

*Advance version*

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

**TWENTY-FIRST SESSION  
THE HAGUE, 5-10 DECEMBER 2022**

**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.”.

Pursuant to resolution ICC-ASP/7/Res.6, the Official Records are available in Arabic, English, French and Spanish.

Secretariat, Assembly of States Parties  
International Criminal Court  
P.O. Box 19519  
2500 CM The Hague  
The Netherlands

[asp@icc-cpi.int](mailto:asp@icc-cpi.int)  
[www.icc-cpi.int](http://www.icc-cpi.int)

Tel: +31 (0)70 799 6500

ICC-ASP/21/20  
International Criminal Court publication  
ISBN No. [to be inserted]

Copyright © International Criminal Court 2022  
All rights reserved  
Printed by Ipskamp, The Hague

## Contents

	<i>Page</i>
Part I	
Proceedings .....	5
A. Introduction.....	5
B. Consideration of issues on the agenda of the Assembly at its twenty-first session.....	7
1. States in arrears.....	7
2. Credentials of representatives of States Parties at the twenty-first session.....	7
3. General debate .....	7
4. Report on the activities of the Bureau .....	8
5. Report on the activities of the Court .....	8
6. Report of the Board of Directors of the Trust Fund for Victims .....	8
7. Consideration and adoption of the budget for the twenty-first financial year .....	8
8. Consideration of the audit reports .....	9
9. Election of six members of the Committee on Budget and Finance .....	9
10. Recommendations concerning the election of the Registrar .....	10
11. Review of the International Criminal Court and the Rome Statute system .....	10
12. Cooperation .....	10
13. Review of the work and operational mandate of the Independent Oversight Mechanism.....	11
14. Amendments to the Rome Statute and the Rules of Procedure and Evidence .....	11
15. Twentieth anniversary of the entry into force of the Rome Statute .....	11
16. Decision concerning the dates and venues of the next sessions of the Assembly of States Parties.....	11
17. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance.....	11
18. Other matters .....	11
(a) Trust Fund for the participation of the least developed countries and other developing States in the work of the Assembly.....	11
(b) Election to fill a vacancy on the Committee on Budget and Finance .....	12
Part II	
External audit, programme budget for 2023 and related documents .....	13
A. Introduction .....	13
B. External audit .....	13
C. Amount of appropriation .....	13
D. Contingency Fund.....	14
E. Working Capital Fund.....	14
F. Financing of appropriations for 2023.....	14

Part III	
Resolutions, decision and recommendation adopted by the Assembly of States Parties.....	15
A. Resolutions adopted by the Assembly of States Parties.....	15
ICC-ASP/21/Res.1 Resolution of the Assembly of States Parties on the proposed programme budget for 2023, the Working Capital Fund for 2023, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2023 and the Contingency Fund .....	15
ICC-ASP/21/Res.2 Strengthening the International Criminal Court and the Assembly of States Parties .....	28
ICC-ASP/21/Res.3 Resolution of the Assembly of States Parties on cooperation.....	59
ICC-ASP/21/Res.4 Review of the International Criminal Court and the Rome Statute system .....	64
ICC-ASP/21/Res.5 Amendment to the Rules of Procedure and Evidence of the International Criminal Court .....	67
B. Decision adopted by the Assembly of States Parties .....	68
ICC-ASP/21/Dec.1 Decision: Committee on Budget and Finance .....	68
C. Recommendation adopted by the Assembly of States Parties .....	69
ICC-ASP/21/Rec.1 Recommendation concerning the election of the Registrar of the International Criminal Court .....	69
Annexes.....	76
I. Report of the Credentials Committee.....	76
II. Oral report on the activities of the Bureau, presented by the President of the Assembly at the 1st plenary meeting of the twenty-first session of the Assembly, on 5 December 2022 .....	78
III. Statement of the Chair of the Committee on Budget and Finance to the Assembly at the 5th plenary meeting of the twenty-first session of the Assembly, on 7 December 2022 .....	85
IV. Statements concerning the adoption of the budget resolution at the 9th plenary meeting of the twenty-first session of the Assembly, on 9 December 2022 .....	88
A. Statement by the Netherlands after adoption .....	88
B. Statement by Kenya after adoption .....	89
C. Statement by Mexico after adoption .....	90
D. Statement by Bangladesh after adoption.....	91
E. Statement by Denmark after adoption .....	92
F. Statement by France after adoption.....	93
G. Statement by Poland after adoption .....	94
H. Statement by the State of Palestine after adoption .....	95
V. Statements concerning the adoption of the omnibus resolution at the 9th plenary meeting of the twenty-first session of the Assembly, on 9 December 2022 .....	96
A. Statement by the Netherlands after adoption .....	96
B. Statement by the State of Palestine after adoption .....	97
VI. List of documents .....	98

## Part I Proceedings

### A. Introduction

1. At the 8th meeting of the twentieth session, on 9 December 2021, the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”) decided to hold its twenty-first session in The Hague from 5 to 10 December 2022. The Assembly took place without COVID-19 pandemic related restrictions for the first time since December 2019.<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. 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/21/INF.1.
7. The session was opened by the President of the Assembly of States Parties, Ms. Silvia Fernández de Gurmendi (Argentina), who had been elected for the twentieth to twenty-second sessions.<sup>4</sup>
8. At its 1st plenary meeting, on 5 December 2022, the Assembly appointed Mr. Bi Zah Nene (Côte d’Ivoire) as Rapporteur for the twenty-first session.
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.

<sup>1</sup> Decisions of the Bureau of the Assembly of the States Parties, dated 19 October and 9 November 2022, at <https://asp.icc-cpi.int/bureau/decisions/2022>

<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 nineteenth session, the Assembly had, 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. It further elected Ms. Silvia Fernández de Gurmendi (Argentina); as President; and Mr. Robert Rae (Canada) and Ms. Katerina Sequensová (Czech Republic) as Vice-Presidents. See: *Official Records ... Nineteenth session, first and second resumptions ... 2019* (ICC-ASP/19/20), Add.1, Chapter I, paras. 13-15 and Chapter II, para. 12.

10. At its 1st plenary meeting, on 5 December 2022, 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 adopted the following agenda (ICC-ASP/21/1):

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

12. The annotated list of items included in the provisional agenda was contained in a note by the Secretariat (ICC-ASP/21/1/Add.1).

13. Also at its 1st plenary meeting, on 5 December 2022, 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 2023.

14. Ms. Frances-Galatia Lanitou Williams (Cyprus) was appointed Coordinator of the Working Group on the Programme Budget for 2023. Ms. Virpi Laukkanen (Finland) was appointed Coordinator for the consultations on the omnibus resolution.

## **B. Consideration of issues on the agenda of the Assembly at its twenty-first session**

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

15. At the 1st plenary meeting, on 5 December 2022, the Assembly was informed that article 112, paragraph 8, first sentence, of the Rome Statute was applicable to 12 States Parties.

16. 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 2023 in a timely manner.

17. Pursuant to article 112, paragraph 8, of the Rome Statute, two States Parties in arrears submitted requests to the Assembly for exemption from the loss of voting rights, with the Assembly approving the requests at its 1st and 8th plenary meetings, on 5 and 9 December 2022.

### **2. Credentials of representatives of States Parties at the twenty-first session**

18. At its twenty-first session, the Assembly appointed the following members of the Credentials Committee: Bangladesh, Bulgaria, Dominican Republic, Ecuador, Germany, Japan, Kenya, Norway and South Africa.

19. At its 9th plenary meeting, on 9 December 2022, the Assembly adopted the report of the Credentials Committee (see annex I to this report).

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

20. At the 2nd, 3rd and 4th plenary meetings, on 5 and 6 December 2022, statements were made by the representatives of Andorra; Argentina; Australia; Austria; Bangladesh; Belgium; Bolivia (Plurinational State of); Botswana; Brazil; Bulgaria; Canada; Chile; Colombia; Costa Rica; Cyprus; Czech Republic (on behalf of the European Union); Democratic Republic of the Congo; Denmark; Ecuador; El Salvador; Estonia; Finland; France; Georgia; Germany; Ghana; Greece; Guinea; Iceland; Ireland; Italy; Japan; Kenya; Latvia; Liechtenstein; Lithuania; Luxembourg; Madagascar; Malawi; Mali; Malta; Mexico; Mongolia; Netherlands; New Zealand; Nigeria; North Macedonia; Norway; Panama; Paraguay; Peru; Poland; Portugal; Republic of Korea; Romania; Sierra Leone; Slovakia; Slovenia; South Africa; Spain; State of Palestine; Sweden; Switzerland; Timor-Leste; Uganda; United Kingdom of Great Britain and Northern Ireland; Uruguay; and Venezuela (Bolivarian Republic of). Statements were also made by China (People's Republic of); Cuba; Iran (Islamic Republic of); and United States of America.

21. The following international organizations made statements: International Humanitarian Fact-Finding Commission and Parliamentary Assembly of the Mediterranean. A statement was made by the International Criminal Court Bar Association. The following civil society organizations also made statements: Afghanistan Organization for Development of Human Rights; Coalition for the International Criminal Court; Coalitions de l'Afrique Francophone pour la CPI; Colombia Diversa; Georgian Coalition for the ICC & Georgian Young Lawyers' Association; International Federation for Human Rights; Libyan non-governmental organizations; No Peace Without Justice; Palestinian Center for Human Rights, (on behalf of Al-Haq, Al Mezan and Palestinian Center for Human Rights); Philippine Coalition for the International Criminal Court; and Ukrainian Legal Advisory Group on behalf of Ukraine 5 AM Coalition.

---

<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 submitted statements and pre-recorded videos is found on the website of the Assembly at: [https://asp.icc-cpi.int/sessions/general-debate/GeneralDebate\\_21st\\_session](https://asp.icc-cpi.int/sessions/general-debate/GeneralDebate_21st_session)

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

22. At its 1st plenary meeting, on 5 December 2022, the Assembly took note of the oral report on the activities of the Bureau,<sup>6</sup> delivered by the President, Ms. Silvia Fernández de Gurmendi. The President noted that, since the twentieth session, the Bureau had held ten formal meetings in order to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

23. On behalf of the Bureau, the President expressed her satisfaction with the work conducted in 2022 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, Mr. Robert Rae (Canada) and Ms. Kateřina Sequensová (Czech Republic). She was also pleased with the work of the co-facilitators of the Lessons Learnt on the third election of the Prosecutor of the ICC, Ms. Ksenija Milenković (Serbia) and Mr. Alexander Marschik (Austria). This had enabled the Bureau to submit for the Assembly's consideration the respective report on the issue within its mandate.<sup>7</sup>

24. The President also emphasized the progress made in 2022 in the assessment of the recommendations contained in the Independent Expert Review; the efforts undertaken to strengthen the system of selection of elected officials of the Court, including the establishment of a due diligence process for the candidates to the position of Registrar; the proposal of a mechanism to ensure an appropriate concerted response against any threat or attack against the Court, its officials or those cooperating with it with the potential to undermine the Court; and the opportunity presented by the twenty-fifth anniversary of the adoption of the Rome Statute in 2023 to give more visibility to the Statute and discuss the strategic vision of the Court for the upcoming ten years.

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

25. At its 1st plenary meeting, on 5 December 2022, the Assembly heard statements by Judge Piotr Hofmański, President of the Court and by Mr. Karim Khan, Prosecutor of the Court. At the same meeting, the Assembly took note of the report on the activities of the International Criminal Court.<sup>8</sup>

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

26. At its 1st meeting, on 5 December 2022, the Assembly heard a statement by Ms. Minou Josefina Tavárez Mirabal, 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 2021 to 30 June 2022.<sup>9</sup>

#### 7. Consideration and adoption of the budget for the twenty-first financial year

27. At its 5th meeting, on 7 December 2022, the Assembly heard statements by Mr. Peter Lewis, Registrar of the Court, and Mr. Werner Druml, Chairperson of the Committee on Budget and Finance ("the Committee").

28. The Assembly, through its Working Group on the Programme Budget, considered the 2023 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.

29. At its 9th meeting, on 9 December 2022, the Assembly adopted the report of the Working Group on the Programme Budget (ICC-ASP/21/WGPB/1) wherein it, inter alia, conveyed the recommendation of the Working Group that the Assembly endorse the

---

<sup>6</sup> Annex II.

<sup>7</sup> ICC-ASP/21/16.

<sup>8</sup> ICC-ASP/21/9.

<sup>9</sup> ICC-ASP/21/14.



recommendations of the Committee at its thirty-ninth session with the additional adjustments reflected in resolution ICC-ASP/21/Res.1.

30. At the same meeting, the Assembly also considered and approved, by consensus, the programme budget for 2023.

31. At the same meeting, the Assembly adopted, by consensus, resolution ICC-ASP/21/Res.1 concerning the programme budget in relation to the following:

- (a) Programme budget for 2023, including appropriations totalling €173,234.3 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 2023;
- (c) Outstanding contributions;
- (d) Contingency Fund;
- (e) Scale of assessment for the apportionment of expenses of the Court;
- (f) Financing of appropriations for 2023;
- (g) Premises of the Court;
- (h) Transfer of funds between major programmes under the 2022 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;
- (o) Information Technology and Information Management Strategy;
- (p) Judicial remuneration;
- (q) Amendments to Financial Regulations and Rules; and
- (r) Family visits for indigent detainees.

## **8. Consideration of the audit reports**

32. The Assembly heard a statement from Mr. Aiman Ibrahim Hija, Vice-Chairperson of the Audit Committee. The Assembly also heard a statement from the External Auditor. The Assembly took note with appreciation of the reports of the External Auditor on the audit of the financial statements of the Court for the period 1 January to 31 December 2021<sup>10</sup> and of the Trust Fund for Victims for the same period.<sup>11</sup>

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

33. In a note dated 4 December 2022, the Secretariat informed States that it had received seven candidatures during the nomination period and submitted to the Assembly a list of the seven candidates nominated by States Parties for election to the Committee on Budget and Finance.<sup>12</sup>

34. At its 8th plenary meeting, on 9 December 2022, in accordance with resolution ICC-ASP/1/Res.5 of 12 September 2003 and the 19 October and 8 December 2022

<sup>10</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part C.1.

<sup>11</sup> *Ibid.*, part C.2.

<sup>12</sup> ICC-ASP/21/31.

recommendations of the Bureau, the Assembly dispensed with a secret ballot and elected the following seven members of the Committee on Budget and Finance by consensus:

- Ms. Jasleen Chaona Chirembo (Malawi)
- Mr. Sahr Lahai Jusu (Sierra Leone)
- Mr. Daniel McDonnell (United Kingdom of Great Britain and Northern Ireland)
- Mr. Urmet Lee (Estonia)
- Mr. Klaus Stein (Germany)
- Mr. Pascual Tomás Hernández (Spain)
- Ms. Ana Patricia Villalobos Arrieta (Costa Rica)

35. The Assembly elected the members of the Committee for a three-year term starting on 1 January 2023, with the exception of Ms. Chaona Chirembo and Mr. Jusu, who were elected to share the seat allocated to the African group under the following terms:

- Ms. Jasleen Chaona Chirembo (Malawi) will serve for the first half of the three-year term, from 1 January 2023 to 30 June 2024.
- Mr. Sahr Lahai Jusu (Sierra Leone) will serve for the second half of the three-year term, from 1 July 2024 to 31 December 2025.

36. At the same meeting, the Assembly adopted, by consensus, decision ICC-ASP/21/Dec.1, in which it requested the Bureau, in consultation with all States Parties, to discuss the allocation of seats on the Committee on Budget and Finance and to submit a report on its discussions at the twenty-second session of the Assembly.

## **10. Recommendations concerning the election of the Registrar**

37. At its 9th meeting, on 9 December 2022, the Assembly recalled that a list of candidates for the post of Registrar (ICC-ASP/21/2) had been received from the Presidency of the Court.

38. At the same meeting, the Assembly, on the recommendation of the Bureau, adopted by consensus recommendation ICC-ASP/21/Rec.1 (part III.C of this report).

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

39. At its 1st plenary meeting, on 5 December 2022, the State Party representatives on the Review Mechanism, Ambassador Paul van den IJssel (Netherlands) and Ambassador Michael Imran Kanu (Sierra Leone), presented the report of the Review Mechanism submitted pursuant to ICC-ASP/20/Res.3.

40. The 6th plenary meeting, on 7 December 2022, was dedicated to the Review of the International Criminal Court and the Rome Statute system.<sup>13</sup> The plenary discussion provided an interactive platform for the discussion of the topic “Review of the International Criminal Court and the Rome Statute system: Progress on the review process and next steps”.

41. At its 9th plenary meeting, on 9 December 2022, the Assembly adopted, by consensus, resolution ICC-ASP/21/Res.4 on the Review of the International Criminal Court and the Rome Statute system.

## **12. Cooperation**

42. At its 7th plenary meeting, on 8 December 2022, the Assembly considered the topic of cooperation with the Court, in plenary panel discussions on “High-level interventions on voluntary cooperation” and on “Protection of witnesses”. During the plenary meeting on cooperation, there was a signing ceremony in which Spain signed an Enforcement of sentences agreement.

43. As its 9th plenary meeting, on 9 December 2022, the Assembly adopted, by consensus, resolution ICC-ASP/21/Res.3 on cooperation.

---

<sup>13</sup> <https://...>

### 13. Review of the work and operational mandate of the Independent Oversight Mechanism

44. By resolution ICC-ASP/20/Res.5,<sup>14</sup> the Assembly requested 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 twenty-first session. At its 9th plenary meeting, on 9 December 2022, the Assembly adopted, by consensus, resolution ICC-ASP/21/Res.2, by which it requested the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism and to follow up on the recommendations contained in the report of the facilitation report, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-second session.

### 14. Amendments to the Rome Statute and the Rules of Procedure and Evidence

45. At its 9th plenary meeting, on 9 December 2022, the Assembly took note of the report of the Working Group on Amendments.<sup>15</sup>

46. By resolution ICC-ASP/21/Res.5, the Assembly adopted an amendment to the Rules of Procedure and Evidence, that is, rule 140 *bis*, “Continuation of proceedings in the temporary absence of a judge for illness or other unforeseen urgent personal reasons.”

### 15. Twentieth anniversary of the entry into force of the Rome Statute

47. At its twenty-first session, the Assembly took note of the activities which the Court had undertaken in 2022 to commemorate the twentieth anniversary of the entry into force of the Rome Statute.<sup>16</sup>

### 16. Decision concerning the dates and venues of the next sessions of the Assembly of States Parties

48. At its 9th meeting, on 9 December 2022, the Assembly decided to hold its twenty-second session in New York from 4 to 14 December 2023, and to hold its twenty-third session in The Hague.

### 17. Decisions concerning the dates and venue of the next sessions of the Committee on Budget and Finance

49. At its 9th plenary meeting, on 9 December 2022, the Assembly decided that the Committee on Budget and Finance would hold its fortieth session virtually, on 23 January 2023, to elect the Chair and Vice-Chair and to discuss other matters; and its forty-first and forty-second sessions from 8 to 12 May and from 4 to 15 September 2023, respectively, in The Hague.

### 18. Other matters

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

50. The Assembly expressed its appreciation to Germany and Ireland for their contributions to the Trust Fund for the participation of the Least Developed Countries and other developing States in the work of the Assembly.

---

<sup>14</sup> Annex I, para. 15.

<sup>15</sup> ICC-ASP/21/22.

<sup>16</sup> <https://asp.icc-cpi.int/asp-events/20a-Entry-Force>

51. The Assembly noted with satisfaction that nine delegations had made use of the Trust Fund to attend the twenty-first session of the Assembly.

*b) Election to fill a vacancy on the Committee on Budget and Finance*

52. At its 8th meeting, on 9 December 2022, the Assembly, on the recommendation of the Bureau:

- (i) Decided to dispense with the nomination period for the filling of a vacancy on the Committee, as required by resolution ICC-ASP/4/Res.6; and
- (ii) Elected the candidate nominated by Kenya, Ms. Sanyu Awori (Kenya), to fill the vacancy for the remainder of the term of Ms. Shava, i.e. until 31 December 2023.

53. The Assembly emphasized that the decision to dispense with the nomination period for this election would not set a precedent for future elections by the Assembly. The Assembly had agreed to proceed in this manner regarding the vacancy on the basis that the decision to dispense with the nomination period was taken at the request of a regional group that had agreed to proceed in this manner and had made this request to the Assembly.

## Part II

### External audit, programme budget for 2023 and related documents

#### A. Introduction

1. The Assembly of States Parties had before it the 2023 proposed programme budget submitted by the Registrar of the International Criminal Court, in an advance version, on 5 August 2022,<sup>1</sup> the reports of the thirty-eighth,<sup>2</sup> resumed thirty-eighth<sup>3</sup> and thirty-ninth<sup>4</sup> sessions of the Committee on Budget and Finance, the reports of the Audit Committee on its fifteenth and sixteenth sessions,<sup>5</sup> the financial statements of the Court for the period 1 January to 31 December 2021,<sup>6</sup> and the financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2021.<sup>7</sup> In addition, the Assembly had before it annex V of the report of the Committee on the work of its thirty-ninth 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, Mr. Werner Druml, the Vice-Chair of the Audit Committee, Mr. Aiman Ibrahim Hija, and the representative of the External Auditor (the Board of Audit and Inspection (Republic of Korea)), Mr. Yang Chan Cho.

3. The Working Group on the Programme Budget met on 7 and 9 December 2022. During the meetings, the draft resolution on the proposed programme budget was considered and finalized.

#### B. External audit

4. 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-ninth session.

#### C. Amount of appropriation

5. The Court's 2023 proposed programme budget amounted to €186,826.4 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

6. The Committee considered the Court's 2023 proposed programme budget at its thirty-ninth 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 €179,576.6 thousand, including €3,585.1 thousand for Major Programme VII-2 (Host State Loan).

7. The Assembly endorsed the recommendations contained in the report of the Committee, with the additional adjustments as reflected in resolution ICC-ASP/21/Res.1. The Assembly therefore approved a budget appropriation for 2023 of €173,234.3 thousand. The Assembly noted that this was an exceptional increase on the 2022 approved budget, and did not constitute a precedent.

8. The Assembly noted that without Major Programme VII-2 (Host State Loan), the total level of assessed contributions for the 2023 programme budget amounted to €169,649.2 thousand.

---

<sup>1</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part A.

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

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

<sup>4</sup> *Ibid.*, part B.3.

<sup>5</sup> [http://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee/](http://asp.icc-cpi.int/en_menus/asp/AuditCommittee/)

<sup>6</sup> *Ibid.*, part C.1.

<sup>7</sup> *Ibid.*, part C.2.

**D. Contingency Fund**

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

10. 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 2022 were exhausted before accessing the Contingency Fund.

**E. Working Capital Fund**

11. The Assembly took note of the recommendations of the Committee on Budget and Finance and decided that the Working Capital Fund for each year shall be established in the amount of one-twelfth of the approved budget appropriations for the previous year. 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.

**F. Financing of appropriations for 2023**

12. The Assembly resolved that, for 2023, the total assessed contributions amounted to €169,649.2 thousand.

## Part III

### Resolutions, decision and recommendation adopted by the Assembly of States Parties

#### A. Resolutions adopted by the Assembly of States Parties

##### Resolution ICC-ASP/21/Res.1

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

##### ICC-ASP/21/Res.1

#### Resolution of the Assembly of States Parties on the proposed programme budget for 2023, the Working Capital Fund for 2023, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2023 and the Contingency Fund

*The Assembly of States Parties,*

*Having considered* the 2023 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-eighth session,<sup>1</sup> its resumed thirty-eighth session,<sup>2</sup> and its thirty-ninth<sup>3</sup> session,

*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>4</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 2023

1. *Approves* appropriations totalling €173,234,300 in the appropriation sections described in the following table:

<i>Appropriation section</i>			<i>Thousands of euros</i>
Major Programme	I	Judiciary	14,352.7
Major Programme	II	Office of the Prosecutor	54,676.1
Major Programme	III	Registry	89,574.0
Major Programme	IV	Secretariat of the Assembly of States Parties	2,798.5
Major Programme	V	Premises	2,537.0
Major Programme	VI	Secretariat of the Trust Fund for Victims	3,889.1
Major Programme	VII-5	Independent Oversight Mechanism	987.0
Major Programme	VII-6	Office of Internal Audit	834.8
<i>Subtotal</i>			<i>169,649.2</i>
Major Programme	VII-2	Host State Loan	3,585.1
<b>Total</b>			<b>173,234.3</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 ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.1.

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

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

<sup>4</sup> ICC-ASP/19/16.

3. *Further notes* that these contributions will bring down the level of the 2023 programme budget appropriations that need to be assessed for contributions by States Parties from €173,234,300 to €169,649,200, and that this amount will be assessed following the principles described in section E; and

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	-	2	1	-	-	-	-	3
D-2	-	-	-	-	-	-	-	-
D-1	-	3	3	1	1	-	1	9
P-5	3	18	21	1	-	1	-	44
P-4	3	37	45	1	4	1	1	92
P-3	21	82	83	2	2	-	1	191
P-2	12	84	92	1	2	1	-	192
P-1	-	23	5	-	-	-	-	28
<i>Subtotal</i>	<i>39</i>	<i>250</i>	<i>250</i>	<i>6</i>	<i>9</i>	<i>3</i>	<i>3</i>	<i>560</i>
GS-PL	1	1	15	1	-	-	-	18
GS-OL	11	81	292	3	3	1	1	392
<i>Subtotal</i>	<i>12</i>	<i>82</i>	<i>307</i>	<i>4</i>	<i>3</i>	<i>1</i>	<i>1</i>	<i>410</i>
<b>Total</b>	<b>51</b>	<b>332</b>	<b>557</b>	<b>10</b>	<b>12</b>	<b>4</b>	<b>4</b>	<b>970</b>

## B. Working Capital Fund for 2023

*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>5</sup>

*Noting* the recommendation of the Committee at its thirty-eighth resumed session to approve the level of the Working Capital Fund at one-twelfth of the approved budget appropriations for the previous year,<sup>6</sup>

*Further noting* that the Committee recommended a consideration of a multi-year funding timetable,<sup>7</sup>

1. *Notes* that the Working Capital Fund for 2022 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 each year shall be established in the amount of one-twelfth of the approved budget appropriations for the previous year, 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>8</sup> at its thirty-second session that the Working Capital Fund be maintained at one month of the Court's expenditure, therefore

<sup>5</sup> Financial Regulations and Rules 6.2.

<sup>6</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.2, para. 28.

<sup>7</sup> *Ibid.*, para. 148.

<sup>8</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, para. 66.



recommending an increase of the notional level to €12.3 million, *notes* that the Committee 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 Independent Expert Review,<sup>9</sup> as well as the report of the Bureau on the arrears of States Parties,<sup>10</sup> and in particular the conclusions and recommendations contained in that report,<sup>11</sup>

*Recalling* paragraphs 42, 43 and 44 of resolution ICC-ASP/4/Res.4,

1. *Notes with serious concern* the state of arrears and the liquidity issues facing the Court, and the associated operational risk, *underlines* the importance of endowing the Court with the necessary financial resources and the relevant provisions of resolution ICC-ASP/4/Res.4 concerning timely payments of assessed contributions and arrears, *urges* all States Parties to pay their assessed contributions in full and on time in accordance with the Financial Regulations and Rules of the Court, and *decides* to keep the issue under review and continue to consider the relevant recommendations of the report of the Independent Expert Review, the Committee, the External Auditor and other bodies; and

2. *Welcomes* the Court's development of guidelines,<sup>12</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, *strongly 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.

### 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>9</sup> ICC-ASP/19/16, recommendation 140.

<sup>10</sup> ICC-ASP/20/27.

<sup>11</sup> *Ibid.*, paras. 16 to 17.

<sup>12</sup> ICC-ASP/18/6.

<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 2023; 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 2023, 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 2022-2024,<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 2023**

*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 €169,649,200; and
2. *Resolves* that, for 2023, assessed contributions for the budget amounting to €173,234,300 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 €364.8 thousand in 2023, 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 and *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;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process, taking into account the possible need for a multi-year approach, as appropriate;
4. *Welcomes* the Committee's review of estimates for capital replacement, the advice of the pro bono expert on a fully impartial evaluation of the building and the establishment of a medium- and long-term plan, as well as of possible financial and administrative mechanisms

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

<sup>15</sup> A/RES/76/238.

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

<sup>17</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.3, paras. 156-162.

including possible alternatives to current contractual arrangements, at its resumed thirty-eighth and thirty-ninth sessions, 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 recommendations of the Committee regarding a mechanism for pro bono expert advice from States Parties in the planning and implementation of capital replacement, and *invites* States Parties to put forward further suggestions in this regard;

6. *Welcomes* the engagement of Mr. Michael Rotter (Austria) as a pro bono expert and *invites* the Court to continue its cooperation with him and benefit from his advice in its future work on capital replacement;

7. *Emphasizes* the importance of availability of adequate space and unimpeded/facilitated/priority access of States Parties to the premises and within the public areas of the Court, including the conference rooms,<sup>18</sup> cafeterias and library, and *encourages* the Court to seek and provide appropriate solutions in this regard; and

8. *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 twenty-second session of the Assembly.

## **H. Transfer of funds between major programmes under the 2022 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 2022 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; and

2. *Decides also* that the Court may transfer any remaining funds between major programmes at the conclusion of 2022 should some major programmes<sup>19</sup> not be able to absorb the additional costs relating to salary adjustments notified by the International Civil Service Commission whilst a surplus exists in other major programmes.

## **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,

*Taking note* of the proposed amendments to the Charter of the Audit Committee,

*Further noting* the recommendations of the Committee on Budget and Finance concerning audit matters,<sup>21</sup>

*Taking note* of the findings and recommendations in the final report of the Independent Expert Review of the International Criminal Court and the Rome Statute system related to internal and external oversight mechanisms,<sup>22</sup> including the positive assessment

<sup>18</sup> Cluster 1.

<sup>19</sup> Excluding Major Programmes I, II and III.

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

<sup>21</sup> *Official Records ... Twentieth session ... 2020* (ICC-ASP/20/20), vol. II, part B.1, paras. 109-111 and part B.2, paras. 257-274.

<sup>22</sup> ICC-ASP/19/16.

given to recommendation R367<sup>23</sup> and the subsequent technical deliberations on the determination of the appropriate international audit standards,

*Taking note* of the External Auditor final report on International Criminal Court Governance Oversight,<sup>24</sup>

1. *Welcomes* the reports of the Audit Committee on the work of its fifteenth and sixteenth sessions;
2. *Welcomes* the performance audit report on temporary personnel submitted by the External Auditor,<sup>25</sup> and the conclusions and recommendations contained therein, *notes* the request of the Committee on Budget and Finance to the Court to submit an action plan on the implementation of the recommendations made by the External Auditor,<sup>26</sup> *decides* to continue the consideration of the outcome of the evaluation with a view to further improving the use of General Temporary Assistance (GTA) contracts, and *requests* all organs of the Court to make best efforts to further improve the use of GTA contracts;
3. *Decides* to appoint Mr. Werner Druml (Austria) and Mr. Daniel McDonnell (United Kingdom of Great Britain and Northern Ireland) as members of the Audit Committee for a term of three years starting on 1 January 2023, while serving as active members of the Committee on Budget and Finance;<sup>27</sup>
4. *Takes note* of the recommendation made by the ad hoc selection panel and *decides* to re-appoint Ms. Clarissa van Heerden (South Africa) and appoint Mr. Fayezul H. Choudhury (Bangladesh) as members of the Audit Committee for a term of three years starting on 1 January 2023; and
5. *Welcomes* the initial consideration of the proposed amendments to the Charter of the Audit Committee and *requests* the Bureau through the Budget Management Oversight facilitation to continue discussions on these amendments in the first quarter of 2023, taking into account both the positive assessment of the relevant recommendation of the Independent Expert Review report<sup>28</sup> as reflected in a separate report submitted to the Bureau of the Assembly on 27 June 2022 by the facilitation,<sup>29</sup> and the subsequent technical deliberations on the determination of the appropriate international audit standards.

## 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. *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;
4. *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 in writing, and *invites* the Court to hold annual consultations with the working groups of

<sup>23</sup> “As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body’s role towards the OIA would be overseeing the adequacy of the framework set up for the Court’s internal audit function, rather than oversight of the substance of the OIA’s work.” (ICC-ASP/19/16, recommendation R367, page 212).

<sup>24</sup> ICC-ASP/20/6.

<sup>25</sup> ICC-ASP/21/3.

<sup>26</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.3, para. 309.

<sup>27</sup> *Ibid.*, para. 299.

<sup>28</sup> *Supra* note 23.

<sup>29</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-11/2022-RM-report-progress.pdf>

the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year;

5. *Recalls* the management oversight responsibility entrusted to the Assembly of States Parties and the mandates of the Audit Committee, the Committee on Budget and Finance, the External Auditor and the Independent Oversight Mechanism as well as the Office of Internal Audit, and *encourages* these bodies to further intensify their coordination in order to optimize oversight capacity and reporting, ensure an effective division of labour and avoid duplication of competence and work, in conformity with the resolution on the review of the International Criminal Court and the Rome Statute system;<sup>30</sup>

6. *Welcomes* the continuous efforts of the oversight bodies to streamline their activities and *invites* them to continue their efforts in that regard;

7. *Welcomes* the increased interaction between these bodies and States Parties, and the initiatives to continue to improve such interactions including via informal meetings; and

8. *Recalls* relevant decisions of the Assembly of States Parties concerning the Secretariat of the Assembly of States Parties,<sup>31</sup> as well as the respective recommendations of the External Auditor<sup>32</sup> and *welcomes* efforts to further improve synergies and flexibility as regards the human resources of the Secretariat of the Assembly.

## K. Development of budget proposals

*The Assembly of States Parties,*

1. *Requests* the Court to present a sustainable budget proposal for its 2024 programme budget, based on transparent and strict financial assessments and needs-analysis. Proposed increases above the level of the 2023 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, 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>33</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>34</sup> and *further recalls* that States Parties support the Court in many ways, also outside the normal budgetary process;

6. *Welcomes* the savings and efficiencies achieved by the Court in 2022 and projected for 2023, as set out in the annex to the proposed programme budget for 2023,<sup>35</sup> as well as the Court's commitment to continue this practice, *takes note* of the fact that instead of setting annual efficiency targets as requested by the Assembly, the Court promotes a culture of continuous improvement in identifying and implementing efficiencies and savings,<sup>36</sup> and

<sup>30</sup> Resolution ICC-ASP/20/Res.3.

<sup>31</sup> Resolution ICC-ASP/2/Res.3; *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. I, part 2, footnote 9; and resolution ICC-ASP/18/Res.1, annex, rule 16, para. 1. See also ICC-ASP/18/INF.7, Amendments to the Rules of Procedure of the Committee on Budget and Finance, rule 16, para. 1.

<sup>32</sup> External Auditor: Final report on the International Criminal Court governance oversight (ICC-ASP/20/6).

<sup>33</sup> Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 2.

<sup>34</sup> *Ibid.*, para. 213.

<sup>35</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part A, annex XVI.

<sup>36</sup> *Ibid.*, para. 36.

*requests* the Committee, in consultation with the Court, to consider the feasibility of setting Court- or Programme-wide annual efficiency targets and to report on achievements in combination with the Court's efforts for continuous improvement;

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 fortieth session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties;

8. *Requests* the Court to provide, as an annex to the draft budget proposal, an organigram with the number of full-time equivalent posts by section and office indicated, as a way to increase transparency on the organizational structure of the Court; and

9. *Requests* the Court to provide, as an annex to the proposed programme budget, a table presenting the total costs by field office and a breakdown of costs, for each field office, directly related to the different stages of prosecutorial and judicial activities and workload with a view to increasing transparency, *underlines* that some Independent Expert Review recommendations address the issue of use of resources in the field and were assessed positively in 2022,<sup>37</sup> and *urges* the Court to continue to make full use of resources modulation and flexibility, including related to staff, in order to adapt to changes in activity and workload.

## 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,

*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,

1. *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, *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 *strongly encourages* the Committee to ensure that its reports are published no more than one month after its session;

2. *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;

3. *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;

4. *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;

5. *Recalls* the recommendations of the Independent Expert Review concerning the Trust Fund for Victims and the report of the Independent Oversight Mechanism (November 2019) on the evaluation of the Secretariat of the Trust Fund for Victims, *welcomes* the steps already taken by the Board of Directors and the Secretariat of the Trust Fund in addressing the issues identified by the Independent Expert Review and the Independent Oversight Mechanism,<sup>38</sup> and *encourages* the Board and Secretariat to continue pursuing measures to improve the performance of the Fund and increase its efficiency and effectiveness in implementing its

<sup>37</sup> ICC-ASP/21/18, para. 57.

<sup>38</sup> ICC-ASP/20/14.

mandate and Strategic Plan, in accordance with the resolution on the review of the International Criminal Court and the Rome Statute system;<sup>39</sup>

6. *Notes* the importance of frequently reconsidering the value of current activity, including any opportunities for redeployment,<sup>40</sup> and *recalls* that careful prioritization is an important principle of efficient and effective management and is key to achieving successful outcomes;

7. *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; and

(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;

8. *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;

9. *Notes* the Court’s technical assessment on the feasibility of and modalities for employing a medium-term rolling budget forecast based on existing budget assumptions, *further notes* the recommendation of the Committee at its thirty-ninth session,<sup>41</sup> and *requests* that the Court consider adopting an internal process for developing and implementing a financial forecast system with a view to improving budgetary predictability and report to the Committee at its forty-first session, and to the Assembly at its twenty-second session;

10. *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 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

11. *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,*

1. *Requests* the Court, in its consideration of relevant Independent Expert Review recommendations, to be guided by the importance of ensuring flexibility in the management of its human resources, notably in reacting to evolving situations, needs and workload, within and between organs, including by, as appropriate, reviewing the relevant administrative instructions related, but not limited, to recruitments and mobility of staff, and *notes in this regard* the amendments to the Financial Regulations and Rules contained in section Q of the present resolution;

<sup>39</sup> Resolution ICC-ASP/20/Res.3.

<sup>40</sup> *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 27.

<sup>41</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.3, para. 238.

2. *Underlines* the inherent value of multilingualism in promoting and preserving the diversity of languages and cultures and its contribution to efficiency, effectiveness and transparency in the activities of the Court, *calls for* greater emphasis to be placed on staff knowledge of the Court's official and working languages, as appropriate, and *recalls* the principles of equitable geographical representation and gender balance in the recruitment of staff;<sup>42</sup>

3. *Invites* the Court to expand its training for staff sitting on recruitment panels to avoid any undue disadvantage or unconscious bias against applicants interviewed in a language other than their mother tongue, *requests* the Court to develop its language training policies to promote continuous improvement of the proficiency of staff in the official and working languages of the Court and other languages, as appropriate, including training for newly recruited staff proficient in only one of the working languages, and to consider ways to ensure adequate funding for this purpose; and

4. *Invites* States Parties to positively consider making contributions to the Trust Fund for the Development of Interns and Visiting Professionals in order to allow applicants who are nationals from a country that is a State Party to the Rome Statute and appears on the United Nations Statistics Division's list of developing regions to gain transferable experience in a multicultural, international workplace, and to allow the Court to benefit from the input of interns and professionals.

## 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>43</sup> have been borne exclusively by States Parties,

*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>44</sup> and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €81.43 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 twenty-second session of the Assembly.

## O. Information Technology and Information Management Strategy

*The Assembly of States Parties,*

*Noting* that the Five-Year Information Technology and Information Management Strategy launched in 2017 was completed at the end of 2022,

*Bearing in mind* the recommendations of the Committee at its thirty-ninth session on the subject of Information Technology and Information Management at the Court,<sup>45</sup>

<sup>42</sup> Resolution ICC-ASP/20/Res.5, preambular paragraph 26, para. 88, paras. 122-131.

<sup>43</sup> United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

<sup>44</sup> ICC-ASP/21/6.

<sup>45</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.3, paras. 267-275.



1. *Takes note of* the recommendation of the Committee at its thirty-ninth session<sup>46</sup> that the Court submit to the Committee, at its forty-second session, a revised Information Technology and Information Management Strategy 2023-2025, updated to include the Court's overall new strategic goals, where Information and Communications Technology capital replacement needs are also aligned with the strategic ambitions of the Court.

## **P. Judicial remuneration**

*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 (Terms of Reference),<sup>47</sup> and resolution ICC-ASP/19/Res.3, by which it amended the conditions of service and compensation of full-time and non-full-time judges<sup>48</sup> of the International Criminal Court, including the allowances as set out in the annexes to resolution ICC-ASP/19/Res.3,

*Noting* that the new conditions of service and compensation for full-time judges and non-full-time judges entered into force on 11 March 2021, and that all the sitting judges opted, for the remainder of their terms of office, to be subject to the new conditions of service and compensation as amended by resolution ICC-ASP/19/Res.3,<sup>49</sup>

*Recalling also* that all judges elected during the nineteenth session of the Assembly, and subsequent sessions, are subject during their terms of office exclusively to the new conditions of service and compensation as amended by resolution ICC-ASP/19/Res.3,<sup>50</sup>

*Welcoming* that the Court adopted the necessary transitional measures, including to ensure compliance with article 49 of the Rome Statute of the International Criminal Court, in relation to the sitting judges who opted for the new conditions of service and compensation, and also made any necessary operational arrangements, in consultation with those sitting judges, for their transition to the new conditions of service and compensation as of 11 March 2021,<sup>51</sup>

*Welcoming* the report of the Judicial Remuneration Panel<sup>52</sup> ("the Panel") submitted to the Bureau of the Assembly of States Parties in accordance with the Terms of Reference,

*Bearing in mind* the recommendations<sup>53</sup> of the Panel,

1. *Decides* that the mandate of the Panel has been completed and therefore there is no need for any subsequent report from the Panel to the Bureau with a recommendation for a possible adjustment of the remuneration of the judges of the Court; and
2. *Decides also* to abolish the Panel and to revoke the Terms of Reference accordingly.

## **Q. Amendments to Financial Regulations and Rules**

*The Assembly of States Parties,*

*Having regard* to the Financial Regulations and Rules<sup>54</sup> adopted at its first session on 9 September 2002, as amended,

*Noting* the recommendation of the Committee on Budget and Finance at its resumed thirty-eighth session that the Assembly approve amendments to the Financial Regulations and Rules regarding inter-organ mobility of staff,<sup>55</sup>

<sup>46</sup> *Ibid.*, para. 274.

<sup>47</sup> Resolution ICC-ASP/18/Res.2, annex I.

<sup>48</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>49</sup> Resolution ICC-ASP/19/Res.3, para. 4.

<sup>50</sup> Resolution ICC-ASP/19/Res.3, para. 5.

<sup>51</sup> Resolution ICC-ASP/19/Res.3, paras. 6 and 7.

<sup>52</sup> ICC-ASP/21/17.

<sup>53</sup> *Ibid.*, para. 9.

<sup>54</sup> *Official Records... First session ... 3-10 September 2002* (ICC-ASP/1/3 and Corr.1), part II.D.

<sup>55</sup> *Official Records ... Twenty-first session ... 2022* (ICC-ASP/21/20), vol. II, part B.2, para. 75.

1. *Decides* to amend the Financial Regulations and Rules as set forth in the annex to the present resolution.

## **R. Family visits for indigent detainees**

*The Assembly of States Parties,*

*Recalling* resolutions ICC-ASP/8/Res. 4 and ICC-ASP/9/Res.4 on family visits for indigent detainees and the principle of funding such visits through voluntary donations into the Trust Fund for Family Visits,

1. *Urges* States Parties, other States, non-governmental organizations, civil society and other entities to continue making immediate voluntary contributions to the Trust Fund for Family Visits and *calls on* other potential contributors to positively consider making contributions;
2. *Recalls* that the Trust Fund for Family Visits shall continue to be administered on a budget neutral basis; and
3. *Notes* that the recurrent inability of the Court to meet the qualifying needs for family visits for indigent detainees can lead to more onerous situations, financially and legally, and *decides* that the Court may, within existing resources, subsidize family visits for indigent detainees using its regular budget in the exceptional and unavoidable situations where the Trust Fund for the Family Visits is depleted or its available resources are insufficient to do so, in a manner fully consistent with all applicable administrative and judicial criteria.

## Annex

### Amendments to the Financial Regulations and Rules

**At the beginning of regulation 4.8, insert the following:**

“Without prejudice to regulation 4.8 *bis*,”

**After regulation 4.8, insert the following:**

“4.8 *bis* The Registrar or the Prosecutor, as appropriate, may authorize temporary assignments of staff members between appropriation sections while the costs related to the salaries, entitlements and allowances of the concerned staff member remain under the budgetary administration and responsibility of the releasing appropriation section.”

## Resolution ICC-ASP/21/Res.2

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

### ICC-ASP/21/Res.2

#### **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 to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

*Recognizing* that the crime of genocide, crimes against humanity, war crimes and the crime of aggression threaten the peace, security and well-being of the world, and *affirming* that these crimes must not go unpunished,

*Convinced* that the International Criminal Court (“the Court”) is an essential means of ending impunity for such crimes and preventing their recurrence, 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 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 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

---

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

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, *emphasizing* the essential role of the Trust Fund for Victims to help make the Court's justice a reality for victims through designing and implementing reparative programmes and complementing the convicted persons' payment of reparations awards,

*Emphasizing* the importance for the Court to conduct its work in both its working languages, as well as in other official languages, if authorized according to rule 41 of the Rules of Procedure and Evidence which can contribute to ensuring victims' right to justice,

*Mindful* of the recommendations of the Group of Independent Experts related to legal aid and noting that the assessment process of these recommendations is still ongoing,

*Noting* that it is the responsibility of the Court to present proposals to the Assembly for reform of the legal aid policy and *calling on* the Court to continuously consult with States Parties and other relevant stakeholders using existing structures in the course of drawing up these proposals,

*Recalling* the commitment of the Court and its States Parties to ensuring equality of arms in proceedings before the Court,

*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, and *noting with appreciation* the work carried out by country offices,

*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 or measures against the Court, its officials and those cooperating with it, and *renews* its resolve to stand united against impunity;
2. *Reaffirms* its support for the consistent implementation of the Court's mandate across the situations and cases under its jurisdiction in the interests of justice and the victims' right of access to justice, and *stresses* the need for sustainable resources for all situations and cases as well as cooperation with the Court to that end;

## A. Universality of the Rome Statute

3. *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;

4. *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>

5. *Welcomes with appreciation* also 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 State Parties;

6. *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, particularly those to commemorate the 25th anniversary of the adoption of the Rome Statute, and share information with other stakeholders to that effect through the Secretariat of the Assembly<sup>4</sup> and otherwise;

7. *Invites* the Presidency of the Assembly and the Bureau to continue the preparations for the commemoration of the 25th anniversary of the adoption of the Rome Statute on the basis of the concept note prepared by the Presidency dated 30 November 2022, and *encourages* States Parties and relevant actors to engage in and promote these events as well as to organize their own commemorations at the national, regional and international levels, and to share, through the Secretariat of the Assembly, any information on planned commemorative events;

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

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

10. *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;

11. *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;

12. *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

---

<sup>2</sup> Depository 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/ICJ/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/asp%20events/ICJ/Pages/default.aspx)

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

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

<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)

*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**

13. *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;

14. *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**

15. *Refers* to its resolution ICC-ASP/21/Res.3 on cooperation;

16. *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;

17. *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 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;

18. *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;

19. *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;

20. *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;

21. *Underlines also* the necessity to continue the discussions between the co-facilitators on cooperation and the focal points on non-cooperation and the Court, following the joint panel discussion on strengthening cooperation with the Court held on 5 October 2020;

22. *Welcomes* the plenary session on cooperation held during the twenty-first session of the Assembly of States Parties which offered an opportunity for an enhanced dialogue between States Parties, the Court and members of civil society on voluntary cooperation, as well as a more technical discussion regarding the issue of witness protection,

---

<sup>8</sup> ICC-ASP/21/24.



and *welcomes* the signing of an enforcement of sentences cooperation agreement concluded between Spain and the Court during the cooperation plenary;

23. *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;

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

25. *Recalls* the existence of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery;

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

27. *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;

28. *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 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;

29. *Takes note* of the report of the Bureau on non-cooperation,<sup>11</sup> *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation and *recalls* that the President serves ex officio as focal point for his or her region,<sup>12</sup> *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;

30. *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;

31. *Welcomes in this regard* the Arria formula meeting of the Security Council on the relationship between the Court and the Security Council on 24 June 2022 and the issuance of the Chair's summary of the meeting on 20 September 2022<sup>13</sup> by Ireland;

32. *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;

33. *Encourages* the authorities in Sudan to effectively cooperate with the Court in accordance with Security Council resolution 1593, while *expressing continued concern* about the military takeover in Sudan on 25 October 2021;

34. *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;

---

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

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

<sup>11</sup> ICC-ASP/21/33.

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

<sup>13</sup> United Nations document S/2022/705.

## D. Host State

35. *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

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

37. *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;

38. *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;

39. *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;

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

41. *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;

42. *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;

43. *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

---

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

strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

44. *Welcomes* that States Parties have been informed throughout 2022 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;

45. *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/77/6 by the General Assembly and *encourages* States Parties to continue their constructive engagement with United Nations Member States to further strengthen this resolution;

46. *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 €81.4 million;

47. *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;

48. *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;

49. *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;

50. *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**

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

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

53. *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;

54. *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

---

<sup>15</sup> United Nations document A/77/305.

Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

55. *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;

56. *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;

57. *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;

58. *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;

59. *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

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

61. *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*;

62. *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 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;

63. *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;

64. *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

<sup>16</sup> ICC-ASP/21/9.

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

Statute crimes, with a view to reporting thereon to the twenty-second session of the Assembly;

65. *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;

66. *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 *welcomes* the adoption of the Office of the Prosecutor's Policy Paper on the Protection of Cultural Property within the Rome Statute framework, as well as the new guidelines for civil society organizations on documenting and preserving information on international crimes prepared by the Office of the Prosecutor and Eurojust;

67. *Notes* the on-going review by the Prosecutor of the various policy papers of the Office, with a view to consolidating and enhancing them where necessary;

68. *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;

69. *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;

70. *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 their extension into 2022 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;

71. *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;

72. *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;

73. *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;

74. *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;

75. *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

---

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

*acknowledging* the significant contribution of other stakeholders to developing a coordinated and comprehensive approach;

## H. Elections

76. *Welcomes* the report of the Advisory Committee on Nominations of Judges on the work of its eighth session;<sup>19</sup>

77. *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;

78. *Recalls* paragraph 6 of resolution ICC-ASP/18/Res.4 encouraging States Parties to submit information and commentary on their own existing or prospective nomination and selection procedures to the Secretariat of the Assembly;

79. *Decides* to adopt the amendments to the procedure for the nomination and election and judges, the amendment to resolution ICC-ASP/18/Res.4, and the amendment to the Terms of Reference of the Advisory Committee on Nominations of Judges, contained in annexes II, III and IV, respectively, to the present resolution;

80. *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;

81. *Welcomes with appreciation* the report on the Third Election of the Prosecutor of the ICC – Lessons Learnt,<sup>20</sup> dated 13 October 2022, and *invites* the States Parties to take into consideration the contents thereof for future elections of the Prosecutor;

82. *Requests* the Bureau to establish a due diligence process by March 2023 for candidates for judges to be elected in 2023, the terms of reference of which shall be established by the Bureau on the basis of a proposal developed by the Independent Oversight Mechanism in consultation with the Advisory Committee on Nomination of Judges, taking into account the experience of the recent due diligence processes applied to the candidates for Deputy Prosecutor and Registrar;

83. *Tasks* the Bureau to continue consultations with States Parties, the Court and civil society for the development of a vetting process for all elected ICC officials, and to report to the Assembly with a view to adoption of a vetting process as soon as feasible and no later than its twenty-second session, taking into account the ongoing consideration of the relevant Independent Expert Review recommendations, the outcomes of the lessons learnt exercise of the Prosecutor’s selection process including by liaising with its co-facilitators and the Bureau’s review of the due diligence process for candidates for Deputy Prosecutor;

## I. Secretariat of the Assembly of States Parties

84. *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, 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;

<sup>19</sup> ICC-ASP/21/4.

<sup>20</sup> ICC-ASP/21/16.

85. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;<sup>21</sup>

86. *Welcomes* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;<sup>22</sup>

## **J. Counsel**

87. *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;

88. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association;<sup>23</sup>

89. *Invites* the International Criminal Court Bar Association to report to the Assembly, through the Bureau, on its activities in advance of the twenty-second session;

90. *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**

91. *Takes note* of the progress made by the Court, in consultation with States Parties and all relevant stakeholders, in the reform of the Court's legal aid system;

92. *Requests* the Court to consider interim measures, within existing resources in the legal aid budget, to the benefit of members of defence and victims' teams, and to continue its efforts in the reform of the legal aid system and to present, based on further consultations with States Parties and all relevant stakeholders, another proposal for reform of the legal aid policy for external defence and victims' teams, in accordance with the mandate, taking account of the cost constraints and ensuring that the reform of the Court's legal aid system can be funded within existing resources. Full attention should be paid to the status of the members of the defence and victims' teams, in order to address their conditions of service, taking into account the current economic realities;

93. *Requests* the Court to ensure appropriate representation of counsel in the Advisory Committee on Legal Texts;

94. *Requests* the Court to finalize its review of the current framework and operation of the functions regarding financial investigations on suspects and accused persons across all organs in order to make proposals to the Assembly through its relevant facilitations (legal aid and cooperation) with a view to strengthen the Registry capacity to trace, freeze and seize assets of the accused in the context of legal aid requests, while paying due respect to the rights of the accused and to ensure increased efficiency of that global framework;

95. *Requests* the Bureau to continue its work on legal aid and to report to the Assembly at its twenty-second session;

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

96. *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;

---

<sup>21</sup> ICC-ASP/2/Res.3, annex, para. 10.

<sup>22</sup> ICC-ASP/17/39.

<sup>23</sup> ICC-ASP/21/23.

97. *Takes note* of the Bureau's report on the Study Group on Governance<sup>24</sup>;
98. *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-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, ICC-ASP/18/Res.6, ICC-ASP/19/Res.6 and ICC-ASP/20/Res.5;
99. *Takes note* of the final report of the Independent Expert Review, dated 30 September 2020, the Comprehensive Action Plan, adopted by the Bureau on 28 July 2021 and the report of the Review Mechanism submitted pursuant to ICC-ASP/20/Res.3, including the Matrix on progress in the assessment of the Independent Expert Review recommendations of the Review Mechanism,<sup>25</sup> and *notes* that the Study Group will continue to consider recommendations falling within its mandate;

## M. Proceedings of the Court

100. *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;
101. *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

102. *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;
103. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods;
104. *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;
105. *Recognizes* the importance of the work carried out by the facilitators and the focal points;
106. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective

<sup>24</sup> ICC-ASP/21/18.

<sup>25</sup> ICC-ASP/21/34.



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

107. *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 its discussions in appropriate form ahead of the twenty-second session of the Assembly;

108. *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;

109. *Requests also* the Bureau to address in its report under paragraph 108 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;

110. *Requests* that the Bureau consider as general objectives on the discussions on the scheduling of Assembly meetings that any future decision on the scheduling of Assembly sessions are aimed to ensure effective, efficient, concise and productive meetings of the Assembly, with broadest participation of States Parties and effective use of resources; to avoid duplication with a division of labour between New York and The Hague that furthers this objective; and to further study the possibility of a transition period in order to avoid an impact on the Court's budget and work;

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

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

112. *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;

113. *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;

114. *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;

115. *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;

116. *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;

117. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,<sup>26</sup> and therefore *requests* the Court to initiate consultations for the development of an updated strategy, taking into account the ongoing consideration of the relevant Independent Expert Review recommendations, and to report to the Assembly at its twenty-second session;

118. *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;

119. *Notes* the significant growth in the activities of the Trust Fund, to include the five on-going reparations proceedings as well as the expansion of assistance programmes to more situations before the Court, including Central African Republic, Côte d'Ivoire and Mali;

120. *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;

121. *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;

122. *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;

123. *Notes* the intention of the Trust Fund for Victims to raise 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, in particular €20 million in total to complement fully the payment of the reparation awards in the cases of *Thomas Lubanga* and *Bosco Ntaganda* and adequate resources for the continuation in 2023 of multi-annual assistance programmes;

124. Decides to amend paragraph 17 of the annex to resolution ICC-ASP/4/Res.3, as reflected in annex IV to the present resolution;

## **P. Recruitment of staff**

125. *Takes note* of the Court's report on Human Resources Management,<sup>27</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;

126. *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 twenty-second session, including, but not limited to, improvements in the recruitment process and annual recruitment data;

127. *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>28</sup>

<sup>26</sup> ICC-ASP/13/Res.4, para. 1.

<sup>27</sup> ICC-ASP/21/7.

<sup>28</sup> ICC-ASP/20/29.

128. *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;

129. *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;

130. *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 Junior Professional Officer (JPO) programmes for candidates from non- and under-represented States Parties, particularly from developing regions, to be funded through voluntary contributions;

131. *Welcomes* the Court-wide, Office of the Prosecutor and Registry Strategic Plans for 2019-2021 and their extension into 2022, and their three-year programme of action to improve the geographical representation and gender balance as one of the Court's priorities;

132. *Further welcomes* the consultations that took place in 2022 with a view to the adoption, by December 2022, of the Court's first Strategy on Gender Equality and Workplace Culture, aimed at enhancing and reinforcing policies and conditions of employment at the Court from a gender perspective, in the context of the Court-wide and organ-specific Strategic Plans for 2023-2025, all of which take into account the relevant recommendations of the Independent Expert Review of the International Criminal Court and the Rome Statute System;

133. *Takes note* of the report of the Comprehensive action plan,<sup>29</sup> and *notes* that the facilitation on geographical representation and gender balance will assess and implement recommendations falling within its ambit;

## **Q. Complementarity**

134. *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;

135. *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;

136. *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;

137. *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;

---

<sup>29</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf)

138. *Welcomes*, in this regard, the adoption of the 2030 Agenda for Sustainable Development<sup>30</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;

139. *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;

140. *Welcomes* the report of the Bureau on complementarity and the recommendations made on future consultations set out therein,<sup>31</sup> 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 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;

141. *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 twenty-second session of the Assembly;

142. *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>32</sup> during the fourteenth session of the Assembly;

143. *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;

144. *Notes* the ongoing review by the Prosecutor of various policies of the Office relevant to the principle of complementarity, particularly in light of recommendations set out in the Report of the Independent Expert Review, and as a matter of priority *encourages* the Prosecutor to continue engaging with the Assembly and other stakeholders as these policies are reviewed and, if necessary, revised bearing in mind the timelines set out in the Comprehensive Action Plan, while reiterating its full respect for judicial and prosecutorial independence as provided for in the Rome Statute;

145. *Notes* the 'Dakar Seminar on complementarity and cooperation', held on 23-25 May 2022, which emphasized the importance of collective efforts to ensure the effective

---

<sup>30</sup> United Nations General Assembly resolution 70/1.

<sup>31</sup> ICC-ASP/21/19.

<sup>32</sup> International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.

implementation of the principle of complementarity, with a particular focus on States from the Economic Community of West African States (ECOWAS) and also welcomes the signing of the Dakar Declaration;<sup>33</sup>

## R. Independent Oversight Mechanism

146. *Recalls* its decision in resolution ICC-ASP/19/Res.6 adopting the revised operational mandate of the Independent Oversight Mechanism and requesting the Bureau to remain seized of the review of the work and 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,<sup>34</sup> and to report thereon to the Assembly at its twenty-first session;

147. *Welcomes* the discussions held during 2022 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;

148. *Takes note* of the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,<sup>35</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;

149. *Recalls* that the revised operational mandate of the Independent Oversight Mechanism applies 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;

150. *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 where required, and, to the extent possible, consistent ethics charters and codes of conduct;

151. *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;

152. *Welcomes* the annual report of the Head of the Independent Oversight Mechanism;<sup>36</sup>

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

154. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, and that the revised operational mandate of the Independent Oversight Mechanism<sup>37</sup> 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 *invites* the Court to provide at the earliest opportunity in advance of the twenty-second session of the Assembly any relevant update and recommendation on any necessary follow-up action for the Court and/or the Assembly;

155. *Welcomes* the progress made in formally aligning the regulatory framework of the Court with the operational mandate of the Independent Oversight Mechanism, in particular the Administrative Instruction on Investigation of Unsatisfactory Conduct and the Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings as well as the Administrative Instruction on Discrimination, Harassment, including Sexual Harassment, and Abuse of Authority, and *encourages* the Court, with the support of the

---

<sup>33</sup> See at: <https://www.icc-cpi.int/sites/default/files/2022-06/20220525-declaration.pdf>

<sup>34</sup> ICC-ASP/19/16.

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

<sup>36</sup> ICC-ASP/21/8.

<sup>37</sup> ICC-ASP/19/Res.6, annex II.

Independent Oversight Mechanism, as necessary, to continue working 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

156. *Takes note* of the important work done by the Committee on Budget and Finance, which is a subsidiary body of the Assembly of States Parties, and *reaffirms* the independence of the members of the Committee;

157. *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;

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

159. *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;

160. *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

161. *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>

162. *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>

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

164. *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;

165. *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;

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

<sup>39</sup> ICC-ASP/21/32.

<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/>

166. *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 twenty-second session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

## U. Consideration of amendments

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

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

169. *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

170. *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;

171. *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 her undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

172. *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

173. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Study Group on Governance, 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.

---

<sup>44</sup> ICC-ASP/21/22.

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

## 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 twenty-second 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 twenty-second 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) *encourages* the Bureau, through its Working Groups, to continue 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 on 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, in accordance with the resolution on the Review of the International Criminal Court<sup>3</sup> and the Review Mechanism’s Comprehensive Action Plan,<sup>4</sup> to continue to assess the recommendations related to cooperation and their follow-up including their implementation as appropriate, and to report thereon to the Assembly at its twenty-second 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;

---

<sup>1</sup> ICC-ASP/20/17.

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

<sup>3</sup> ICC-ASP/19/Res.7.

<sup>4</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf)



(k) *requests* the President of the Assembly to continue to engage 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;

(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 twenty-second 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>5</sup> ahead of the twenty-second 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>6</sup> and

(b) *requests* the Bureau to update the Assembly, at its twenty-second 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 twenty-second session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;<sup>7</sup>

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

(a) *requests* the Court to continue its efforts in the reform of the legal aid system and to present, based on further consultations with States Parties and all relevant stakeholders, another proposal for reform of the legal aid policy for external defence and victims' teams, in accordance with the mandate, taking account of the cost constraints and ensuring that the reform of the Court's legal aid system can be funded within existing resources. Full attention should be paid to the status of the members of the defence and victims' teams, in order to address their conditions of service, taking into account the current economic realities;

(b) *requests* the Court to ensure appropriate representation of counsel in the Advisory Committee on Legal Texts;

(c) *requests* the Court to finalize its review of the current framework and operation of the functions regarding financial investigations on suspects and accused persons across all organs in order to make proposals to the Assembly through its relevant facilitations (legal aid and cooperation) with a view to strengthen the Registry capacity to trace, freeze and seize assets of the accused in the context of legal aid requests, while paying due respect to the rights of the accused and to ensure increased efficiency of that global framework; and

---

<sup>5</sup> ICC-ASP/21/6.

<sup>6</sup> Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/21/29).

<sup>7</sup> ICC-ASP/17/39.

(d) *requests* the Bureau to continue its work on legal aid and to report to the Assembly at its twenty-second session;

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, and to provide States Parties with its assessment and update on implementation of the respective Independent Expert Review recommendations;

(b) *invites* the Court to provide State Parties with its assessment and update on implementation of the respective Independent Expert Review recommendations;

(c) *requests* the Study Group to facilitate a platform for the discussion of the Independent Experts' recommendations assigned to the Court;

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

(e) *requests* the Study Group to continue considering the Independent Experts' recommendations assigned to it, which relate in particular to the continuity of proceedings, the election of the Registrar, human resources and key performance indicators, and to report thereon to the twenty-second session of the Assembly;

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; and

(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;

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>8</sup>

(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>9</sup>

<sup>8</sup> ICC-ASP/12/59.

<sup>9</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).

(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 twenty-second 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 initiate consultations for the development of an updated Revised Strategy in Relation to Victims, taking into account the ongoing consideration of the relevant Independent Expert Review recommendations, and to report to the Assembly at its twenty-second 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-eighth resumed session and urges the Court to take the necessary steps to implement it;

(b) *requests* the Court to submit to the Assembly a comprehensive report on human resources by the end of May 2023, to be considered by the Assembly at its twenty-second session, which would include an update on the implementation of the recommendations on the topic made by the Committee in 2022;

(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 twenty-second 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;

(b) *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 twenty-second session of the Assembly; and

(c) *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 twenty-second 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 and to follow up on the recommendations contained in the report of the facilitation, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-second 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 twenty-second session;

(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 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 twenty-second session;

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

(a) *decides* that the Committee on Budget and Finance shall hold its fortieth session virtually on 23 January 2023 to elect the Chair and Vice-Chair and to discuss other matters, that its forty-first session would take place from 8 to 12 May 2023 and its forty-second session from 4 to 15 September 2023, both in The Hague; and

(b) *also decides* that the Assembly shall hold its twenty-second session in New York from 4 to 14 December 2023, and its twenty-third session in The Hague.

## Annex II

### **Amendments to resolution ICC-ASP/3/Res.6 regarding the procedure for the nomination and election of judges**

#### **A. Amend paragraph 6(f)**

Indicating whether the nomination is made under article 36, paragraph 4(a)(i) or paragraph 4(a)(ii), and specifying in the necessary detail the elements of the procedure leading to the nomination.

#### **B. Insert the following as a new paragraph 6(g)**

Containing an acknowledgement of information provided under sub-paragraph (a) by a senior member of the national-level judiciary or the authority of the Nominating State overseeing the nomination process.

#### **C. Amend paragraph 12 *bis***

All nominated candidates shall be available for interviews preferably in-person, or by videoconference or similar means if appropriate, before the Advisory Committee on Nominations of Judges. Nominating States shall, to the extent possible, ensure that candidates make themselves available for interviews before the Advisory Committee on Nominations of Judges.

#### **D. Amend paragraph 12 *ter***

Once the Advisory Committee on Nominations of Judges has made its assessments of candidates, and as early as possible prior to elections, the Bureau will facilitate public roundtable discussions to be held with all candidates. The roundtable discussions shall be open to States Parties and other relevant stakeholders, and conducted in both working languages of the Court. Candidates shall participate in either of the working languages of the Court and may participate by videoconference. The roundtable discussions shall be recorded on video to be made available on the website of the Assembly of States Parties. The remaining modalities for the roundtable discussions will be determined by the New York Working Group, which will have particular regard to aspects of the assessments of the candidates highlighted in the report of the Advisory Committee on Nominations of Judges and include on the agenda topics aimed at supplementing the report in relation to these aspects.

#### **E. Insert the following as a new paragraph 12 *quater***

A candidate who fails to participate in an interview before the Advisory Committee on Nomination of Judges or in public roundtable discussions shall be required to provide an explanation of the exceptional circumstance that prevented their participation within one week of non-participation. Failure to provide such explanation shall be considered a withdrawal of the nomination of that candidate, unless the Nominating State communicates otherwise within additional one week, provided that such communication also includes the required explanation of non-participation of the candidate.

#### **F. Insert the following as a new paragraph 16 *bis***

If there is no more than one candidate for one single position, the Assembly shall proceed to a last ballot. In accordance with rule 66 of the Rules of Procedure of the Assembly of States Parties, the ballot paper must permit the States Parties present and voting to cast an affirmative or negative vote at such last ballot. If the candidate does not obtain a two-thirds majority of States Parties present and voting, the election shall be postponed until a next

session of the Assembly of States Parties. In such case, the procedure for the nomination of candidates shall restart. The provisions of this resolution, including any remaining minimum voting requirements which have not been fulfilled, shall continue to apply.

## Annex III

### Amendments to resolution ICC-ASP/18/Res.4

#### A. Amend paragraph 7

Requests the Advisory Committee on Nominations of Judges, in consultation with States and other relevant stakeholders, to prepare and present at the earliest possible date, but no later than the twentieth session of the Assembly of States Parties, a compendium of submissions from States Parties.

#### B. Insert new paragraph 7 *bis*

Further requests the Advisory Committee on Nomination of Judges, in consultation with States Parties and other relevant stakeholders, to prepare, in light of the compendium presented under paragraph 7 as well as additional submissions of States Parties under paragraph 6, guidelines for the national-level nomination procedures and bring them to the attention of States Parties at the earliest possible date, but no later than twenty-third session of the Assembly.

#### C. Amend paragraph 10

Encourages States Parties to continue according utmost respect to the evaluation of candidates by the Advisory Committee on Nomination of Judges, and to refrain from casting their votes in an inconsistent way with this evaluation to the extent possible as well as from the trading of votes.



## Annex IV

### Amendment to the Terms of Reference of the Advisory Committee on Nominations of Judges

#### A. Amend paragraph 5 *bis*

To that effect, the Committee shall:

(a) develop a common questionnaire for all nominees that asks them to explain: (i) their experience in managing complex criminal proceedings; (ii) their experience in public international law; (iii) specific experience in gender and children matters; (iv) track record of impartiality and integrity; and (v) fluency in one of the working languages of the Court; and provide all nominees the option to make their answers to the questionnaire public;

(b) ask nominees to demonstrate their legal knowledge by presenting relevant evidence;

(c) check candidates' references and any other information publicly available;

(d) create a standard declaration for all candidates to sign that clarifies whether they are aware of any allegations of misconduct, including sexual harassment, made against them;

(e) assess practical skills such as the ability to work collegially; knowledge of different legal systems; and exposure to and understanding of regional and sub-regional political, social, and cultural environments;

(f) at the candidate interview, endeavour to assess, without prejudice to the qualifications specified in article 36, paragraph 3 (b)(i) and (ii) of the Rome Statute, the ability of the candidates to manage and conduct complex international criminal trials fairly and expeditiously and their suitability as a presiding judge;

(g) document the national-level nomination processes in the nominating State Parties; and

(h) report on the above aspects.

## Annex V

### Amendments concerning the Trust Fund for Victims

#### Regulation 17 of the Regulations of the Trust Fund for Victims is updated as follows:

17. The Secretariat, established in accordance with resolution ICC-ASP/3/Res.7 of the Assembly of States Parties, shall provide such assistance as necessary for the proper functioning of the Board of Directors in carrying out its tasks. The Secretariat shall be headed by an Executive Director selected by the Board of Directors and appointed by the Registrar.

*17 bis* The Executive Director's term of office shall not exceed seven years, with an initial appointment period of one year and two subsequent extensions of three years each, provided that there is a continuing need for the post and that his or her performance meets a satisfactory level. The Board of Directors shall inform the Registrar on the outcome of their assessment regarding any extension of the appointment at least six months before its expiration.

*17 ter* The performance of the Executive Director is subject to an annual evaluation by the Board of Directors, which will also inform the extension of the appointment of the Executive Director referred to in regulation *17 bis*.

*17 quater* Unless otherwise inconsistent with the present mandate, the appointment and conditions of employment of the Executive Director shall be in accordance with the Staff Regulations and Rules and relevant administrative issuances of the Court.

*17 quinquies* In their work, the Executive Director shall be guided by the terms of the Delegation of Authority issued by the Board of Directors, which shall be re-evaluated by the Board of Directors at least every four years.

## Resolution ICC-ASP/21/Res.3

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

### ICC-ASP/21/Res.3 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, ICC-ASP-19/Res.2, ICC-ASP-20/Res.2 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 40 of resolution ICC-ASP/20/Res.2,

*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 ASP at its eighteen 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

---

<sup>1</sup> ICC-ASP/21/35.

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

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 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 14 individuals remain outstanding despite the arrest and surrender to the Court of one suspects in January 2021 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 Court 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;

---

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

### **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;

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* 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, and; *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitating 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 development of the digital platform to reinforce the exchange of relevant information between States Parties to encourage inter-State cooperation and to strengthen 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 further in 2022;

16. *Welcomes* the preparatory work launched by the Court in order to set up a network of operational focal points in States Parties to enhance cooperation with the Court regarding financial investigations, tracing and freezing of assets, *encourages* the Court to continue this work in order to launch in 2022 the activities of that network and encourages States Parties to support the functioning of that network;

### **Cooperation with the Defence**

17. *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 the Privileges and Immunities of the International Criminal Court**

18. *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**

19. *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,<sup>4</sup> and *stresses* the need for more relocation agreements or arrangements with the Court for the expeditious relocation of witnesses;

20. *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;

21. *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;

22. *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;

23. *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;

24. *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 twenty-first session;

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

25. *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 fostering the prosecution of crimes falling within the jurisdiction of the Court;

26. *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**

27. *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**

28. *Welcomes* the work undertaken on the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>5</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;

<sup>4</sup> ICC-ASP/19/Res.2.

<sup>5</sup> Resolution ICC-ASP/6/Res.2, annex II.

29. *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;
30. *Takes note* of the Bureau's Report on cooperation,<sup>6</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 2022;
31. *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 and relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
32. *Encourages* the Bureau, through its Working Groups to continue its review of the implementation of the 66 recommendations, in close cooperation with the Court, where appropriate;
33. *Requests* the Bureau, through the facilitation on cooperation, in accordance with the resolution on the Review of the International Criminal Court<sup>7</sup> and the Review Mechanism's Comprehensive Action Plan,<sup>8</sup> to continue to assess the recommendations related to cooperation and their follow-up, including their implementation as appropriate, and to report thereon to the Assembly at its twenty-second session;
34. *Requests* the Bureau, through the facilitation on cooperation, to continue to address a number of issues that have been priorities in recent years, and as 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 UN and its agencies and entities, including for capacity building purpose in order to foster cooperation with the Court;
35. *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;
36. *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;
37. *Welcomes* the plenary session on cooperation held during the twenty-first session of the Assembly of States Parties which offered an opportunity for an enhanced dialogue between States Parties, the Court and members of civil society on voluntary cooperation, as well as a more technical discussion regarding the issue of witness protection, *and welcomes* the signing of an enforcement of sentences cooperation agreement concluded between Spain and the Court during the cooperation plenary; and
38. *Recognizing the importance* of the Court's contribution to the Assembly's efforts to enhance cooperation, *welcomes* the Court report on cooperation,<sup>9</sup> which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges, and requests the Court to submit an updated report on cooperation to the Assembly at its twenty-second session.

---

<sup>6</sup> ICC-ASP/21/35.

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

<sup>8</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf)

<sup>9</sup> ICC-ASP/21/35.

## Resolution ICC-ASP/21/Res.4

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

### ICC-ASP/21/Res.4

#### **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* its resolutions ICC-ASP/18/Res.7 of 6 December 2019, ICC-ASP/19/Res.7 of 18 December 2020 and ICC-ASP/20/Res.3 of 9 December 2021, 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 continued active consideration by the Court or in the Bureau working groups, facilitations and other forums (hereinafter "Assembly mandates" or "mandate holders") of the issues identified by the Group of Independent Experts, with the participation of and input from other stakeholders, *emphasizing* that such work should continue with a focus on implementation, as appropriate, and should be coordinated with the larger review process with a view to avoid duplication and benefit from synergies,

*Welcoming* the ongoing engagement of the Court and its focal points in the planning, coordinating, monitoring, and reporting on the assessment and implementation of the positively assessed recommendations contained in the Report of the Group of Independent Experts,

*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,

*Acknowledging* the importance of the Bureau's decision of 31 May 2021 that welcomed the efforts of the Review Mechanism to be inclusive and transparent in the exercise of its mandate within this State Party-driven process, as well as its reassurance that States Parties will be involved in the discussions on assessment and implementation of recommendations, regardless of whether they have been allocated to the Court or to the Assembly, with respect for existing mandates as well as judicial and prosecutorial independence; and decided to adopt the "Categorization of recommendations and remaining issues", dated 30 April 2021, submitted by the Review Mechanism in accordance with paragraph 4 (a) of Assembly resolution ICC-ASP/19/Res.7,

1. *Welcomes again* the report and recommendations of the Independent Expert Review contained in the document titled "Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report",<sup>1</sup> dated 30 September 2020, and *takes*

---

<sup>1</sup> [https://asp.icc-cpi.int/sites/asp/files/asp\\_docs/ASP19/ICC-ASP-19-16-ENG-IER-Report-9nov20-1800.pdf](https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP19/ICC-ASP-19-16-ENG-IER-Report-9nov20-1800.pdf)



*note* of the diverse, thorough and extensive nature of the Experts' 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. *Also welcomes* the work of the Court, the Review Mechanism, the Bureau working groups, and Assembly mandate-holders on the review process and *takes note with appreciation* of the significant progress that has been achieved in assessing and taking further action on the recommendations of the Independent Experts, and resolves to spare no effort in advancing this work further in line with the Comprehensive Action Plan;<sup>2</sup>

3. *Takes note again* of the overall response of the Court<sup>3</sup> to the report of the Independent Expert Review submitted pursuant to resolution ICC-ASP/19/Res.7;

4. *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;

5. *Decides* to extend, to the twenty-second session of the Assembly, the mandate of the Review Mechanism established by resolution ICC-ASP/19/Res.7 under the auspices of the Assembly, led by two State Party Representatives and supported by three *ad country* focal points, 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. In the event of a vacancy, the Bureau shall, without delay, appoint a member of the Review Mechanism, in the same manner as set out in resolution ICC-ASP/19/Res.7, paragraph 4;

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

7. *Welcomes again* the Bureau's adoption of the categorization of recommendations<sup>4</sup> and the Comprehensive action plan<sup>5</sup> referred to in operative paragraph 4 of resolution ICC-ASP/19/Res.7, based on the proposals of the Review Mechanism;

8. *Recognizes* that the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations, including the Review Mechanism, commenced assessment of the recommendations in 2021 and have been continuing it in 2022, and submitted to the Bureau the outcome of their consideration, including on action already taken, as well as proposals for the next steps;<sup>6</sup>

9. *Endorses* the positive assessment of recommendation R105 (Tenure) for which the Review Mechanism served as the platform for assessment, and *invites* the Court through the Registry, in close consultation with the Bureau, to develop a detailed proposal for a tenure policy addressing also the financial implications, for its introduction as of 1 January 2024 for approval by the Assembly at its twenty-second session;

10. *Requests* the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations to continue with the assessment and, where appropriate, implementation in 2023 and to submit to the Bureau the outcome of its consideration, including on action already taken and proposals for next steps, by 15 November 2023;

<sup>2</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf)

<sup>3</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf)

<sup>4</sup> [https://asp.icc-cpi.int/EN\\_Menu/asp/review-court/pages/categorization-recommendations.aspx](https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/categorization-recommendations.aspx)

<sup>5</sup> [https://asp.icc-cpi.int/EN\\_Menu/asp/review-court/pages/action-plan.aspx](https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/action-plan.aspx)

<sup>6</sup> See: Report of the Review Mechanism submitted pursuant to ICC-ASP/20/Res.3, annex I.

11. *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, possible further action, and, where appropriate, implementation of the recommendations of the Group of Independent Experts, and report to the Assembly ahead of its twenty-second session;

12. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2023, and to submit a comprehensive report on the review process to the Assembly well in advance of its twenty-second 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;

13. *Invites* the Secretariat of the Assembly of States Parties to assist the work of the Review Mechanism and *requests* the Bureau to invite the Registrar to consider making available to the Secretariat the 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

14. *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.

## Resolution ICC-ASP/21/Res.5

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

### ICC-ASP/21/Res.5

#### **Amendment to the Rules of Procedure and Evidence of the International Criminal Court**

*The Assembly of States Parties,*

*Recalling* the need to conduct a 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, and *inviting* the organs of the Court to continue to engage in such a dialogue with States Parties,

*Recognizing* that enhancing the efficiency and effectiveness of the Court is of common interest both for the Assembly of States Parties and the Court,

*Recalling* operative paragraphs 1 and 2 of resolution ICC-ASP/9/Res.2 and article 51 of the Rome Statute,

*Further recalling* paragraph 9 of annex I to resolution ICC-ASP/20/Res.5,

*Taking note with appreciation* of the consultations undertaken within the Study Group on Governance and the Working Group on Amendments,

*Noting* the report of the Working Group on Amendments<sup>1</sup> and the report of the Bureau on the Study Group on Governance,<sup>2</sup>

1. *Decides* that the following rule 140 *bis* be inserted after rule 140 of the Rules of Procedure and Evidence:

**“Rule 140 *bis***

**Continuation of proceedings in the temporary absence of a judge for illness or other unforeseen urgent personal reasons**

If a judge is, for illness or other unforeseen urgent personal reasons, unable to be present at any hearing, the remaining judges of the Chamber may exceptionally order that the hearing of the case continues in the absence of that judge for completion of a specific matter which has already commenced and can be concluded within a short timeframe, provided that:

(a) The Chamber is satisfied or, if it is not practicable to consult the absent judge, the remaining judges of the Chamber are satisfied that this arrangement is in the interests of justice; and

(b) The parties consent to this arrangement.”

---

<sup>1</sup> ICC-ASP/21/22.

<sup>2</sup> ICC-ASP/21/18.

## **B. Decision adopted by the Assembly of States Parties**

### **Decision ICC-ASP/21/Dec.1**

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

#### **ICC-ASP/21/Dec.1**

#### **Decision: Committee on Budget and Finance**

*The Assembly of States Parties,*

*Bearing in mind* article 112, paragraph 3 (c), of the Rome Statute of the International Criminal Court,

*Recalling* the relevant provisions of resolution ICC-ASP/1/Res.4, as amended by resolution ICC-ASP/2/Res.5,

*Recalling also* the relevant provisions of resolution ICC-ASP/1/Res.5, as amended by resolution ICC-ASP/2/Res.4,

*Bearing in mind* that every effort shall be made to elect the members of the Committee on Budget and Finance by consensus, on the basis of a recommendation by the Bureau,

*Requests* the Bureau, in consultation with all States Parties, to discuss the allocation of seats on the Committee on Budget and Finance and to submit a report on its discussions by the twenty-second session of the Assembly.

## C. Recommendation adopted by the Assembly of States Parties

### Recommendation ICC-ASP/21/Rec.1

*Adopted at the 9<sup>th</sup> plenary meeting, on 9 December 2022, by consensus*

#### ICC-ASP/21/Rec.1

#### **Recommendation concerning the election of the Registrar of the International Criminal Court**

*The Assembly of States Parties,*

*Bearing in mind* article 43, paragraph 4, of the Rome Statute of the International Criminal Court,

*Recalling* the vacancy announcement for the position of Registrar which was disseminated on 22 February 2022,

*Having received* a list of candidates<sup>1</sup> from the Presidency in accordance with rule 12 of the Rules of Procedure and Evidence,

*Recalling* the Assembly's decision<sup>2</sup> to strengthen the participation of States Parties in the election of the Registrar within the existing legal framework,

*Taking into account* the due diligence process established for candidates for Registrar to assist in the determination of the criterion of "high moral character" as required by article 43, paragraph 3, of the Rome Statute and the outcome of the work carried out by the Independent Oversight Mechanism thereon,

*Taking into account* the web-streamed and recorded public roundtable discussions with the candidates in the list transmitted by the President of the Court open to States Parties and civil society and conducted in both working languages of the Court,

*Taking into account* the recommendations of the Bureau of the Assembly,

1. *Recommends* that the judges proceed to elect the Registrar on the basis of the list submitted by the Presidency in accordance with rule 12 of the Rules of Procedure and Evidence,

2. *Recommends also* that, in considering the list of candidates with a view to electing the Registrar, the judges take into account the following elements, which include criteria governing the employment of staff of the Court provided in the Rome Statute:

(a) Stressing the necessity of securing the highest standards of efficiency, competency and integrity;<sup>3</sup>

(b) Assigning high priority to equitable geographical representation, gender balance, and an adequate representation of the principal legal systems of the world, while emphasizing the need for preserving diversity and multilingualism, as well as recognizing rotation as a useful tool;

(c) Proven managerial skills and knowledge of the non-judicial aspects of the administration and servicing of an international criminal tribunal, including those acquired within relevant international or national organizations, and leadership experience through having dealt effectively with complex and sensitive situations under pressure;

(d) Demonstrable knowledge about the review of the International Criminal Court, including consideration and implementation of the recommendations of the Group of Independent Experts (IER);

<sup>1</sup> Letter from ICC Presidency, dated 17 June 2022, contained in ICC-ASP/21/2, annex I.

<sup>2</sup> Resolution ICC-ASP/20/Res.4 on the Review of the International Criminal Court and the Rome Statute system, Part II – Election of the Registrar, OP1.

<sup>3</sup> Rome Statute of the International Criminal Court, articles 43, paragraph 3, and 44, paragraph 2.

- (e) Familiarity with both governmental and intergovernmental processes, and possession of requisite diplomatic skills;
- (f) The candidate should be a national of a State Party and, in the case of a candidate with dual or multiple nationalities, application of the principle set out in resolution ICC-ASP/1/Res.10, as amended by resolution ICC-ASP/4/Res.4;
- (g) Essential qualifications of the candidate, including relevant experience, particularly regarding financial and budgetary competencies, as well as the sound and transparent management of public funds;
- (h) Experience in the fields related to cooperation, management of detention facilities, legal aid, victims and witness protection and support, administrative law and informal dispute settlement and disciplinary proceedings, in addition, a legal expertise on specific issues, including, but not limited to, violence against women, will be considered an asset;
- (i) The ability to liaise effectively and regularly with the Assembly, its subsidiary bodies, other organs of the Court and relevant stakeholders, especially facilitators and focal points of the Assembly's subsidiary bodies, including by conveying relevant information they request in an efficient, complete and timely manner, so as to ensure the efficiency in the conduct of work between the Court and States Parties;
- (j) The ability to co-operate well with others, as well as work within and have the ability to lead a team, including by having a strategic awareness which identifies issues, opportunities and risks, and conveys the strategic direction and objectives to all stakeholders;
- (k) The ability to communicate effectively, via written and oral means. The candidate shall be fluent in at least one of the working languages of the Court. A working knowledge of the other language is considered an asset. Knowledge of another official language of the Court (Arabic, Chinese, Russian, Spanish) would be an added advantage and asset;
- (l) The ability to negotiate effectively through the establishment of constructive interpersonal relationships in a multicultural setting; and
- (m) A commitment to and experience in the promotion of gender equality and a safe, inclusive, equal and respectful workplace environment; and the ability to apply a zero tolerance policy to harassment, including sexual harassment, and bullying in the workplace.

## Annex

### Vacancy Announcement

#### Job Title: Registrar (ASG)

Deadline for applications:	01/05/2022 (midnight The Hague time)
Position title and level:	Registrar (ASG)
Organisational unit:	Registry
Duty station:	The Hague - NL
Type of appointment:	Fixed-term
Minimum net annual salary:	€179,806.00
Contract duration:	Five years, renewable subject to re-election.

#### Special Notice

Application Procedures are outlined in details at the end of this vacancy announcement. Applicants are kindly requested to comply with the procedures when submitting an application.

#### THE ORGANISATION

The International Criminal Court (ICC), governed by the Rome Statute, is the first permanent, treaty based, international criminal court established to help end impunity for the perpetrators of the most serious crimes of concern to the international community.

The ICC is an independent international organisation, and is not part of the United Nations system. Its seat is at The Hague in The Netherlands.

With a budget of over 154.8 million euros in 2022 and approximately 1000 staff based in The Hague and at various field locations around the world, the ICC offers a challenging environment for senior executive level managers.

The ICC is seeking applications from qualified candidates for the position of Registrar.

#### THE REGISTRAR

The Registrar, head of the Registry, is the principal administrative officer of the Court. He or she is responsible for the non-judicial aspects of the administration and servicing of the ICC. The Registrar, who shall serve on a full-time basis, is elected by the plenary of the judges of the Court, taking into account any recommendation of the Assembly of States Parties (Art. 43.4 of the Rome Statute). He or she shall serve a five-year term, renewable once for the same period subject to re-election. The current term of the Registrar expires in April 2023.

#### DUTIES AND RESPONSIBILITIES

In accordance with the Rome Statute, the Registrar exercises his or her functions under the authority of the President of the Court (Art. 43.2 of the Rome Statute). A substantial component of the work of the incoming Registrar will be related to the efficient management of the Court, including the review of its existing policies and procedures and the implementation of improved working processes.

To be successful in the role, the Registrar will require significant senior leadership experience and a demonstrated ability to deliver results in a diverse range of areas that include the following:

- **Administration**

Maximising the Court's ability to effectively manage its human resources by establishing a framework for measuring and improving staff engagement and leadership practices.

Ensuring that the Financial Regulations and Rules of the Court are administered in a coherent manner.

Developing and maintaining efficient and transparent budget planning and budget tracking processes that support efficient and effective implementation of the Court's mandate.

Managing all administrative areas, such as procurement, facilities management, and logistics.

Being responsible for the security and safety of the Court.

Consulting and coordinating with the Office of the Prosecutor (OTP) on matters of mutual concern.

- **Court Services**

Overseeing design, efficient delivery and quality of services in areas that include the management of judicial records; ensuring the smooth and efficient operation of court proceedings; and providing language services.

Discharging the statutory duties in relation to the defence, including assisting arrested and accused persons in obtaining legal advice and the assistance of legal counsel; providing support, assistance and information to defence counsel; liaising and cooperating with national and international defence and bar associations as appropriate; and establishing and maintaining a system for the assignment of legal assistance and legal aid.

Being responsible for the management of the detention centre, including security and order.

Discharging statutory duties in relation to victims' participation and reparation.

Being responsible for information management services.

- **External Operations**

Managing the field offices and promoting understanding of the mandate and competences of the Court through public information and outreach.

Seeking and ensuring judicial cooperation for the enforcement of judicial decisions (such as warrants of arrest, summonses to appear, requests for freezing of assets or other forms of cooperation) and serving as the channel of communication of the Court.

Providing services to victims and witnesses in accordance with the statutory texts, including ensuring their protection and security, assisting them in obtaining legal advice, organizing their legal representation and facilitating their participation in the proceedings.

- **Reporting to and liaising with the Assembly of States Parties, its subsidiary bodies and other relevant stakeholders, in particular the host State**

Maintaining and developing structured and effective dialogue between States Parties and the Court by informing the Assembly of States Parties and its committees on the performance of the Court while preserving its judicial independence. This includes open and transparent reporting in the areas of human, financial and physical resources management, field operations, the Court's budget and security and safety, as well as discussing with the host State all relevant organisational and administrative matters of common concern.



## ESSENTIAL QUALIFICATIONS

The successful candidate will have to demonstrate that he or she possesses the following competencies and skills to the highest standard:

**Professionalism** – knowledge and experience in management and business administration, including competence in and adherence to the relevant standards of conduct and experience in identification and implementation of best practices; strong conceptual and analytical skills, with the ability to identify problems and propose solutions; conscientious efficiency in honouring commitments, meeting deadlines and achieving results.

**Financial competencies** – established financial and budgetary competencies (as demonstrated by previous experience in efficient management of public funds), in light of the fact that the funds of the Court are provided by States Parties.

**Strategic awareness** - ability to identify strategic issues, opportunities and risks and to generate and communicate broad and compelling organisational and strategic direction and objectives to all stakeholders; ability to identify challenges (in particular, those arising from and related to the specific nature of the Court) and respond effectively thereto; demonstrable ability to provide strategic direction.

**Leadership** – proven and demonstrable track record of excellent management and technical leadership skills; ability to deal effectively with sensitive and contentious matters under pressure; proven ability to develop clear goals that are consistent with the agreed strategies and to establish good relationships and build team spirit with staff of the Court and a broad range of people.

**Planning and Organizing** – excellence in successful planning with strong managerial skills; proven ability to plan and establish priorities and to ensure effective work structure to maximize efficiency and effectiveness and to achieve goals.

**Judgement/decision making** – mature judgement and initiative, imagination and resourcefulness, energy and tact; proven ability to identify key issues in complex situations and to take adequate decisions being aware of the impact on others and on the Court.

**Communication** - excellent oral and written communication and negotiation skills with proven ability to establish and maintain effective interpersonal relationship in a multi-cultural, multi-ethnic environment with sensitivity and respect for diversity.

**Information Technology** – an understanding of the challenges and opportunities of a coherent Information management strategy combined with an appreciation of the technologies involved.

## EDUCATION

Advanced university degree (Master's degree or equivalent) in law, economic sciences, public or business administration or related areas. A first-level university degree in combination with qualifying experience may be accepted in lieu of the advanced university degree.

## EXPERIENCE

At least 15 years of documented progressively responsible managerial experience, whether at a national or international, private or public level, preferably but not necessarily, in judicial institutions and bodies. A proven track record of efficient management of public funds, whether at the national or international level, would be desirable.

## LANGUAGES

The candidate shall have an excellent knowledge of and be fluent in at least English or French, the two working languages of the ICC. A working knowledge of the other language is considered an asset. Knowledge of another official language of the Court (Arabic, Chinese, Russian, Spanish) would be considered an added advantage and asset.

## APPLICATION PROCEDURES

Applicants are requested to submit their application through the ICC eRecruitment system before the closing date of the vacancy announcement.

As part of the application process for this position, additional documents will be required in addition to the on-line application process which must be completed via the ICC eRecruitment system.

Upon completion of the on-line application through the ICC eRecruitment system, applicants will receive an email message from ICC Recruitment providing a link and instructions on how to submit the below listed documents:

1. **Curriculum Vitae (4 pages maximum, in Word format)**
2. **Summary of relevant experience (1 page maximum, in Word format)**
3. **Letters of reference from a supervisor, a peer and a supervisee (one (1) letter from each).**

Please note that items 1 and 2 above should be based solely on the information provided in the online application completed using the ICC eRecruitment system.

Please also note that items 1 and 2 above may be circulated to the Assembly of State Parties of the International Criminal Court and may be published on the Court's website. Item 3 is for the consideration of the judges only and will not be circulated further.

An application may not be considered if these additional documents are not received by the closing date of the vacancy announcement.

Should there be any assistance required, applicants may contact the ICC Recruitment team via [Recruitment@icc-cpi.int](mailto:Recruitment@icc-cpi.int)

## GENERAL INFORMATION

- Article 43, paragraph 3, of the Rome Statute requires that the Registrar shall be of "high moral character". To ensure this requirement is fulfilled, all candidates who apply to this position will be expected to undergo a thorough verification process.
- The selected candidates will be subject to a Personnel Security Clearance (PSC) process in accordance with ICC policy, as well as due diligence process. This process will include but will not be limited to verification of the information provided in the personal history form through, for instance, contact with academic institutions or previous employers, and a criminal record check. It will also include a confidential channel to allow for the confidential submission and review of any allegations of misconduct against any of the shortlisted candidates in accordance with the modalities to be established by the Bureau of the Assembly of States Parties.
- Any failure by a candidate to submit to any part of this verification process may lead to the exclusion of the candidate from the selection process.
- The selected candidates may be required to participate in public roundtable discussions with State Parties to the Rome Statute and civil society.
- In accordance with the Rome Statute, the ICC aims to achieve fair representation of women and men for all positions, representation of the principal legal systems of the world for legal positions, and equitable geographical representation for positions in the professional category.
- Applications from female candidates are particularly encouraged.
- Applicants may check the status of vacancies on ICC E-Recruitment web-site; and
- Post to be filled preferably by a national of a State Party to the ICC Statute, or of a State which has signed and is engaged in the ratification process or which is engaged in the accession process, but nationals from non-state parties may also be considered.

## **ICC Leadership Competencies**

*Purpose*

*Collaboration*

*People*

*Results*

## **ICC Core Competencies**

*Dedication to the mission and values*

*Professionalism*

*Teamwork*

*Learning and developing*

*Handling uncertain situations*

*Interaction*

*Realising objectives*

Learn more about ICC leadership and core competencies.

## **General Information**

- The selected candidate will be subject to a Personnel Security Clearance (PSC) process in accordance with ICC policy. The PSC process will include but will not be limited to, verification of the information provided in the personal history form and a criminal record check.
- Applicants may check the status of vacancies on ICC E-Recruitment web-site.
- Post to be filled preferably by a national of a State Party to the ICC Statute, or of a State which has signed and is engaged in the ratification process or which is engaged in the accession process, but nationals from non-state parties may also be considered.
- In accordance with the Rome Statute, the ICC aims to achieve fair representation of women and men for all positions, representation of the principal legal systems of the world for legal positions, and equitable geographical representation for positions in the professional category.
- Applications from female candidates are particularly encouraged.
- The Court reserves the right not to make any appointment to the vacancy, to make an appointment at a lower grade, or to make an appointment with a modified job description.

## Annexes

### Annex I

#### Report of the Credentials Committee

*Chairperson: Mr. Oscar Felipe Izquierdo (Ecuador)*

1. At its first and third plenary meetings, on 5 and 6 December 2022 respectively, the Assembly of States Parties to the Rome Statute of the International Criminal Court (“the Assembly”), in accordance with rule 25 of the Rules of Procedure of the Assembly, appointed a Credentials Committee for its twenty-first session, consisting of the following States Parties: Bangladesh, Bulgaria, Dominican Republic, Ecuador, Germany, Japan, Kenya, Norway and South Africa.
2. The Credentials Committee held two meetings, on 7 and 9 December 2022.
3. The Credentials Committee had before it a regularly updated memorandum by the Secretariat concerning the credentials of representatives of States Parties to the Rome Statute of the International Criminal Court to the twenty-first session of the Assembly of States Parties.
4. Formal credentials of representatives to the twenty-first session of the Assembly, in the form required by rule 24 of the Rules of Procedure, had been received as at 9 December 2022 from the following 69 States Parties: Albania, Andorra, Argentina, Australia, Austria, Bangladesh, Belgium, Bolivia (Plurinational State of), Bulgaria, Burkina Faso, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Jordan, Kenya, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Mexico, Mongolia, Netherlands, New Zealand, North Macedonia, Norway, Panama, Peru, Poland, Portugal, Republic of Korea, Romania, Serbia, Slovakia, Slovenia, South Africa, Spain, State of Palestine, Sweden, Switzerland, Timor-Leste, Tunisia, Uganda, 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 twenty-first session of the Assembly had been communicated to the Secretariat, as at 9 December 2022, 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: Bosnia and Herzegovina, Botswana, Brazil, Canada, Colombia, Côte d’Ivoire, Democratic Republic of the Congo, Guinea, Honduras, Japan, Malawi, Niger, Nigeria, Paraguay, Republic of Moldova, Senegal, Sierra Leone and United Republic of Tanzania.
6. On the recommendation of the Chairperson, the Committee accepted 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 without a vote:

*“The Credentials Committee,*

*Having examined the credentials of the representatives to the twenty-first 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 then proposed that the Committee recommend to the Assembly the adoption of a draft resolution (see paragraph 10 below). The proposal was adopted without a vote.
9. In the light of the foregoing, the present report is submitted to the Assembly.

**Recommendation of the Credentials Committee**

10. The Credentials Committee recommends to the Assembly the adoption of the following draft resolution:

**“Credentials of representatives to the twenty-first 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 twenty-first 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 twenty-first session of the Assembly, on 5 December 2022**

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 in 2022.

2. I wish to express my sincere gratitude for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Kateřina Sequensová (Czech Republic) and Ambassador Bob Rae (Canada), in support of the work of the Bureau and as the Coordinators of The Hague Working Group and the New York Working Group.

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

3. Since 2 February, the Bureau has held ten meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

4. The meetings of the Bureau have been held virtually and via the Zoom platform, which has allowed interpretation services in three official languages of the Assembly – English, French and Spanish. The working groups of the Bureau, facilitations and focal points met both in-person and virtually, via the WebEx or Zoom platforms, depending on the needs and requests of the respective groups, and occasionally in the mode of joint meetings between different bodies. The meetings of the Review Mechanism continued to be virtual in 2022, in keeping with its efforts to be a transparent, inclusive State Party-driven process, in which States Parties, the Court and all stakeholders can participate.

5. Pursuant to the mandates given to the Bureau by the twentieth session of the Assembly, 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 2022.<sup>1</sup> The Bureau deeply appreciates their work during 2022, as they have successfully carried out the mandates of the Assembly.

#### **B. Independent Oversight Mechanism**

6. In accordance with the mandate of the Assembly, the Independent Oversight Mechanism (IOM) submitted the “Annual report of the Head of the Independent Oversight Mechanism to the Assembly”.<sup>2</sup> In addition to its other functions, the IOM provided invaluable assistance to the design and implementation of the due diligence process approved by the Bureau for candidates for the position of Registrar. Upon completion of this due diligence process, the IOM concluded that there are no concerns regarding the high moral character of any of the ten candidates who are currently shortlisted for election as the Registrar of the Court.

7. Discussions of the recommendations of the Independent Expert Review (IER) related to the IOM will continue in 2022.<sup>3</sup>

#### **C. Working methods**

8. 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 tenth meeting, held on 2 December 2022, of a list of meetings of the Assembly and its subsidiary bodies with general membership which had been held in private in 2022.

9. In close coordination with the Secretariat, I provided, in February, the tentative schedule of Bureau meetings, which have been held, in principle, on the first Wednesday of

---

<sup>1</sup> Annex.

<sup>2</sup> ICC-ASP/21/8.

<sup>3</sup> ICC-ASP/19/24.

each month, at a time which has allowed for the participation of The Hague and New York based Bureau members.

## **D. Arrears**

10. While most States Parties paid their contributions in a timely manner, the amount of outstanding contributions increased this year. This generated an extremely serious liquidity crisis in the last trimester that threatened the capacity of the Court to fulfil its financial obligations.

11. The Bureau has considered the issue of requests for a waiver of the loss of voting rights pursuant to article 112, paragraph 8, of the Rome Statute. At its tenth session, on 2 December 2022, the Bureau decided to recommend that the Assembly grant requests for waivers at the twenty-first session on an exceptional basis, while also emphasizing the need for the States Parties concerned to engage with the Registrar of the Court on an urgent basis in order to establish a plan for payment of arrears. The Bureau also decided to revisit the issue next year, with a view to determining the way forward.

## **E. Secretariat of the Assembly**

12. 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.

13. 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.

14. The Secretariat continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 2 December, the Secretariat had received four responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute.<sup>4</sup>

15. The Secretariat has continued to carry out its outreach, information-sharing and facilitating function via the “Complementarity Platform for technical assistance”, which aims at facilitating links between States Parties requesting technical assistance and actors in a position to assist national jurisdictions in their efforts to strengthen capacity to investigate or prosecute Rome Statute crimes. Informal consultations on technical assistance took place between one State Party and the Secretariat in July 2022. The Secretariat also received two official requests for technical assistance from two States Parties.

16. Further to the year-long assessment of the Secretariat which the Bureau conducted in 2018, the Secretariat has continued to implement the measures foreseen in the respective Bureau report.<sup>5</sup>

17. Pursuant to paragraph 12 of resolution ICC-ASP/20/Res.3 concerning the review of the Court and the Rome Statute system, the Secretariat has continued to support the work of the Review Mechanism throughout 2022. This represented a considerable increase in the number and complexity of meetings. The meetings of the Review Mechanism continued to be virtual in 2022, in keeping with its efforts to be a transparent, inclusive State Party-driven process, in which States Parties, the Court and all stakeholders can participate. The Review Mechanism meetings also benefited from the availability of interpretation into the working languages of the Court, in order to ensure as broad participation as possible, except on the rare occasion where this was not possible.

18. The virtual format of the meetings continued to pose challenges for the Secretariat, including, inter alia, the scheduling of meetings across multiple time zones, the additional testing of platforms prior to meetings, and finding solutions for the provision of interpretation. The Secretariat continued to use the Zoom platform to provide English, French and Spanish remote simultaneous interpretation for the virtual meetings of the Bureau and

---

<sup>4</sup> See at: <https://asp.icc-cpi.int/sessions/plan-of-action/2022-Plan-of-Action>

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

English and French interpretation for some meetings of The Hague Working Group, with the Language Services Section of the Registry providing the interpretation teams.

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

19. The Review Mechanism continued its mandate concerning the Independent Expert Review (“IER”) recommendations and made significant progress in the assessment of the majority of the remaining recommendations in 2023. Some recommendations were scheduled for assessment in 2023 and a few had to be deferred to next year. I am pleased with the work of the Review Mechanism during 2022, as well as of the Assembly’s mandate holders. They have all contributed to significantly advancing the work of the Assembly on the IER recommendations. However, progress does not stop with assessment: the next step is implementation of those recommendations that have been positively assessed, or positively assessed with modifications. I welcome the fact that a number of recommendations have either been already implemented or are in the process of being implemented. We should bear in mind, throughout this review process, that the goal is strengthening the Court and the Rome Statute system, and ensuring their effective functioning, to hold accountable the perpetrators of atrocity crimes before the Court, and to ensure justice for the victims of these crimes.

20. The IER experts participated in the majority of the meetings and provided background and information on their thinking in relation to the respective recommendations under consideration, and their presence was always welcomed by States Parties and all participants. I am pleased that the IER Experts were able to participate and bring their valuable expertise to the Review Mechanism meetings.

## **G. Lessons learnt on the election of the Prosecutor**

21. Further to their appointment by the Bureau on 2 November 2021, the facilitators of the Lessons Learnt on the election of the Prosecutor process, H.E. Mr. Alexander Marschik, Permanent Representative of Austria to the United Nations in New York, and H.E. Ms. Ksenija Milenković, Ambassador of Serbia to The Netherlands, briefed the Bureau and its working groups on several occasions, providing updated information on their meetings and consultations with States Parties and relevant stakeholders, and on the outcome of the technical questionnaire sent to States Parties in connection with the Lessons Learnt process.

22. On 19 October 2022, the facilitators presented their report to the Bureau at its eighth meeting. Consistent with their mandate, the facilitators examined ways to strengthen the election process by conducting inclusive consultations with States Parties, NGOs, and key individuals involved in the process, aiming to present a forward-looking report which could have added value for future processes. The report reflected the consultations held, as well as the response to the questionnaire that had been sent out, and was structured around thematic issues raised during and after the election process, and further to consultations that were deemed particularly relevant, such as: the normative framework, the temporal aspect of the process, consensus-building and due diligence, which were reflected in the report as transparently and conclusively as possible, reflecting the general views. In their report, the facilitators attempted to present a non-exhaustive set of points that could be borne in mind for future election processes.

23. I express my sincere appreciation for the work of the facilitators on this process.

## **H. Election of the Registrar**

24. The Assembly is tasked with the responsibility of providing recommendations on the election of the Registrar, pursuant to article 43 of the Rome Statute and rule 12 of the Rules of Procedure and Evidence. During the 2020 process to elect the Prosecutor, States favoured having in place a mechanism to assess the high moral character of candidates, as required by the Statute. By resolution ICC-ASP/20/Res.4, the Assembly decided that States would play a greater role in the process leading up to the election of the Registrar. It therefore requested the Bureau to establish a due diligence process for candidates for Registrar in consultation with the Presidency of the Court and the Independent Oversight Mechanism, to assist in the



determination of the criterion of “high moral character” as required by the Rome Statute; and also requested the Bureau, through The Hague Working Group, to consider facilitating public roundtable discussions with the candidates on the list transmitted by the President of the Court, which would be open to States Parties and civil society and conducted in both working languages of the Court. The roundtables were held on 11 and 12 October,<sup>6</sup> and candidates had the opportunity to answer questions posed by States Parties and civil society. This was a successful exercise which I hope would prove useful for the judges in their mandate to elect the Registrar in 2023. At its 8 June meeting, the Bureau decided to benefit from the experience of the due diligence for elected officials thus far and adopted the proposal of the Assembly Presidency on the due diligence process for candidates for Registrar.

25. The Bureau has now submitted to the Assembly a recommendation addressed to the Judges concerning the election of the Registrar of the International Criminal Court for its consideration. This recommendation highlights, inter alia, the importance of assigning high priority to equitable geographical representation, gender balance and an adequate representation of the principal legal systems of the world, while emphasizing the need for preserving diversity and multilingualism, as well as recognizing rotation as a useful tool.

## **I. Due diligence process**

26. The Bureau has put forth to the Assembly a proposal for a due diligence process for the election of judges next year.

27. To this effect, and following discussions held at the Bureau and The Hague and New York working groups, a recommendation has been made that the Assembly request the Bureau to establish a due diligence process by March 2023 for candidates for judges to be elected in 2023. The terms of reference of such a process would be established by the Bureau on the basis of a proposal developed by the Independent Oversight Mechanism (IOM) in consultation with the Advisory Committee on Nomination of Judges, taking into account the experience of recent due diligence processes applied to candidates for Deputy Prosecutors and Registrar. The Bureau also recommends that the Assembly consider the request by the IOM of additional resources in the range of €30,000 to carry out the due diligence process for judges.

28. Further to the mandate of the Assembly at its twentieth session,<sup>7</sup> and based on the experience from the prior due diligence processes mentioned, and the insight garnered from the Lessons Learnt report on the election of the Prosecutor process, the Bureau will begin its work to establish a permanent due diligence process for all elected officials, with a view to reporting to the Assembly ahead of its twenty-second session in 2023.

## **J. Overview of the President’s activities**

29. In my role as President this year, I have sought to highlight the importance of the Court as a central piece of the global justice system. I have continuously communicated that, for the Court to discharge its mandate considering contemporary challenges, it is imperative to continue deploying efforts to strengthen the functioning and enhance the universality of the Rome Statute system and to increase cooperation and support for the Court.

30. To this end, I have engaged with the diplomatic community in The Hague and New York and participated in person or virtually in numerous events as keynote speaker and panellist. Throughout the year, I actively reached out to civil society organizations to bring their perspectives to the work of the Assembly and the Court.

31. Among other meetings, on 23 May 2022, I participated in the Conference on the International Criminal Court and national justice in the fight against impunity for Rome Statute crimes and other serious or related crimes held in Dakar, Senegal, as well as the 12<sup>th</sup> Consultative Assembly of Parliamentarians on the International Criminal Court and the Rule of Law (CAP-ICC) held in Buenos Aires, Argentina, on 4-5 November.

---

<sup>6</sup> <https://asp.icc-cpi.int/elections/Registrar/ER2022>

<sup>7</sup> ICC-ASP/20/Res.5, operative paragraph 81. See at: [https://asp.icc-cpi.int/sites/asp/files/asp\\_docs/ASP20/ICC-ASP-20-Res5-AV-ENG.pdf](https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP20/ICC-ASP-20-Res5-AV-ENG.pdf)

32. I have also taken the opportunity to engage with other international organizations to discuss the main priorities of the Assembly of States Parties, including the strengthening of the Rome Statute system and achieving universal accession to the Rome Statute. On 5 July 2022, I met with the Secretary-General of the United Nations, Mr. António Guterres, during which we discussed, in addition to the priorities of the Assembly, the continued engagement and cooperation with the United Nations.

33. In the context of the twentieth anniversary of the entry into force of the Rome Statute and the establishment of the International Criminal Court, I continuously underscored the global reach of the Court during my interventions at the “International Criminal Court at 20: Reflections on the Past, Present and Future” conference hosted by the Court in The Hague on 1 July 2022 and the “International Criminal Court at 20: Reflections on the Past and vision for the future” event hosted by the Permanent Missions of Argentina, Canada, Liechtenstein, the Republic of Korea, Romania and Sierra Leone to the United Nations in New York on 11 July 2022.

34. While the twentieth anniversary of the entry into force of the Rome Statute was an opportunity for reflection on its work and achievements, the upcoming twenty-fifth anniversary of the adoption of the Rome Statute will provide us with the opportunity to look ahead to the future of the Court and the Rome Statute system. For the commemoration of this auspicious milestone, the Bureau approved a concept note proposed by the Presidency for the Assembly to organize a commemoration process, which would start in New York at the beginning of July 2023. The process would include a treaty ceremony to encourage the ratification of the Rome Statute and its amendments, as well as the signature of voluntary cooperation agreements and a discussion of the strategic vision for the next ten years of the Court, as recommended by Recommendation 363 of the IER. I encourage States Parties and relevant actors to engage and promote these events, as well as to organize their own commemorations at the national, regional, and international levels.

35. In July 2022, the Bureau of the Assembly adopted a mechanism to implement Recommendation 169 of the IER. This mechanism reaffirms the shared responsibility of the Court and States Parties to promote and protect the goals and the work of the Court. It underlines that the Presidency bears the main responsibility for coordinating an appropriate response to any threat or attack against the Court, its officials and those cooperating with it, which has the potential to undermine the integrity, effectiveness or impartiality of the Court. When the Presidency considers, in consultation with the Court, that there is such a threat or attack, it shall take steps to ensure an immediate response, including issuing a statement. Where necessary, the Presidency, in consultation with States Parties, the Court and those cooperating with it, as appropriate, shall propose additional measures to be adopted by the Bureau. These measures adopted by the Bureau, in consultation with State Parties, shall be without prejudice to any initiative undertaken by other stakeholders. The Secretariat has prepared a compilation of potential measures to be taken on the basis of submissions made by States Parties and civil society to be added to the mechanism. As indicated by the Independent Experts and as recognized in the compilation, pre-emptively conducting public activities is extremely important to inform relevant stakeholders and the public about the Court and to promote its work.

36. I have constantly underlined the crucial role played by Trust Fund for Victims in bringing restorative justice to victims. From 13 to 17 September 2022, I travelled to Uganda together with several State representatives in a joint mission organized by the Embassy of Ireland to The Netherlands and the Trust Fund for Victims. This important initiative of Ireland, for which I am grateful, gave us the opportunity to assess the positive impact of the work of the Trust Fund on the lives of victims and communities affected by crimes within the jurisdiction of the Court.

37. I have also emphasized on multiple occasions the importance of supporting the Trust Fund for Victims and wish to express my appreciation to States that provide financial contributions to their activities.

## Annex

### List of facilitators and focal points of Bureau working groups

#### New York Working Group

##### Facilitators

##### *Arrears*<sup>8</sup>

H.E. Mr. Rodrigo A. Carazo (Costa Rica)

H.E. Ms. Maritza Chan Valverde (Costa Rica)

##### *Geographical representation and gender balance in the recruitment of staff of the Court*

Mr. Taeun Choi (Republic of Korea)

##### *Omnibus resolution*

Ms. Virpi Laukkanen (Finland)

##### *Review of the procedure for the nomination and election of judges*

Mr. Matúš Košuth (Slovak Republic)

##### Ad country focal points

##### *Non-cooperation*

Argentina<sup>9</sup>

Côte d'Ivoire

Ireland

Romania

Timor-Leste

##### Focal point of the Bureau

##### *Scheduling of Assembly sessions*<sup>10</sup>

Ms. Maitê de Souza Schmitz (Brazil)

Mr. Vinícius Fox Drummond Cançado Trindade (Brazil)

##### Subsidiary body of the Assembly

##### *Working Group on Amendments*

H.E. Mr. Juan Manuel Gómez Robledo Verduzco

#### The Hague Working Group

##### Facilitators

##### *Budget*

H.E. Ms. Frances-Galatia Lanitou Williams (Cyprus)

##### *Sub-topic of the budget facilitation: Budget management oversight*

H.E. Mr. William Roelants de Stappers (Belgium)

##### *Sub-topic of the budget facilitation: Premises*

Ms. Marija Stajić Radivojša (Serbia)

<sup>8</sup> At the conclusion of the posting of the first facilitator, a subsequent facilitator was appointed.

<sup>9</sup> "16. In order to assist the President in his or her good offices, the Bureau would appoint four, or, if so requested by the President of the Assembly, five focal points from among States Parties, on the basis of equitable geographic representation." Assembly procedures relating to non-cooperation, annex, section D, 2 (a) Regional focal points for cooperation, as amended by resolution ICC-ASP/11/Res.8, annex I.

<sup>10</sup> At the conclusion of the posting of the first facilitator, a subsequent facilitator was appointed.

*Cooperation*<sup>11</sup>

H.E. Mr. Luis Vassy (France)  
H.E. Mr. François Alabrune (France)  
H.E. Mr. Momar Gueye (Senegal)

*Legal aid*

H.E. Ms. Carmen María Gallardo (El Salvador)

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

Mr. Christian Nygård Nissen (Denmark)

*Ad country focal points**Complementarity*

Australia  
Uganda

*Plan of action for achieving universality and full implementation of the Rome Statute*

Netherlands  
Republic of Korea

*Subsidiary body of the Assembly**Study Group on Governance*

Co-chairpersons  
H.E. Mr. Arnoldo Brenes Castro (Costa Rica)  
H.E. Mr. Heinz Walker-Nederkoorn (Switzerland)

## Co-focal points

Mr. Jan Christoph Nemitz (Germany)  
Ms. Mio Takanashi (Japan)  
Mr. Cornelius Scholtz (South Africa)

---

<sup>11</sup> At the conclusion of the posting of the co-facilitator for France, a subsequent co-facilitator from France was appointed.

## Annex III

### Statement of the Chair of the Committee on Budget and Finance to the Assembly at the 5th plenary meeting of the twenty-first session of the Assembly, on 7 December 2022

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-eighth, thirty-eighth resumed and thirty-ninth sessions of the Committee on Budget and Finance (“the Committee/CBF”).

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 during 2022, and to the representatives of the Court for their availability and cooperation. I also extend my thanks and appreciation to the Executive Secretary to the CBF and his team for their quality and outstanding support, which is essential for the fulfilment of the Committee’s mandate.

3. Let me start with some of the challenges the Court will be facing in 2023.

#### A. Challenges the Court will face in 2023

4. The Committee observed with great concern that outstanding status for the payment of contributions and, consequently, the outlook for the liquidity of the Court, had significantly worsened. As of 30 November 2022, a grand total of €40.9 million in contributions was outstanding, out of which €31.2 million from prior years and 12 States Parties with combined arrears of €14.0 million would not be able to vote in accordance with article 112 of the Rome Statute.

5. As far as the liquidity situation is concerned, the Committee noted that by the end of the financial year 2021, a liquidity shortfall of about €9.9 million<sup>1</sup> had only been averted because some States Parties had been prepared to pay their contribution for the fiscal year 2022 in advance in December 2021. Commendable as these early payments by some States Parties are, they have potentially exacerbated the liquidity situation in the fiscal year 2022. As for 2022 fiscal year, the Court received, again, from some States Parties, cash in advance of their 2023 assessed contributions, which resulted in not depleting the entire Working Capital Fund (“WCF”). Over the years many recommendations had been made to improve the financial situation of the Court, by the External Auditors, by this Committee and also by the Independent Experts. All these recommendations had not had the desired effect. The Committee urged States Parties to pay their contributions, immediately after receiving the *Note Verbale* from the Court at the beginning of the year.

6. In the context of the ongoing challenging liquidity situation the Committee was concerned that with the expected significant increase in activities that the current level of the precautionary reserves would not be sufficient to ensure the adequate functioning of the Court. A replenishment of the Contingency Fund (“CF”) up to its notional level of €7.0 million, as recommended by the Committee at its May session, and the approval and replenishment of the level of the WCF at one twelfth (1/12) of the previous year’s approved budget appropriation would be necessary. In light of an expected nearly 100 per cent implementation rate of the 2022 approved budget, the replenishment of the CF by the unused amount of this year’s budget may for the first time not be possible.

7. A further challenge will be the longer term impact of significant increases of the budget.

8. Most of new staff requested are GTA positions, which will be, if approved, only funded partially in 2023 for a range between three and nine months and will highly likely have to be fully funded for 2024 and beyond.

9. A significant increase in staff raises also a challenge for the Court since it requires the capacity to recruit in a timely manner an appropriate workforce. As pointed out in the Court’s last report the additional voluntary fund could also lead to asymmetrical growth across the organs and could result in an increased requirement of resources. The injection of voluntary

---

<sup>1</sup> As reported by the Court in January 2022.

contributions creates additional pressure on the ordinary budget for the main organs of the Court.

10. The new posture of the Court introduced by the Prosecutor with more extended reliance on digitalisation and data science will – accelerated by the extra budgetary resources from the OTP-Trust Fund and as a response to rapidly evolving technological environment – have an impact on the Court’s operation. Those necessary changes will lead to resource demands increases and coordination challenges across the Court with financial implications for future budgets.

11. A longer term challenge will also be the upkeep of the premises and the capital replacement. On the basis of a new fully impartial evaluation of a medium and long-term plan of capital replacement – as advised by the pro-bono expert – a decision has been made at the HWG facilitation on Premises to hire an independent consultant to conduct an external evaluation. All solutions have in common that they require commitment to a reliable long-term funding from States Parties.

12. A final challenge may be the evolution of the inflation in the coming years. Further increases in the UN Common System cannot be excluded. The Court has managed to limit the inflationary impact on non-staff costs but expects prices to be significantly higher in 2024.

## **B. Human Resources**

13. The Committee considered the proposed changes to the Financial Regulations and Rules on inter-organ mobility, especially on temporary assignment of staff members across organs and noted that this would both encourage internal workforce mobility and enable the Court to allocate resources to its highest priority areas and should further enhance the learning and development opportunities to staff during their career in the Court. Therefore, the Committee recommended the Assembly of States Parties (“the Assembly”) to approve the amendments.

14. The Court’s initiative on the National Professional Officer (“NPO”) category was welcomed by the Committee and it recommended that the Court develop clear guidelines – such as on the temporary nature of NPO, the conversion of vacant posts to NPO’s, and concerning the heads of country offices. The Committee wished to be informed on the developed guidelines.

15. The Committee recognised the advantages provided by the United Nations Voluntary Programme (“UNV”), and recommended that the Court report, at its forty-first session in May 2023, on how it will be used as part of the Human Resources force, and whether amendments to the Staff Regulations and Rules will be required.

16. The Committee analysed the tenure policy, which had been assessed positively by the Review Mechanism. The Committee recognized some advantages of a tenure policy, such as the introduction of fresh thinking, an objective pointed out in R105. However, it noted important challenges, which would deserve careful examination such as effects on productivity, financial implications, and the legal risks due to unequal treatment between current and newly appointed staff in the area of pension and After Service Health Insurance (organizations consulted by the Court have followed the tenure policy since inception).

## **C. OTP Trust Fund and secondment of personnel**

17. Now, I would like to refer to the OTP Trust Fund and the secondment of personnel, which have been intensely discussed with the Court.

18. As informed by the Court, the total amount received for the Trust Fund is €6.3 million, excluding the EU grant<sup>2</sup> of €7.25 million to enhance the technological tools used by the Office in collection, processing, and storage of evidence.

19. The Trust Fund was established by the Registrar according to Article 116 of the Rome Statute and Regulations 7.2 to 7.4 of the Financial Regulations and Rules (“FRR”), which govern voluntary contributions in the Court. Resolution ICC-ASP/1/Res.11 delegates to the Registrar the evaluation that offered contributions do not affect the independence of the Court and fulfill the criteria established by the Assembly. The Court came to the conclusion that

<sup>2</sup> Budget facilitation 2022, Consolidated list of queries with answers from the Court - Set 6, 9 November 2022.

the donations to the OTP Trust Fund are consistent with the nature and function of the Court and do not involve additional liabilities to the Court. According to the rules, the voluntary contributions will be subject to the Court's regulatory framework and the accounting principles, as well as subject to auditing by the external auditors.

20. A total of 74 national experts from judicial, law, military and law enforcement agencies were committed by some States Parties on a secondment basis for all situations. A proper integration of seconded personnel in the various teams of the OTP is essential. The OTP and the Registry developed, in close cooperation, standard procedures for the selection and on-boarding of these seconded national experts, building on existing precedents. Secondees report to the Head of their respective team. They are required to sign an Oath of Office and a Confidential undertaking where they commit to avoid any action, which may reflect adversely on their status as members of the teams of the OTP, or the integrity, independence and impartiality required by their status. Their salaries and entitlements are funded by the lending agency, the costs of deployment while deployed to a unified team will be covered by the OTP.

21. The relationship between extra-budgetary and regular budget funds has been carefully considered by the Committee. The contributions are seen as complementary and supplementary to the core resources requested in the 2023 proposed programme budget ("PPB"); they do, however, have an impact on the overall budget.

22. The Committee requested the Court to update it on the OTP Trust Fund Spending Plan and the secondment of personnel at its forty-first session in May 2023.

#### **D. Consideration of the 2023 proposed programme budget**

23. The Court requested a PPB of €186.8 million, including the host State loan. The 2023 PPB represented an increase of 20.6 per cent (or €32 million) against the total approved budget for 2022 of €154.3 million.

24. After carefully reviewing the 2023 PPB and the justifications provided, the Committee concluded that total reductions could be achieved in the amount of €7.2 million. This represents an adjusted total increase of €24.7 million (or 16.0 per cent) compared to the 2022 approved budget including the host State loan. Therefore, the Committee recommended that the Assembly approve a budget of €179,576.6 thousand including the instalments for the host State loan.

25. Given the substantial unavoidable cost factors due to the inflationary pressures for non-staff costs and the UN Common System adjustment totalling €13.4 million, the substantial reductions recommended by the CBF resulted in a real increase of €11.3 million (or 7.3 per cent).

26. The Committee considered that, in spite of these substantive reductions, the operations of the Court will not be negatively impacted.

## Annex IV

### **Statements concerning the adoption of the budget resolution at the 9th plenary meeting of the twenty-first session of the Assembly, on 9 December 2022**

#### **A. Statement by the Netherlands after adoption**

1. It is my honor to deliver this statement on behalf of Austria, Belgium, Denmark, Estonia, Finland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, New Zealand, Norway, Slovakia, Slovenia, South Africa, State of Palestine, Sweden, Switzerland, and my own country the Netherlands.<sup>1</sup>
2. Today, on the last day of the 21st session of the Assembly of States Parties, we have adopted the budget of the International Criminal Court for 2023.
3. While deliberations on the budget have been long, the active engagement of many States Parties spoke to the importance that we all attach to this process. We express our sincere gratitude to the budget facilitator, Ambassador Lanitou Williams, for her excellent leadership and guidance during the negotiations. We also highly appreciate the Court's work and engagement in the process.
4. The budget negotiations were marked by two coinciding factors. On one hand, the workload of the ICC has reached a record high, with several simultaneous judicial proceedings and new investigations. On the other hand, we cannot ignore the aftermath of the Covid-19 pandemic, and the economic difficulties faced by many in this room. Soaring inflation is concerning for the Court and States Parties alike.
5. Against this backdrop, we must congratulate ourselves for adopting the budget by consensus today. We thank all delegations for the flexibility they showed during the negotiations.
6. Throughout the budget discussions, our guiding principle was to guarantee that the Court has adequate resources to deliver justice. This year, it mainly translated into the need to enable the conduct of three parallel trials as well as to accommodate the OTP increased workload.
7. We have together established the Committee on Budget and Finance as the technical body responsible for assessing the Court's budget proposals. We have full trust in their work, and take the CBF recommendations as our well-justified guidance.
8. Our countries regret that the approved budget does not entirely meet the needs of the Court. We remain concerned about the likely impact of this in future years. In particular, the budget allocated for the Office of the Prosecutor does not address the increased workload, nor the expectations placed on the Office today. While many of our countries have provided the ICC with voluntary financial support or gratis personnel, we are concerned that the budget adopted today will lead to further calls for voluntary support to perform its statutory functions. This exceptional support was always intended to complement the regular budget, not to replace or to substitute it.
9. The ICC has been struggling with severe liquidity issues over the past few years. Our countries are concerned that the budget adopted today, and our failure to agree on replenishment of the Contingency Fund, will limit the Court's flexibility to respond to new and unexpected demands.
10. Nevertheless, we welcome the consensus achieved, and look forward to continue working together in support of the Court's mandate.

---

<sup>1</sup> The United Kingdom of Great Britain and Northern Ireland aligned itself with the statement after its delivery.



## **B. Statement by Kenya after adoption**

1. This statement is conveyed from the African Group of States Parties to the Rome Statute consisting of Benin, Botswana, Burkina Faso, Cabo Verde, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Djibouti, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Namibia, Niger, Nigeria, Senegal, Seychelles, Sierra Leone, South Africa, Tunisia, Uganda, United Republic of Tanzania and Zambia.
2. The African Group wishes to sincerely thank the facilitator for the budget negotiations, Ambassador Lanitou Williams from Cyprus, for her excellent work guiding States Parties towards an agreement on the budget. The budget negotiation is a difficult process in any year; and this year, being an exceptional year, the process was particularly difficult. We are grateful for Ambassador Lanitou Williams's skill and courage in facilitating the discussion.
3. The figure of 12.2 per cent proposed as a compromise solution represents a very high increase from the current budget. Not only is it almost three times the increase we agreed a year ago, but it is also much higher than the increases that are possible on a domestic level in budgets for public institutions in our respective countries, which in recent years typically have a zero nominal increase, or at most only pay for the rate of inflation.
4. However, the African Group joined consensus around this figure given the increased workload of the Court that results from the mandate that we as States Parties have given it and in order to ensure that the capacity of the Court is safeguarded.
5. The African Group joined consensus on the understanding, which needs to be very clear, that this year and this budget are exceptional. The African Group, as well as many other States Parties, are taking a significant stride in agreeing to this budget increase. The Court and our partners should keep in mind that the additional financial resources that we are committing to the International Criminal Court are resources that will not be available to apply to other urgent priorities in our countries. We will likely not be able to make the same commitment in our next budget discussion in 2023.

### C. Statement by Mexico after adoption

1. I have the honour of speaking on behalf of the Latin American and Caribbean group concerning the adoption of the budget by the ICC for 2023. First of all, I would like to congratulate you Madam Ambassador for the excellent work that you have carried out to facilitate the adoption of this budget. From the draft resolution we thought that the difficult situations that our countries were facing would make these negotiations more complex. Given all these reasons we hoped, as the Latin American and Caribbean group, to contribute to a balance between the needs of the Court and the States' real capacities and everyone has made great efforts. It's important for the countries that are members to the Rome Statute to take into account the different realities in the States.

2. We firmly reject any narrative that political support to the Court is directly linked to the financial capacities to contribute to its work. We agree that maintaining operations of the Court is essential when discussing the budget. However, we must give great importance to the capacities of the States to meet their financial obligations. The Latin American and Caribbean group has decided to keep a flexible position throughout the negotiations so that we can reach a consensus about the figures that takes into account the needs of the Court and the capacities of the States.

3. Most countries have advocated for zero nominal increase in the budget, and we considered that this is exceptional, to increase the budget by 12.2 percent. This puts great pressure on our public finances, and we will have to make great efforts. Our delegations have accepted to make these efforts in our support to the ICC. We believe that this will help maintain the operations of the Court even if it eventually hinders the capacity of our States to punctually meet these obligations.

4. However, the impact of this budget will may affect the current liquidity crisis and that is why we have to make sure that this is an extraordinary measure, and it does not create a precedent and it cannot open the way for future increases of this magnitude. We hope that this will continue to optimise the mechanisms for the productivity of the Court and contained costs so that we are not faced with similar situations in the future. We may be in a situation where certain countries may not be able to meet their financial obligations in 2023 which may lead to further cash flow problems within the Court. We have made an extra effort to support the Court and we hope that the Court will take this into account to make sure there is an equal geographic representation of the Latin American and Caribbean group in its organs and an adequate representation of the different legal systems of the world in the future.

## **D. Statement by Bangladesh after adoption**

1. This is truly a moment of collective celebration, for all of us. My delegation would warmly applaud our Coordinator, Ambassador Frances-Galatia Lanitou Williams, for her perseverance and leadership in steering us to the goalpost. It surely was not easy: delegations coming from diverse realities had to confront dilemmas and difficult choices, especially those from the developing world. While Bangladesh had been flexible, as we said on Wednesday, we do value and respect everyone's position.

2. As we heard from some delegations, and also the Office of the Prosecutor, we could not satisfy their expectations. But, we remain united in diversity – in the fact that at the end, we concur in our common purpose of reaffirming the importance of the International Criminal Court in the global justice and accountability system, the centrality of the Committee of Budget and Finance in its objective works, and that the Court has to be provided with predictable resources as a matter of principle.

That is where Bangladesh recognizes the value of several elements that I heard from the collective statement delivered by the Netherlands delegation a while ago.

These led the Bangladesh delegation to be receptive to various proposals not driven by any dollar figure. And my delegation shares similar sentiments from many from Asia, on an objective score.

3. Bangladesh would sincerely hope that with all agreed and settled unanimously, all States Parties will meet our collective commitment, in time, and next year, the Court does not have to struggle over a liquidity crisis as it does currently. Finally, our warm felicitations to everyone involved in this tedious process – delegations and also the Office of the Prosecutor – for the flexibility and understanding demonstrated.

## **E. Statement by Denmark after adoption**

1. First and foremost, let me express our deepest appreciation to Madame facilitator for her ability to lead us through these negotiations. It has been challenging at times, but your steady hand on the tiller has been instrumental in reaching a consensus. As such, I want to express our support for the consensus achieved while acknowledging that, although the figure might not be the ideal figure for any of the State Parties, even if for different reasons, I want to commend the colleagues in the room, for their effort in finding a compromise figure that, on the one hand takes into account the needs of the Court, and on the other hand reflects the macroeconomic challenges that we are all facing in these difficult times.

## **F. Statement by France after adoption**

1. I will be speaking on behalf of my country. I would like to thank all the delegations for your spirit of compromise. You have made great efforts despite the constraints that many of you are facing. Thank you each and every one of you for your commitment which was decisive and we are convinced of that. France is extremely grateful to Ambassador Williams for her efforts towards the negotiations.
2. I would just like to share some brief considerations with you. The current issues and challenges that we are facing require that we as States Parties increase our mobilisation. I would even go as far as to say that we need to listen to each other much more than we have been doing. This week once again we have shown that we are collectively and resolutely supporting the International Criminal Court and what it represents for the need of universal justice for victims.
3. I will be paraphrasing my Minister who said this during the general debate “at the age of twenty this court is still a young institution that requires all of our support as the only international criminal jurisdiction with a universal vocation.” Universal vocation, that is the shared vision that we have, the spirit in which we found the strength that gives the Court its legitimacy. We must protect this spirit and translate it into everything we do with all the respect that it deserves.
4. I would like to conclude by thanking Charlotte, and the delegation whose work was greatly appreciated during this negotiation and alongside Ambassador Lanitou Williams we were able to reach this final decision which is beneficial to everyone. We fully support the proposal that was put to all of us and once again I would like to thank all the delegations for this compromise and I wish you all the best for the future.

## **G. Statement by Poland after adoption**

1. Let me start, Madam President, by commending the budget facilitator, Madam Ambassador Frances-Galatia Lanitou Williams from Cyprus, for her tremendous work, relentless efforts and incredible patience in the budget negotiations this year.
2. We all know that a compromise is an agreement that involves mutual concessions, but a good compromise is the fairest solution which can be reached under the existing circumstances. We think that we reached a fair but difficult compromise. A compromise which for the Court means that it will be able to maintain its pace of work, and hopefully, probably with great effort, especially on the OTP's end, increase it, but at the same time this compromise takes into account the capacity of States Parties to fulfil their responsibilities towards the Court.
3. A good compromise also means that all parties involved are equally unhappy with the result. We understand that the budget we agreed to adopt is not ideal, certainly not ideal for the Court, but at least we can be satisfied, because we reached this compromise despite our differences, united for a common goal – to cooperate with and support the Court so that justice is done.

## **H. Statement by the State of Palestine after adoption**

1. We welcome the adoption of the resolution and we thank the facilitator for her leadership as well as the Committee for the central work to the Court. We also commend the States Parties for acting responsibly and joining consensus on the resolution. We regret that the approved budget does not meet the needs of the Court and we remain concerned that the limited budget limits victims' access to justice.

2. We reiterate the importance of increasing the regular budget of the Court and equitable allocation of resources. We are concerned about the lack of equitable allocation of resources across all situations which is necessary to ensure that investigations are expedient and effective. This is especially true where crimes are ongoing, and impunity is protracted. We are also worried about the reliance on voluntary contributions and warn that the budget and equitable allocation or lack thereof could either reinforce selectivity or advance universality of the Rome Statute.

## Annex V

### **Statements concerning the adoption of the omnibus resolution at the 9th plenary meeting of the twenty-first session of the Assembly, on 9 December 2022**

#### **A. Statement by the Netherlands after adoption**

1. The Netherlands welcomes the adoption of the omnibus resolution. In the spirit of compromise and consensus we have shown flexibility throughout the process of negotiations and in line with this flexibility we support the text in front of us today. The Netherlands would like to make two comments with regard to paragraphs in the omnibus resolutions. With these comments, we intend to clarify our understanding of two paragraphs.

2. On paragraph 89, although we support the language that requests the Court to consider interim measures, within existing resources in the legal aid budget, to the benefit of members of defence and victims' teams, it is important to clarify that this will not affect the legal framework relating to privileges and immunities. We note that if the States Parties wish to make changes to the privileges and immunities applicable to external counsel and persons assisting defence counsel, this will require a change to the relevant provisions of the multilateral and bilateral legal framework.

3. Secondly, regarding paragraph 153, we would like to emphasize the important and invaluable role the Committee on Budget and Finance – with its independent members – has in budgetary procedures of the Court. Although the Committee on Budget and Finance is indeed institutionally a subsidiary organ of the Assembly, this in no way diminishes the independence of its members, or the importance of its work.



## **B. Statement by the State of Palestine after adoption**

1. We welcome the adoption of the resolution, and we welcome the facilitator for her leadership. The State of Palestine is clear in its firm position on the importance of protecting the Court, its personnel, and those cooperating with it. We have been working closely with all States Parties to ensure that there is an adequate language in the omnibus resolution to describe the gravity and urgency of the ongoing attacks and threats against the Court and those cooperating with it, including civil society and human rights defenders.

2. This year the State of Palestine also worked with States Parties in the inclusion of the preamble paragraph 1 *bis* on affirming that the crime of genocide, crimes against humanity, war crimes and the crime of aggression, must not go unpunished. We reiterate that the jurisdictional regime for the crime of aggression should be aligned with all three other crimes. Stemming from our concerns and that of States Parties, the State of Palestine, joined other States in forming and formulating one *bis* in the omnibus resolution on the consistent implementation of the Court's mandate across all situations and cases under its jurisdiction. The State of Palestine remains committed to the Court, its personnel and those cooperating with it and remains committed to a budget that ensures all victims have access to justice.

## Annex IX

### List of documents

<i>Document symbol</i>	<i>Title</i>
ICC-ASP/21/1	Provisional agenda
ICC-ASP/21/1/Add.1	Annotated list of items included in the provisional agenda
ICC-ASP/21/2	Election of the Registrar of the International Criminal Court
ICC-ASP/21/3	Performance audit report on temporary personnel 2022
ICC-ASP/21/4	Report of the Advisory Committee on Nominations of Judges on the work of its eighth session
ICC-ASP/21/5	Report of the Committee on Budget and Finance on the work of its thirty-eighth session
ICC-ASP/21/5/Add.1	Report of the Committee on Budget and Finance on the work of its thirty-eighth resumed session
ICC-ASP/21/6	Report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council
ICC-ASP/21/7	Report on Human Resources Management
ICC-ASP/21/8	Annual report of the Head of the Independent Oversight Mechanism
ICC-ASP/21/9	Report on the Activities of the International Criminal Court
ICC-ASP/21/10	Proposed Programme Budget for 2023 of the International Criminal Court
ICC-ASP/21/10/Corr.1	Proposed Programme Budget for 2023 of the International Criminal Court – Corrigendum
ICC-ASP/21/10/Add.1	Proposed Programme Budget for 2023 of the International Criminal Court – Addendum
ICC-ASP/21/11	Report on activities and programme performance of the International Criminal Court for the year 2021
ICC-ASP/21/12	Financial statements of the International Criminal Court for the year ended 31 December 2021
ICC-ASP/21/13	Financial statements of the Trust Fund for Victims for the year ended 31 December 2021
ICC-ASP/21/14	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 2020 to 30 June 2021
ICC-ASP/21/15	Report of the Committee on Budget and Finance on the work of its thirty-ninth session
ICC-ASP/21/16	Report by the facilitators on the third election of the Prosecutor of the ICC – Lessons learnt
ICC-ASP/21/17	Report of the Judicial Remuneration Panel
ICC-ASP/21/18	Report of the Bureau on the Study Group on Governance
ICC-ASP/21/19	Report of the Bureau on complementarity
ICC-ASP/21/21	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/21/22	Report of the Working Group on Amendments
ICC-ASP/21/23	Report on the constitution and activities of the International Criminal Court Bar Association (“ICCBA”)
ICC-ASP/21/24	Report of the Court on cooperation
ICC-ASP/21/25	Report of the Bureau on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism
ICC-ASP/21/26	Report of the Bureau on Legal Aid
ICC-ASP/21/27	Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court
ICC-ASP/21/28	Report of the Bureau on the scheduling of Assembly sessions
ICC-ASP/21/29	Report to the Bureau on the review of the procedure for the nomination and election of judges
ICC-ASP/21/30	Report of the Bureau on the Budget sub-topics of Budget Management Oversight and Premises
ICC-ASP/21/31	Election of members of the Committee on Budget and Finance

---

<i>Document symbol</i>	<i>Title</i>
ICC-ASP/21/32	Report of the Bureau on the arrears of States Parties
ICC-ASP/21/33	Report of the Bureau on non-cooperation
ICC-ASP/21/34	Report of the Review Mechanism submitted pursuant to ICC-ASP/20/Res.3, paragraph 11
ICC-ASP/21/35	Report of the Bureau on cooperation
ICC-ASP/21/36/Rev.1	Recommendation concerning the election of the Registrar of the International Criminal Court
ICC-ASP/21/INF.2/Rev.1	Proposed Programme Budget for 2023 of the International Criminal Court - Executive Summary
ICC-ASP/21/WGPB/1	Report of the Working Group on the 2023 proposed programme budget of the International Criminal Court

---