



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Thirteenth meeting**

19 November 2014

Agenda and Decisions

*The meeting was chaired by the President of the Assembly of States Parties, H.E. Amb. Tiina Intelmann.*

**1. Preparations for the thirteenth session of the Assembly**

*a) Composition of the Bureau for the thirteenth to sixteenth sessions of the Assembly*

The Bureau was informed that Minister Sidiki Kaba, endorsed as President for the position of President of the Assembly for the thirteenth to sixteenth sessions of the Assembly, would propose the Bureau to recommend Ambassador Álvaro Moertzinger (Uruguay) as Vice-President of the Assembly and Coordinator of The Hague Working Group for the next triennium.

The Bureau was informed that consultations to identify the Vice-President of the Assembly and Coordinator of the New York Working Group are ongoing.

*b) High-level Speakers*

The President informed that, in consultation with H.E. Mr. Sidiki Kaba, she has issued an invitation to H.E. Ms. Catherine Samba-Panza, President of the Central African Republic, to attend the opening session of the Assembly in the morning of 8 December as a guest and keynote speaker, and that President Samba-Panza has accepted the invitation.

*c) Advisory Committee on Nominations*

The Bureau took note of a note verbale of the Democratic Republic of the Congo to States Parties, in relation to the candidacy of Judge Antoine Kesia Mbe Mindua, reassuring that Judge Kesia would be available to take up his duties once elected. The Bureau was informed that this information will be made available on the Assembly's website.

*d) List of Supplementary Agenda Items*

*Kenyan request*

The Bureau continued the consideration of the request by Kenya for inclusion of a supplementary agenda item “Special Session to discuss the Conduct of the Court and the Office of the Prosecutor.” The Bureau had received document ICC-ASP/13/34 dated 17 November 2014, and subsequently a revised version containing additional relevant information as document ICC-ASP/13/34/Rev.1, dated 18 November 2014, which pursuant to rule 12 of the Rules of Procedure of the Assembly of States Parties has been circulated to all States Parties.

The Bureau recalled its previous preliminary discussions at its eleventh and twelfth meetings in New York and The Hague on 10 and 14 November, respectively, and noted the discussions on this matter at The Hague Working Group on 14 November. The President informed the Bureau that she has written to the Permanent Representative of Kenya to the United Nations acknowledging receipt of the request, and has met with him and with the Ambassador of Kenya to The Netherlands to inform them about the procedure followed with regards to supplementary agenda items and the ongoing discussions at the Bureau.

The Bureau took note that the New York Working Group meeting scheduled to take place on 20 November 2014 to discuss the preparations of the thirteenth session of the Assembly would provide an opportunity for participants to present their views on the supplementary agenda items. The Bureau decided to continue deliberations after the New York Working Group meeting and after President Intelmann had the opportunity of meeting again with the representatives of Kenya.

The Bureau decided to continue considering any request from any State Party with seriousness and transparency.

*Request from the Court*

The Bureau considered the request for the inclusion of a supplementary agenda item submitted by the Court concerning the judges’ pension regime.

The Bureau recalled that at its seventh meeting on 15 August 2014, it took note of decision of the International Labour Organization Administrative Tribunal of 9 July 2014 in the case *Nsereko and Cotte v. ICC*, Judgement No. 3359, regarding the judges’ pension scheme<sup>1</sup> which, inter alia, had decided that “the Assembly complete its consideration of its December 2007 decision.” The case was filed with ILOAT by the two judges and the Legal Advisory Services Section (LASS) of the Registry has been defending the interests of the Assembly on the matter.

The Bureau took note that that if the Judges’ Pension Committee’s position on the matter were to be accepted, the total cost of Judges Cotte and Nsereko’s transfer to the pension scheme preceding the adoption of the amended regulations would currently amount to approximately €1.78 million.

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<sup>1</sup>[http://www.ilo.org/dyn/triblex/triblexmain.fullText?p\\_lang=en&p\\_judgment\\_no=3359&p\\_language\\_code=EN&p\\_word=international criminal court.](http://www.ilo.org/dyn/triblex/triblexmain.fullText?p_lang=en&p_judgment_no=3359&p_language_code=EN&p_word=international%20criminal%20court)

The Bureau decided to continue considering this proposal.

*e) Additional agenda items*

The Bureau took note that by note verbale 170/14, dated 12 November 2014, Uganda requested the inclusion of an additional item of urgent character, entitled 'Pension entitlements for former judges Bruno Cotte (France) and Professor Daniel N. Nsereko (Uganda)' on the agenda of the thirteenth session of the Assembly, circulated pursuant to rule 13 of the Rules of Procedure of the Assembly of States Parties as document ICC-ASP/13/35, dated 18 November 2014.

The Bureau was informed by the proponent State that additional information on the submission was in preparation and would be submitted shortly to the Assembly.

The Bureau decided to continue considering this proposal.

*f) Credentials Committee*

The Bureau decided to appoint the Czech Republic (Eastern European Group) and Samoa (Asia-Pacific) as focal points to identify members of the Credentials Committee from their respective regional groups.

The Bureau recalled that at its eleventh meeting it had appointed Gabon (Africa) and Finland (WEOG) as focal points.

*g) Judicial elections: National tellers*

The Bureau decided to appoint the Czech Republic (EEG) and Samoa (Asia-Pacific) as focal points to identify a national teller from their respective regional groups to assist with the elections at the thirteenth session of the Assembly.

The Bureau recalled that at its eleventh meeting it had appointed Gabon (Africa) and Finland (WEOG) as focal points.

## **2. Reports of the Bureau**

The Bureau decided to adopt its reports on Cooperation; on Strategic planning process of the International Criminal Court; on Victims and affected communities, Trust Fund for Victims and reparations; and on the Plan of Action for achieving universality and full implementation of the Rome Statute.

In adopting the Report of the Study Group on Governance the Bureau recalled that mandates for the inter- sessional period are decided by the Assembly, and that all appointments of facilitators are done by the Bureau. The Bureau decided to seek from the Assembly clarity of mandates.

In adopting the Report on legal aid the Bureau did so with the understanding that while keeping the system of legal aid under review no facilitator on this subject

would be appointed for 2015. The Bureau deemed it necessary that this be reflected in the omnibus resolution.

The Bureau adopted the Report on Complementarity which has been merged with the report of the Secretariat of Assembly that also reflects the activities of the President. In adopting this report, the Bureau recalled that this mandate is “ad country” and given its subject matter requires involvement by the facilitators and States Parties at the national levels.

### **3. IOM: Selection panel recommendation**

The Bureau was briefed on the progress of consultations conducted by Belgium on the appointment of the permanent head of the Independent Oversight Mechanism. The Bureau was informed that it had informally considered the submissions by African members favouring the selection of the second short-listed candidate.

The President of the Assembly expressed recognition to the extensive work of the facilitator and noted her availability to continue discussing with the delegations bilaterally. The President noted that no delegation questions the invaluable work that the Panel has conducted. The President recalled that while the Bureau has been tasked by the Assembly to select the permanent head, recruitment procedures of the Court would have to be strictly adhered to since the position is part of the staff of the Court.

The President noted that the Bureau had before it the recommendation from the panel indicating the highest qualified candidate and the recommendation from African members of the Bureau, and that the facilitation carried out by Belgium had indicated that the proposal from African States Parties does not enjoy consensus. The President noted also that the Bureau wishes to reach a consensual decision about this decision. Therefore, the President proposed to the Bureau to revert to the recommendation of the recruitment panel since the panel’s work is appreciated by all Bureau members. In this context, it was noted that the mandate of the current Bureau ends on 8 December 2014 creating a risk of a serious delay in the operationalization of the IOM. The President encouraged members to engage bilaterally with the facilitator with a view of consultations on the original recommendation of the panel.

One delegation expressed its preference for the proposal of the African members of the Bureau.

### **4. Other matters**

#### *a) Staff Pension Committee*

Upon recommendation of The Hague Working Group, the Bureau appointed Ms. Zuzana Zitna (Slovakia) to represent the Assembly as a member of the Staff Pension Committee, in place of Mr. Zltako Dimitroff (Bulgaria), who concluded his posting to the Netherlands.

b) *Visit to New York by the budget facilitator and the Chair of the Committee on Budget and Finance*

The Bureau noted the visit made on 17 November 2014 to the New York Working Group by the budget facilitator, Amb. Werner Druml (Austria), and the Chair of the Committee on Budget and Finance, Ms. Carolina Fernández Opazo.

The Bureau noted the issuing of the report of the Committee on Budget and Finance on the work of its twenty-third session, which contains, as annex V, a table on the financial implications of the recommendations of the Committee on the budget proposal for 2015.

c) *Judicial Developments*

The Bureau was briefed on judicial development and other activities of the Court:

- a) On 11 November, the Pre-Trial Chamber confirmed the charges of offences against the administration of justice in the case of the *Prosecutor v Bemba, Kilolo et al* (Central African Republic).<sup>2</sup>
- b) On 12 and 13 November, the Trial Chamber heard closing statement in the Case *Prosecutor v Jean-Pierre Bemba* (Central African Republic). The judgment will be pronounced in due course.<sup>3</sup>
- c) On 17 November 2014, Trial Chamber I set the commencement date for the trial in the case *The Prosecutor v. Laurent Gbagbo* (Cote d'Ivoire) for 7 July 2015.<sup>4</sup>
- d) On 17 November 2014, the hearings in the case of the *Prosecutor v Ruto and Sang* (Kenya) resumed and will continue through 21 November.<sup>5</sup>
- e) On 18 November 2014, the Appeals Chamber announced that it will deliver its judgment on the verdict and sentence on the case of the *Prosecutor v Thomas Lubanda Dyilo* on 1 December 2014.<sup>6</sup>
- f) On 6 November 2014, “following a thorough legal and factual analysis of the information available, [the Prosecutor] concluded that there is a reasonable basis to believe that war crimes under the jurisdiction of the International Criminal Court were committed on one of the vessels, the *Mavi Marmara*, when Israeli Defense Forces intercepted the 'Gaza Freedom Flotilla' on 31 May 2010. However, after carefully assessing all relevant considerations, [the Prosecutor] concluded that the potential case(s) likely arising from an

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<sup>2</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1062.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1062.aspx)

<sup>3</sup> [http://icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/ma169.aspx](http://icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/ma169.aspx)

<sup>4</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1064.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1064.aspx)

<sup>5</sup> <http://icc->

[cpi.int/en\\_menus/icc/situations%20and%20cases/situations/situation%20icc%200109/related%20cases/icc01090111/Pages/icc01090111.aspx](http://icc-cpi.int/en_menus/icc/situations%20and%20cases/situations/situation%20icc%200109/related%20cases/icc01090111/Pages/icc01090111.aspx)

<sup>6</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/ma170.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/ma170.aspx)

investigation into this incident would not be of “sufficient gravity” to justify further action by the ICC.”<sup>7</sup>

- g) On 12 November 2014, the Prosecutor delivered her eighth report to the UN Security Council pursuant to Resolution 1970 (2011) on Libya.<sup>8</sup>
- h) On 3 and 4 November 2014, a high level seminar for fostering cooperation between the International Criminal Court (ICC) and States Parties to the Rome Statute was held in Cotonou, Benin.<sup>9</sup>
- i) The 24th Diplomatic briefing of the Court took place on 17 November. Statements made by President, Prosecutor, Registrar and Director of the Secretariat are available on the website.<sup>10</sup>
- j) The second Seminar on Cooperation with Focal Points of States where investigations are being conducted, opened on 17 November 2014, at the seat of the Court. On 17-21 November 2014, a number of officials and focal points from the Democratic Republic of Congo, Uganda, the Central African Republic, Kenya, Libya, Côte d'Ivoire, and Mali will meet with Court officials to discuss cooperation with the Court..<sup>11</sup>

d) *Developments at the United Nations Security Council and the United Nations*

The Bureau noted the historic decision on 18 November 2014, by the Third Committee which adopted with 111 votes in favour, 19 against, and 55 abstentions the resolution on Situation of human rights in the Democratic People’s Republic of Korea (A/C.3/69/L.28/Rev.1). Operative paragraph 8 of the resolution reads as follows:

“Decides to submit the report of the commission of inquiry to the Security Council and encourages the Council to consider the relevant conclusions and recommendations of the commission and take appropriate action to ensure accountability, including through consideration of referral of the situation in the Democratic People’s Republic of Korea to the International Criminal Court and consideration of the scope for effective targeted sanctions against those who appear to be most responsible for acts that the commission has said may constitute crimes against humanity.”

The Bureau also noted that the Third Committee also adopted on 18 November 2014, the resolution on Situation of human rights in the Syrian Republic (A/C.3/69/L.31) with 125 votes in favour, 13 against and 46 abstentions. Operative paragraph 11 of the resolution reads as follows:

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<sup>7</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/otp-statement-06-11-2014.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/otp-statement-06-11-2014.aspx)

<sup>8</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/otp-statement-12-11-2014.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/otp-statement-12-11-2014.aspx)

<sup>9</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1060.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1060.aspx)

<sup>10</sup> [http://icc-cpi.int/en\\_menus/icc/reports%20on%20activities/Pages/twenty-fourth-db.aspx](http://icc-cpi.int/en_menus/icc/reports%20on%20activities/Pages/twenty-fourth-db.aspx)

<sup>11</sup> [http://www.icc-cpi.int/en\\_menus/icc/press%20and%20media/press%20releases/Pages/pr1063.aspx](http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Pages/pr1063.aspx)

“Recalling the statements made by the UN Secretary General, the United Nations High Commissioner for Human Rights and by the special procedures of the Human Rights Council that crimes against humanity and war crimes are likely to have been committed in the Syrian Arab Republic, and noting the repeated encouragement by the High Commissioner for Human Rights for the Security Council to refer the situation to the International Criminal Court, and regretting that draft resolution S/2014/348 was not adopted despite broad support from Member States.”

Further, in operative paragraph 22, the General Assembly “...encourages the Security Council to take appropriate action to ensure accountability, noting the important role that the International Criminal Court can play in this regard.” Also, through this resolution, the General Assembly transmits the reports of the Commission of Inquiry on Syria (that contains recommendations on the ICC) to the Security Council.

*e) Activities of the President*

*Visit to The Hague*

The Bureau was informed that on the occasion of the last visit of the President to The Hague on 13 and 14 November 2014, she and her successor H.E. Mr. Sidiki Kaba had met with the Bureau and addressed States Parties.

*Event on complementarity*

The Bureau was informed that before travelling to The Hague, Minister Kaba attended a high-level conference at the Senate of Italy, in Rome, where he spoke about complementarity.<sup>12</sup> He was joined at this event by Dr. Athallah Lesiba Molokomme, Attorney-General of the Republic of Botswana, who also serves as focal point for complementarity. The event was organized by former European Union commissioner, Ms. Emma Bonino and No Peace Without Justice.

*Sponsored event on Africa and the ICC*

The President informed that from 4-5 November 2014, the Institute on Security Studies had organized a closed Roundtable Meeting and Seminar on “International Criminal Justice that Africa needs”. The government of Estonia, and the core donors of the Institute, the governments of Norway and the Netherlands co-sponsored the seminar. The President submitted a video recorded message for the benefit of representatives of States Parties, regional organizations and NGOs, as well as academics who had an open discussion on issues concerning the relationship between Africa and the Court.

*a) Next Bureau meeting*

The next meeting of the Bureau will be held in the week of 24 November.

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<sup>12</sup> <http://www.npwj.org/node/9621>