



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Fourth meeting

2 June 2021

(via remote link)

Agenda and decisions

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

1. Review Mechanism - update

A State Party representative on the Review Mechanism, Ambassador Paul van den Ijssel (Netherlands), presented an overview of the developments in the work of the Review Mechanism.

The Review Mechanism had submitted to the Bureau and States Parties the “Categorization of recommendations and remaining issues” on 30 April 2021 in accordance with resolution ICC-ASP/19/Res.7.¹ The Bureau had adopted the Categorization on 31 May 2021.² The Mechanism had immediately begun work on the second phase of its mandate, the preparation of a proposal for a comprehensive action plan,³ and had another deadline of 30 June for the presentation of a report on the overall progress of its work.⁴

The Mechanism had reached out to States Parties, the Court focal points and all relevant stakeholders⁵ to request their views on the three key elements of the action plan⁶ and, in this phase of its work, would rely on the Assembly mandate-holders role was crucial, given their institutional knowledge. As regards timelines, given the challenges of implementation, the Mechanism viewed the deadline as being the completion of the assessment of the recommendations and not their implementation.

The Mechanism had held seven internal meetings, had met with all relevant stakeholders, and would also meet with the President of the Assembly. It intended to maintain this dialogue throughout the process.

The Mechanism stressed that it was important to work through existing Assembly structures and did not wish to burden the Assembly with new structures. As far as possible, it would allocate recommendations to the existing mechanisms, and would take up the residual

¹ Para. 4 (a): https://asp.icc-cpi.int/en_menus/asp/Review-Court/Pages/Review-Mechanism.aspx

² https://asp.icc-cpi.int/EN_Menus/asp/review-court/pages/categorization-recommendations.aspx

³ ICC-ASP/19/Res.7, para. 4 (b).

⁴ Ibid., para. 9.

⁵ Assembly mandate-holders, Co-Chairs of the Study Group on Governance, Court focal points, independent offices of the Court and the Staff Union Council, Coalition for the International Criminal Court, (CICC), International Criminal Court Bar Association (ICCBA)

⁶ Ibid., para. 4 (b).

issues as per the resolution. Ambassador van den IJssel noted the importance of a platform for the discussion of the IER recommendations by States Parties and the Court.

The President commended the Review Mechanism for its efforts to keep all relevant stakeholders involved and informed. Bureau members thanked the Review Mechanism.

Some States expressed the view that the organs of the Court should play a greater role in light of their authority under the Rome Statute, and should evaluate and implement the IER recommendations allocated to them under the categorization exercise as soon as possible. Some States also emphasized the importance of close consultations with States Parties, as reflected in para 4(b) of resolution ICC-ASP/19/Res.7. Further, States Parties should follow recommendations closely, including those having legal and budgetary implications; they should also ensure improved governance and efficiency while being mindful of the independence of the Court.

The Bureau took note that the comprehensive action plan which the Review Mechanism would submit by 30 June was not intended to be a negotiated document, and that the Mechanism was working according to the provisions of resolution ICC-ASP/19/Res.7. After the Mechanism had submitted the comprehensive action plan on 30 June, the document would be in the hands of the Bureau, which would then have the opportunity to discuss and adopt it by 30 July 2021 in accordance with the resolution.⁷ The Review Mechanism would be available for such discussions.

2. Lessons learnt exercise of the Prosecutor’s selection process

The President recalled that, at its 12 May meeting, the Bureau had decided to request reports from the former Presidency of the Assembly, the Committee on the Election of the Prosecutor, and the Panel of Experts, on their experiences in the Prosecutor selection process. The President had conveyed the requests to the three bodies on 14 May and she hoped it would be possible to receive their reports by the end of July.

The President noted that the Bureau would return at a later meeting to the broader topic of the lessons learnt exercise, including the precise mandate and structure for the process.

3. Due diligence for candidates for Deputy Prosecutor

The Bureau had before it a revised discussion paper, entitled “Proposal by the Presidency and Prosecutor-elect on due diligence process for candidates for Deputy Prosecutor”, dated 30 May 2021. The President noted that the paper had been prepared jointly with the Prosecutor-elect, on the basis of further consultations, drawing on the discussion which had taken place at the 12 May meeting of the Bureau. The paper outlined the due diligence measures which would be implemented during both the selection phase of the candidates, which would be the responsibility of the Prosecutor, and during the election phase, which would be the responsibility of the Assembly. The interviews of candidates to be conducted by the Prosecutor would include a reputational element, in order to test the “high moral character” requirement. An in-depth background check would also be undertaken, with the modalities to be determined by the Prosecutor, for each of the candidates on the list to be provided to the Assembly. There would then be a system for enquiries into any allegations of misconduct against any of the candidates on the public list. The paper proposed that such enquiries would be undertaken by the Independent Oversight Mechanism (IOM), which would submit a report thereon to the Prosecutor and the Presidency. Details about the procedures to be followed by the IOM were contained in an annex to the paper. A course of

⁷ Para. 6.

action would then be recommended to the Bureau, either by the Prosecutor in consultation with the Presidency or by the Presidency in consultation with the Prosecutor.

Bureau members discussed the paper and sought clarifications from the President and the Head of the Independent Oversight Mechanism on certain aspects of the process. The President indicated that a revised proposal would be prepared on the basis of the comments made. She noted that it would be necessary to agree a process as soon as possible, and no later than mid-June 2021, in order to enable that process to be adopted for the election of the Deputy Prosecutor which was scheduled to take place at the twentieth session of the Assembly in December 2021.

4. Board of Directors of the Trust Fund for Victims- nomination period

a) Decision on the desired competencies on the Board of Directors of the Trust Fund for Victims

The Bureau adopted the “Desired competencies on the Board of Directors of the Trust Fund for Victims”, dated 28 May 2021 (see annex), which The Hague Working Group had submitted to the Bureau further to the Bureau’s 8 April referral to it of the draft desired competencies. The draft had been submitted to the President on 10 March 2021 by the Chair of the Board of Directors of the Trust Fund for Victims, Ms. Mama Koité Doumbia.

The desired competencies would be included in an annex to the note verbale which the Secretariat would send to States Parties informing them of the opening of the nomination period and encouraging them to take these criteria into account, in addition to the criteria set out in resolution ICC-ASP/1/Res.6.

b) Decision to fix the nomination period

The Bureau fixed the nomination period for the election to the Board of Directors of the Trust Fund for Victims to run from 7 June to 29 August 2021, pursuant to resolution ICC-ASP/1/Res.7.⁸

5. Status of contributions

The President provided an update regarding the status of contributions to the budget of the Court. As of 31 May 2021, the Court had received 68 per cent of the assessed contributions to the approved budget for 2021 (excluding the host State loan), an increase of 11 per cent since 30 April 2021. The total amount of outstanding contributions, for 2021 and for prior years, stood at €79 million, compared to €96 million at the end of April. 54 States Parties had fully paid their contributions, compared to 43 at the end of April. A total of 33 States Parties had outstanding contributions of more than one year, and nine States Parties were subject to the provisions regarding the loss of voting rights in article 112, paragraph 8, of the Rome Statute.

The President noted that the figures indicated some improvement, but that more efforts were needed, in particular to address the outstanding contributions from prior years. The Presidency was deploying all efforts, in consultation with the Registry, to encourage all States Parties that had not yet done so to make every effort to pay their assessed contributions as soon as possible.

⁸ Para. 2.

6. Other matters

a) IOM evaluation theme for 2021

Further to the 10 May 2021 letter by which the Head of the Independent Oversight Mechanism, Mr. Saklaine Hedaraly, informed the President of possible topics for evaluations that it could carry out in the remainder of 2021, the Bureau took note that one of the topics presented was an evaluation of the Registry's Strategic Plan for 2019-2021.

The President indicated that she would send the proposal to the Bureau under a silence procedure for a decision to request the Head of the IOM to proceed with an evaluation of the theme "*Evaluation of the Results of the Registry's Strategic Plan 2019-2021*".

b) Activities of the President

The President planned to travel to Hague to take part in the solemn undertaking of the new Prosecutor pursuant to article 45 of the Rome Statute, to be held on 16 June. She would hold virtual and in-person meetings with Court officials, States and other stakeholders, as far as possible. She hoped to visit New York in the second semester of the year, subject to the constraints posed by the COVID-19 pandemic.

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Annex

Desired competencies on the Board of Directors of the Trust Fund for Victims¹

1. Experience of implementation of victim reparations, in domestic and international settings, both of administrative and judicial nature;
2. Legal knowledge and experience, preferably within the context of international criminal law through the Rome Statute framework, human rights or the law relevant to reparations;
3. High level profile of diplomatic and/or political engagement, preferably in relation to international affairs relevant to the mandates of the Trust Fund for Victims;
4. High level profile of international advocacy, and public and private fundraising, preferably in relation reparations to victims and affected communities, post-conflict recovery and stability;
5. High level institutional leadership experience, including at Board level, in relation to domestic, regional and/or international organizations relevant to the mandates of the Trust Fund for Victims;
6. Financial management, preferably including in relation to multi-donor trust funds;
7. Knowledge and experience in communications;

¹ As proposed by the Board of Directors and amended by States Parties.

8. Working experience in government and civil society relations;
9. States Parties are encouraged to ensure and preserve an optimal equity of gender representation in the TFV Board of Directors.

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