Bureau-10.pdf).

<sup>14</sup> Report of the Committee on Budget and Finance on the work of its thirty-third session: *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, paras. 270-271.



## Part II

### Resolution adopted by the Assembly of States Parties

#### Resolution ICC-ASP/19/Res.7

*Adopted at the 5th plenary meeting, on 18 December 2020, by consensus*

#### ICC-ASP/19/Res.7

#### Review of the International Criminal Court and the Rome Statute system

*The Assembly of States Parties,*

*Recognizing* the Court's central role and achievements in the fight against impunity at the international level, as the only permanent International Criminal Court, based on the principle of complementarity,

*Reiterating* the need for continuous improvement in the performance, efficiency and effectiveness of the Court's operations and *welcoming* the Court's efforts in this respect,

*Recalling* resolution ICC-ASP/18/Res.7 entitled Review of the International Criminal Court and the Rome Statute System and *reiterating* its commitment to a transparent, inclusive State-Party driven process for identifying and implementing measures to strengthen the Court and improve its performance, and *underlining* that, for such a process to be successful, it must involve all States Parties, the Court and other relevant stakeholders,

*Welcoming* the willingness of the Independent Experts to assist with the continuing review process in providing additional background information on their findings and recommendations, as appropriate and feasible,

*Taking note* of the fact that some issues identified by the Group of Independent Experts are already under active consideration by the Court or in the Bureau working groups, facilitations and other forums (hereinafter Assembly mandates or mandate holders), and that such work should continue and should be coordinated with the larger review process with a view to avoid duplication and benefit from synergies,

*Stressing* the statutory mandates of the Organs of the Court and of the Assembly of States Parties and that these independent mandates should inform the assessment of the recommendations of the Group of Independent Experts and possible further action, as appropriate, by the Court, the Assembly, or both depending on the nature and purpose of the individual recommendations, and the entity identified as responsible for implementation,

*Encouraging* the continued engagement of States Parties, the Court and other relevant stakeholders in an efficient and results oriented manner in the review process,

1. *Welcomes* the report and recommendations of the Independent Expert Review contained in the document entitled 'Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report', dated 30 September 2020,<sup>1</sup> and *takes note* of the diverse, thorough and extensive nature of the Expert Recommendations and the need to address them in a structured, holistic and results-oriented way, and of annex I of the final report identifying a number of proposed priorities;

2. *Welcomes* the work of the Bureau working groups including the facilitations on complementarity,<sup>2</sup> cooperation<sup>3</sup> and equitable geographical representation and gender balance,<sup>4</sup> as well as the Bureau focal points on non-cooperation<sup>5</sup> and the Study Group on Governance<sup>6</sup> as well as the work of other relevant facilitations as part of the review process<sup>7</sup>

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<sup>1</sup> ICC-ASP/19/16

<sup>2</sup> ICC-ASP/19/22.

<sup>3</sup> ICC-ASP/19/33.

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

<sup>5</sup> ICC-ASP/19/23.

<sup>6</sup> ICC-ASP/19/21.

<sup>7</sup> ICC-ASP/18/Res.7, annex I, appendix II, para. 5.

and *notes* the difficult and adverse working conditions caused by the COVID-19 pandemic in 2020;

3. *Underlines* the need to continuously observe and safeguard the judicial and prosecutorial independence of the Court and the integrity of the Rome Statute throughout the review process as well as the need to ensure proper management oversight, good governance and administrative accountability throughout the prosecutorial and judicial activities, and to continuously take into account the mandate identified by the Independent Experts for each of the recommendations in the review process;

4. *Decides* to establish a Review Mechanism, under the auspices of the Assembly, led by two State Party Representatives dedicated to planning, coordinating, keeping track and regularly reporting to the Assembly Presidency and the Bureau on the assessment of the recommendations contained in the report of the Group of Independent Experts and further action, as appropriate, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19, and in general in accordance with that resolution. The two State Party representatives will be supported by three ad-country Focal Points, to ensure equitable geographical representation. Gender balance should be ensured in the selection of representatives. All members of the Review Mechanism shall be appointed by the Bureau, after consultations with the regional groups, upon approval by all States Parties via silence procedure, as soon as possible and no later than 60 days after the adoption of the present resolution. The Review Mechanism shall specifically:

a) submit to the Bureau for consideration, through its working groups in collaboration with the Court Focal Points and in close consultation with all States Parties, relevant Assembly mandate holders and civil society, a proposal for a categorization of the Independent Experts' recommendations and remaining review issues according to the entity responsible (the Assembly, the Court or both) for addressing the issue concerned by 30 April 2021; and

b) transmit to the Assembly in writing and submit to the Bureau, after finalization of the categorization of the Independent Experts' recommendations, in collaboration with the Court focal points and in close consultation with all States Parties and civil society, a proposal for a comprehensive action plan for the assessment of the recommendations of the Group of Independent Experts, including requirements for possible further action, as appropriate, by 30 June 2021. Such a proposed action plan shall include:

(i) An allocation of the recommendations to the Court or relevant Court Organ and to Assembly mandates, as appropriate, for their consideration and possible further action, in coordination with the Court;

(ii) As regards recommendations directed to the Assembly or both the Court and the Assembly, an allocation to the relevant and appropriate Assembly mandate or to the Review Mechanism, acting as a focal point for States Parties, where no relevant mandate exists;

(iii) A prioritization of the recommendations based on annex I of the final report of the Independent Experts, containing a summary of prioritized recommendations; and

(iv) Timelines for the consideration of the recommendations;

5. *Invites* the Court to designate focal points to engage and interface with the Review Mechanism in planning, coordinating, monitoring and reporting on the assessment of the recommendations contained in the report of the Group of Independent Experts, and possible further action, as well as the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19 and coordinate the Court's own consideration of and possible further action thereon, and *requests* the Court focal points to submit to the Review Mechanism and to the Bureau and all States Parties an overall response to the 'Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report', as well as a preliminary analysis of the recommendations contained therein and information on relevant activities already undertaken by the Court, by 31 March 2021;

6. *Requests* the Bureau to consider and adopt the categorization of recommendations referred to in operative paragraph 4, by 30 May 2021 and the Action Plan referred to in operative paragraph 4, by 30 July 2021;
7. *Requests* the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations to commence implementation in 2021 and to submit to the Bureau the outcome of its consideration, including on action already taken and proposals for next steps, by 1 November 2021;
8. *Requests* the Court through its focal points to provide regular updates to the Review Mechanism on progress achieved, including on any impediments to progress identified, and to evaluate the progress in the assessment of the recommendations of the Group of Independent Experts and possible further action, and report to the Assembly ahead of its twentieth session;
9. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, ideally before 30 June 2021, and to submit a report on the review process to the Assembly well in advance of its twentieth session, on:
  - a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;
  - b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19; and
  - c) Any other progress in the review process;
10. *Invites* the Secretariat of the Assembly to assist the work of the Review Mechanism and *requests* the Bureau to invite the Registrar to consider making available to the Secretariat of the Assembly necessary additional resources, to support the Review Mechanism, on its request, and within the existing budget, only when the Bureau is satisfied that the work of the Review Mechanism so requires; and
11. *Underlines* that the Review Mechanism shall work in an inclusive and transparent manner, consulting regularly with all States Parties, the three organs of the Court, civil society and other relevant stakeholders.

## Annexes

### Annex I

#### Report of the Credentials Committee

*Chairperson: Ambassador Mario Oyarzábal (Argentina)*

1. At the first and third plenary meetings of its nineteenth session, 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 resumed nineteenth session, consisting of the following States Parties: Argentina, Belgium, Finland, Hungary, Mexico, Republic of Korea, Romania and Uganda.
2. The Credentials Committee held three meetings, on 14, 16 and 17 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 resumed nineteenth session of the Assembly of States Parties. The Credentials Committee requested the Secretariat to convey a reminder via an electronic communication to those States Parties that had not yet submitted their original credentials or information concerning the appointment of the representatives of States Parties to the resumed nineteenth session by means of a cable, telefax or other electronic communication, to do so as soon as possible.
4. Formal credentials of representatives to the resumed 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 17 December 2020 meeting of the Credentials Committee from the following 70 States Parties: Albania, Andorra, Antigua and Barbuda, Argentina, Australia, Austria, Belgium, Bulgaria, Bolivia (Plurinational State of), Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, Germany, Georgia, Ghana, Greece, Grenada, Guatemala, Hungary, Iceland, Italy, Ireland, Japan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Mexico, Mongolia, Montenegro, New Zealand, North Macedonia, Norway, Palestine (State of), Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu and Venezuela (Bolivarian Republic of).
5. Information concerning the appointment of the representatives of States Parties to the resumed nineteenth session of the Assembly of States Parties had been communicated to the Secretariat, as at the time of the 17 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 44 States Parties: Afghanistan, Bangladesh, Barbados, Belize, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cabo Verde, Cambodia, Congo, Cook Islands, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Fiji, France, Gabon, Gambia, Guyana, Honduras, Jordan, Kiribati, Liberia, Madagascar, Maldives, Mali, Marshall Islands, Mauritius, Namibia, Nauru, Netherlands, Nigeria, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Seychelles, Sierra Leone, Suriname, Timor-Leste, Uganda, United Republic of Tanzania) and Zambia.
6. During the meeting held on 17 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. Bearing in mind the provision of rule 26 of the Rules of Procedure, the Credentials Committee further recommended that representatives of all States Parties fully participate in the resumed session, on the understanding that formal credentials

or at least copies thereof be communicated to the Secretariat as soon as possible before the end of the resumed session.

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 resumed 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 resumed 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 resumed nineteenth session of the Assembly and the recommendation contained therein,*

*Approves the report of the Credentials Committee.”*

## Annex II

### **Written explanations of position in relation to resolution ICC-ASP/19/Res.7, “Review of the International Criminal Court and the Rome Statute system”**

*Given the constraints due to the pandemic, following the adoption of resolution ICC-ASP/19/Res.7 on 18 December 2020, States Parties had no opportunity to take the floor on that matter during a plenary meeting of the first resumption of the nineteenth session, as the latter was held from 21-23 December in a non-plenary format. Explanations of position were therefore submitted, exceptionally, in written form and are set out below.*

#### **A. Explanation of position dated 22 December 2020 by Austria, Belgium, Brazil, Colombia, Costa Rica, Liechtenstein, Sierra Leone and Switzerland**

1. Our delegations strongly support the Independent Expert Review (IER). We are thankful to the Group of Independent Experts for providing States Parties and the Court with a solid basis for making meaningful change that will enable the Court to enhance its performance in our collective fight against impunity for the most serious crimes known to humankind.
2. Given the importance of this effort and of getting the IER follow-up process underway as expeditiously as possible, our delegations are pleased that consensus could be found on the Draft resolution, entitled “Review of the International Criminal Court and the Rome Statute system”.
3. We would like to reaffirm the following understanding:
  - The mandate created in the abovementioned draft resolution is an Assembly mandate and will therefore be serviced and supported by the Secretariat of the Assembly, while the Court organs themselves will have their own work to do as part of their mandates.
  - We expect that the process decided on in the abovementioned resolution shall not lead to a burden on the Court’s budget.
  - We would also like to place on the record the common understanding reached in the negotiations of the abovementioned draft resolution that no remuneration will be given for the work of States Representatives appointed to the Review Mechanism.

**B. Explanation of position dated 23 December 2020 by Mexico**

1. The delegation of Mexico wishes to express its position regarding the resolution entitled “Review of the International Criminal Court and the Rome Statute system”, which was introduced as document ICC-ASP/19/L.7 at 3pm (EST) in the plenary session of the Assembly held on 18 December 2020 and which was subsequently adopted in said session.
2. Our delegation participated from the beginning of the negotiations in good faith, having the best interests of the Court as its main motivation. We showed flexibility and sought consensus during the debates.
3. We are disappointed by the final text submitted for adoption. We did not favor the 60-day period for nomination set out in operative paragraph 4 of the resolution, and we strongly sought putting in place the Review Mechanism sooner.
4. We did not favor that granting resources to the Mechanism be subject to a very cumbersome process. We hope this does not result in its failure to achieve its fundamental mission.
5. The delegation of Mexico regrets that mistrust amongst delegations prevailed in this negotiation process and has resulted in a less than optimal review implementation mechanism.
6. As a member of the Bureau, Mexico will continue pursuing the implementation of the necessary reforms to bring the ICC to the level of excellence we all want and that it deserves.
7. We kindly request the Presidency of the Assembly to include this statement in the official records of the nineteenth session of the Assembly of States Parties.

## Annex III

### List of documents

Document symbol	Title
ICC-ASP/19/1	Provisional agenda ( <i>PA</i> )
ICC-ASP/19/1/Add.1/Rev.1	Annotated list of items included in the provisional agenda ( <i>AA</i> )
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	Election of judges of the International Criminal Court: guide for the seventh election
ICC-ASP/19/3/Rev.1	Election of judges of the International Criminal Court: guide for the seventh election
ICC-ASP/19/6	Election of members of the Committee on Budget and Finance
ICC-ASP/19/11	Report of the Advisory Committee on the Nominations of Judges on the work of its seventh session
ICC-ASP/19/16	Report of the Independent Expert Review of the ICC and the Rome Statute System
ICC-ASP/19/35	Report to the Bureau on the review of the procedure for the nomination and election of judges



## **CHAPTER II**

### **NINETEENTH SESSION (SECOND RESUMPTION)**

## Part I Proceedings

### A. Introduction

1. At the 5th meeting of the first resumption of the nineteenth session, on 18 December 2020, the Assembly decided to hold a second resumption of the nineteenth session at United Nations Headquarters, at a date to be determined by the Bureau, on the basis of consultations with the United Nations Secretariat. At its 17th meeting, on 8 January 2021, the Bureau decided to convene the second resumption of the nineteenth session on 8 February 2021.<sup>1</sup> On 8 February 2021, States Parties were informed that the second resumption had been postponed. On 9 February 2021, the Bureau decided to convene the second resumption of the nineteenth session on 12 February 2021.

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.

3. The list of delegations to the session is contained in document ICC-ASP/19/R2/INF.1.

4. The second resumption of the nineteenth session was opened by the Vice-President of the Assembly of States Parties, Mr. Michal Mlynár (Slovakia), in place of Assembly President Mr. O-Gon Kwon who could not attend due to restrictions related to the COVID-19 pandemic. The President delivered a pre-recorded video-message to the Assembly.

5. At the 4th meeting of the nineteenth session, on 16 December 2020, the Assembly decided that the Bureau elected for the seventeenth to nineteenth sessions would continue to hold office until the closing of the nineteenth session and that this decision would be applicable only to the nineteenth session in the context of the COVID-19 pandemic and shall not constitute a precedent for the term of any future Bureau.

6. The Bureau thus continued as follows:

*President:*

Mr. O-Gon Kwon (Republic of Korea)

*Vice-Presidents:*

Mr. Jens-Otto Horslund (Denmark)

Mr. Michal Mlynár (Slovakia)

*Rapporteur:*

Mr. Mamadou Racine Ly (Senegal)

*Other members of the Bureau:*

Argentina, Australia, Austria, Bangladesh, Colombia, Côte d’Ivoire,

Ecuador, Estonia, France, Gambia, Ghana, Mexico,

Netherlands, Serbia, Slovenia, State of Palestine and Uganda.

7. The Credentials Committee continued to serve at the second resumption of the nineteenth session with the following membership: Argentina, Belgium, Finland, Hungary, Mexico, Romania and Uganda.<sup>3</sup>

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

<sup>1</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP19R/Bureau17.agenda%20and%20decisions%20-%20ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19R/Bureau17.agenda%20and%20decisions%20-%20ENG.pdf)

<sup>2</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.C.

<sup>3</sup> The Credentials Committee normally consists of seven members, but no candidature was put forward for the seventh seat.

9. At its 6th meeting, on 12 February 2021, 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.

10. At the same meeting, the Assembly decided to continue its consideration of the items on the agenda of the nineteenth session<sup>4</sup> which had not been closed at that session.

11. The annotated list of items included in the provisional agenda of the second resumption of the nineteenth session was contained in a note by the Secretariat (ICC-ASP/19/1/Add.2/Rev.1).

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

### **1. Election of two Vice-Presidents for the twentieth to twenty-second sessions**

12. At its 6th meeting, on 12 February 2021, the Assembly, pursuant to rule 29 of its Rules of Procedure, elected Ms. Katerina Sequensová (Czech Republic) and Mr. Robert Rae (Canada) Vice-Presidents for the twentieth to twenty-second sessions of the Assembly.

### **2. States in arrears**

13. At its 6th meeting, on 12 February 2021, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to nine States Parties. The Assembly recalled that exemptions from the loss of voting rights under article 112, paragraph 8, had previously been approved for eight of these States Parties.<sup>5</sup> At the same meeting, one State Party in arrears submitted a request for exemption under article 112, paragraph 8, second sentence of the Rome Statute, and the request was approved by the Assembly.

14. 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.

### **3. Credentials of representatives of States Parties at the second resumption of the nineteenth session**

15. At its 6th meeting, on 12 February 2021, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

### **4. Election of the Prosecutor**

16. On 30 June 2020, the Bureau decided to open the nomination period for the election of the Prosecutor of the International Criminal Court, in accordance with resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6. The nomination period was open between 1 July and 22 September 2020 and was extended until 22 October 2020, 22 November 2020, 13 December 2020, 18 December 2020, 18 January 2021, 5 February 2021, 8 February 2021 at 12 midday (Eastern Standard Time), 8 February 2021 at 14.00 (Eastern Standard Time), and 10 February 2021 at 12 midday (Eastern Standard Time).

19. On 3 April 2019, the Bureau adopted the Terms of Reference for the Election of the Prosecutor.<sup>6</sup> The Terms of Reference provided that the nomination process would be supplemented by the work of a Committee on the Election of the Prosecutor, assisted by a panel of experts. According to the Terms of Reference, the Committee was mandated to “facilitate the nomination and election of the next Prosecutor in accordance with the working methods set out in section IV [of the Terms of Reference]”.<sup>7</sup> The Committee submitted its report to the Bureau on 30 June 2020.<sup>8</sup> The Committee received complete applications from

<sup>4</sup> *Official Records ... Nineteenth session ... 14-16 December 2020*, vol.I, part I, para.12.

<sup>5</sup> *Official Records ... Nineteenth session, The Hague, 14-16 December 2020*, vol.I, part I, para. 18 and *Official Records ... Resumed nineteenth session, New York, 19-23 December 2020*, vol.I, part I, para. 15.

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

<sup>7</sup> *Ibid.*, para. 9.

<sup>8</sup> ICC-ASP/19/INF.2, Add.1 and Add.2.

a total of 89 individuals. The Committee interviewed 14 candidates and submitted a shortlist of four candidates.

20. Informal consultations commenced thereafter, as set out in the Terms of Reference.<sup>9</sup> On 13 November 2020 the Bureau adopted the “Election of the Prosecutor: Way forward”,<sup>10</sup> which supplemented the process set out in the Terms of Reference. On 25 November 2020, pursuant to the “Way forward”, the Committee on the Election of the Prosecutor submitted an addendum to its report,<sup>11</sup> containing appraisals of five additional candidates.

21. The informal consultations continued with the support of the five focal points appointed pursuant to the “Way forward”. The focal points held four rounds of consultations. The summary of the fourth round of consultations was submitted to the Bureau on 4 February 2021 and considered at a Bureau meeting on 5 February 2021. The Presidency and the focal points were tasked by the Bureau to spare no effort to reach consensus before the morning of 8 February 2021, in order to enable the Assembly to proceed to the election of the Prosecutor at the plenary meeting scheduled to commence that day.

22. On 8 February 2021 the President of the Assembly, Mr. O-Gon Kwon, informed States Parties that, despite the best efforts of the President, the Vice-Presidents and the focal points, it had not been possible to achieve consensus. The nomination period was extended for a final time until 12 midday on 10 February 2021 (Eastern Standard Time). In a note dated 11 February 2021, the Secretariat informed States that it had received four nominations, and submitted to the Assembly a list of the four candidates for election as Prosecutor.<sup>12</sup>

23. At its 6th meeting, on 12 February 2021, the Assembly proceeded to the election of the Prosecutor by secret ballot in accordance with the relevant provisions of the Rome Statute, as well as of resolution ICC-ASP/1/Res.2, as amended by resolution ICC-ASP/3/Res.6.

24. The Assembly conducted two ballots. In the second round, held on 12 February 2021, 122 ballots were cast, of which 0 were invalid and 122 were valid. The required absolute majority of the members of the Assembly of States Parties was 62. Having obtained the highest number of votes (72) and the required absolute majority, Mr. Karim Khan (United Kingdom of Great Britain and Northern Ireland) was elected as the Prosecutor of the International Criminal Court for a period of nine years starting from 16 June 2021.

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<sup>9</sup> ICC-ASP/18/INF.2, para. 28.

<sup>10</sup> [https://asp.icc-cpi.int/en\\_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx](https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx).

<sup>11</sup> ICC-ASP/19/INF.2/Add.3 and Add.4.

<sup>12</sup> ICC-ASP/19/19 and Add.1.

## Annexes

### Annex I

#### Report of the Credentials Committee

*Chairperson: Ambassador Mario Oyarzábal (Argentina)*

1. At the first and third plenary meetings of its nineteenth session, 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 consisting of the following States Parties: Argentina, Belgium, Finland, Hungary, Mexico, Republic of Korea, Romania and Uganda. The Credentials Committee continued to serve at the first and second resumptions of the nineteenth session.
2. The Secretariat sent a note verbale on 18 January 2021 informing States Parties that they did not need to submit new credentials for the second resumption as the credentials submitted for the first resumption would remain valid. New credentials would be required only if the head of delegation of a State Party at the second resumption of the nineteenth session would be different from the head of delegation to the first resumption.
3. A memorandum by the Secretariat, dated 6 February 2021, concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the second resumption of the nineteenth session of the Assembly of States Parties was circulated to the members of the Credentials Committee.
4. Formal credentials of representatives to the second resumption of 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 of 6 February 2021 from the following 70 States Parties: Albania, Andorra, Antigua and Barbuda, Argentina, Australia, Austria, Belgium, Bulgaria, Bolivia (Plurinational State of), Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, Germany, Georgia, Ghana, Greece, Grenada, Guatemala, Hungary, Iceland, Italy, Ireland, Japan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Mexico, Mongolia, Montenegro, North Macedonia, Norway, Palestine (State of), Panama, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Senegal, Serbia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu and Venezuela (Bolivarian Republic of).
5. Information concerning the appointment of the representatives of States Parties to the resumed nineteenth session of the Assembly of States Parties had been communicated to the Secretariat, as of 3 February 2021, 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 45 States Parties: Afghanistan, Bangladesh, Barbados, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Cabo Verde, Cambodia, Congo, Cook Islands, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Fiji, France, Gabon, Gambia, Guyana, Honduras, Jordan, Kiribati, Liberia, Madagascar, Maldives, Mali, Marshall Islands, Mauritius, Namibia, Nauru, Netherlands, New Zealand, Nigeria, Paraguay, Saint Kitts and Nevis, Saint Lucia, Seychelles, Sierra Leone, Suriname, Timor-Leste, Uganda, United Republic of Tanzania and Zambia.
6. The Chairperson recommended via silence procedure 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. Bearing in mind the provision of rule 26 of the Rules of Procedure, the Credentials Committee further recommended that representatives of all States Parties fully participate in the resumed session, on the understanding that formal credentials or at least copies thereof be communicated to the Secretariat as soon as possible before the end of the second resumption of the nineteenth session.

7. On the proposal of the Chairperson, the Committee adopted via silence procedure the following draft resolution:

*“The Credentials Committee,*

*Having examined* the credentials of the representatives to the second resumption of 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 Chairperson also proposed that the Committee recommend to the Assembly of States Parties the adoption of a draft resolution (see paragraph 10 below). The proposal was adopted via silence procedure.

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

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

10. 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 second resumption of 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 second resumption of the nineteenth session of the Assembly and the recommendation contained therein,

*Approves* the report of the Credentials Committee.”

## Annex II

### List of documents

Document symbol	Title
ICC-ASP/19/1	Provisional agenda ( <i>PA</i> )
ICC-ASP/19/1/Add.1/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/19/1/Add.2/Rev.1	Annotated list of items included in the provisional agenda
ICC-ASP/19/19	Election of the Prosecutor of the International Criminal Court
ICC-ASP/19/19/Add.1	Election of the Prosecutor of the International Criminal Court
ICC-ASP/19/37	Election of the Prosecutor of the International Criminal Court: guide for the third election
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