



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Tenth meeting**

**1 November 2023**

*(via remote link)*

Agenda and decisions

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

**1. Bureau for the twenty-third to twenty-fifth sessions of the Assembly**

*a) President for the twenty-third to twenty-fifth sessions of the Assembly*

The Bureau decided to recommend, on the basis of the nomination of the Western Europe and other States group, that the Assembly elect Ambassador Päivi Kaukoranta (Finland) as President of the Assembly of States Parties to the Rome Statute of the International Criminal Court for the twenty-third to twenty-fifth sessions of the Assembly.

*b) Other members of the Bureau*

The Bureau decided to recommend, on the basis of the nominations by the Western Europe and other States group, that the Assembly elect Belgium, Finland, Italy, New Zealand and Switzerland as members of the Bureau for the twenty-third to twenty-fifth sessions of the Assembly.

The President encouraged the other regional groups to make every effort to identify the members of the future Bureau and to inform the Secretariat as soon as possible.

**2. Recruitment of the Head of the IOM: update**

The President recalled that, on 24 August 2023, the Bureau had adopted the vacancy announcement for the recruitment of the next Head of the IOM, and decided on the broad outlines of the recruitment process. Subsequent informal consultations led by the facilitator on the Head of the IOM contract extension and recruitment modalities, Mr. Edward Haxton (United Kingdom of Great Britain and Northern Ireland), had resulted in the adoption of a decision on the Terms of Reference and criteria for the recruitment panel for the Head of the IOM on 31 October 2023 (see annex I). The President noted the comments submitted by the GRULAC Bureau members on the Terms of Reference, which had been circulated to the Bureau on 31 October 2023 (see annex II).

The facilitator thanked all Bureau members for their constructive engagement. He informed the Bureau that the Registry had been informed and would be writing to international organizations which might be able to furnish experts for the recruitment panel in order to provide the list of ten possible

experts to the Bureau as soon as possible, so that the Bureau could proceed to appoint the panel members. The President congratulated the facilitator and all Bureau members for their efforts.

### **3. Composition of the Committee on Budget and Finance: update**

The facilitator on the composition of the Committee on Budget and Finance, Ms. Shahanara Monica (Bangladesh), informed the Bureau that since her previous briefing to the 4 October meeting of the Bureau, she had the opportunity to meet with delegations in New York and interested delegations in The Hague to further discuss the options presented in the non-paper circulated on 29 September, with the objective of obtaining their on a preferred option.

Further to her discussions with representatives of all regional groups, she indicated that while some had shared their preferred option, most had requested additional time for consideration, and others had indicated coordination within their regional group, reflecting a common position. She was also consulting individual delegations where members of a certain group did not share the same position.

The views received so far indicated sharp divisions on the preferred option for the allocation of seats in the Committee on Budget and Finance, not only among regional groups, but also among members of the same regional group. She noted that it was too early to draw a conclusion on the process since several delegations had yet to convey their preference. She would continue consultations aimed at achieving a general agreement on one of the options presented in the non-paper, to be presented to the Bureau for its further consideration and recommendation to the Assembly during its upcoming session in New York.

A Bureau member recalled its position expressed during the previous Bureau meeting on the criterion established for the election of members to the Committee on Budget and Finance. A view was expressed that there had been an understanding that discussions on this matter should have concluded in June 2023, and the hope was expressed that these discussions would conclude before the upcoming session of the Assembly. In addition, it was suggested that a joint meeting of the New York and The Hague working groups would be beneficial. In that regard, another view was expressed that a joint virtual meeting might not be conducive to reaching an agreement and it was stated that reaching an agreement on the composition of the Committee on Budget and Finance would take goodwill and engagement of the interested parties.

The facilitator recalled that delegations had decided to continue discussions on the composition of the Committee on Budget and Finance beyond June 2023, following the recognition during consultations that the outcome of the facilitation would not have an impact on the elections to be held in December 2023, since the period for nominations to the Committee on Budget and Finance had concluded on 27 August 2023. The facilitator was amenable to a joint meeting, and further indicated that, during her consultations, she had informed delegations of the positions of the different regional groups, which had expressed that colleagues both in New York and in The Hague had been consulted on the matter before reaching a position.

The President recalled that the issue had not been solved in 20 years, called for continued cooperation in spite of the deep divisions, and encouraged the facilitator to continue consultations, bearing in mind the Assembly's request to 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."<sup>1</sup>

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

#### **4. Recruitment of the Director of the Secretariat of the Assembly: Consideration of modalities of recruitment**

The President recalled that the vacancy announcement for the position of Director of the Secretariat of the Assembly had been adopted by the Bureau on 3 October 2023, and had been posted on the website of the Court with a deadline of 15 December 2023. The vacancy announcement had also been circulated to all States Parties on 25 October 2023. As regards recruitment modalities, in light of the view expressed at the Bureau meeting on 4 October 2023 that the Bureau should not replicate the previous process, the President sought views on whether the modalities adopted for the recruitment of the Head of the IOM could be applied *mutatis mutandis* to the recruitment of the Director of the Secretariat. She noted that the expertise of the prospective experts for the recruitment panel would need to be adjusted; it might be more appropriate to have experts in, for example, diplomacy, international relations, international law and conference servicing.

A view was expressed that diplomatic representatives would be better placed to undertake the recruitment, given the role of the Secretariat was to assist and support the work of States Parties. On the other hand, a view was expressed that it would be advisable to have an external panel for the recruitment, in order to keep some element of distance from the position. Another view was expressed that diplomatic representatives should not necessarily be excluded from the panel, but could perhaps be joined by external experts, to provide an element of neutrality and avoid politicization.

The President indicated that she would prepare a draft proposal, based on the decision adopted for the IOM recruitment, and taking into account the views expressed, for further consideration by the Bureau at its next meeting.

Some Bureau members raised a concern about the potential for a gap in the position of Director and suggested that measures be taken to address this situation. The President informed the Bureau that she was considering ways to avoid such a situation in consultation with the Director of the Secretariat, the Registrar and the nominee as the future President of the Assembly. She would provide an update to the Bureau as soon as possible.

#### **5. Review Mechanism: update**

A State Party representative on the Review Mechanism, Ambassador Paul van den IJssel (The Netherlands), briefed the Bureau on the latest developments on the work of the Mechanism. The Mechanism held its fourth Roundtable on 20 October, focusing on the implementation of recommendations relating to the Secretariat of the Trust Fund for Victims (R355, R356 and R357). The Executive Director of the Secretariat of the Trust Fund for Victims made a presentation on, inter alia, the reparations programmes under implementation; cases with ongoing reparations proceedings; situations with TFV programmes for the benefit of victims and situation with no TFV programmes. She also spoke on the TFV Strategic Plan 2023-2025 and the Strategic Goals and identified the priority areas for these goals. The presentation also covered the Comprehensive fundraising strategy. The CICC, which is very active on the ground on the issues of victims, also made a presentation on its work.

The meeting also included a segment to assess two outstanding recommendations, namely R365 and the second part of R163, which had not yet been assessed. R365 concerns the full cooperation by the heads of Organ with oversight and disciplinary mechanisms and additional confidentiality agreements which could be envisaged for individuals in the relevant oversight bodies. This recommendation was assessed positively. The second part of R163, which recommended that the Court's outreach plans for at least every situation country be implemented from the Preliminary Examination stage, was assessed positively with modifications. The modifications related to taking into account the particular context or stages of a situation for developing an outreach plan, strategic framework or public information activities when necessary for each situation country and as required for the Court to be able to manage expectations, as well as addressing the issue of resources. With that,

the Review Mechanism concluded the assessment of all recommendations which it had allocated to itself as the platform for discussion.

The final meeting of the Review Mechanism would be held on 13 November and would be dedicated to the Future of the Review Mechanism. The Assembly held a plenary meeting on this topic at its twenty-first session, and the Mechanism took note of some views expressed in this regard. At the commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute, held in New York on 17 July, the Mechanism participated in a panel discussion on the future of the Review Mechanism, where Ambassador van den IJssel expressed some personal views on the matter.

The Mechanism would also hold a plenary meeting at the twenty-second Assembly session, on 13 December, and would welcome hearing further views of States and other stakeholders at this meeting, or in advance of the session. The Mechanism had circulated a paper on this issue, titled “Future of the Review Mechanism”, dated 6 October 2023, prepared by the Review Mechanism and containing ideas for the way forward. The final decision on this issue would be for States Parties and the Mechanism hoped that the upcoming Assembly session could take a decision thereon which would ensure that the work would continue. The Mechanism invited States and all stakeholders to approach them with their views.

In response to a question regarding the issue of tenure, the President indicated that since the proposal was requesting some concrete amendments to the Staff Rules and Regulations of the Court, the first step would be to ask for the views of the Court on these amendments and further discuss them in whichever platform the Bureau thinks appropriate. The President also indicated that the Registry had been preparing the amendments required in the legal framework to be able to implement the Tenure recommendations by January 2024 on the basis of the policy proposed by the Court in February 2023, as instructed by the Bureau.<sup>2</sup> She noted that it was for States Parties to agree on changes to that policy if they so wished, but they should be aware that any changes to the policy would require time, probably several months, for the Court to make all the necessary changes in the legal framework, including administrative instructions, and implementation would be delayed as a result. The President indicated that she would ask the Registrar to comment on the Kenyan paper as soon as possible and decide with the Review Mechanism on the way forward.

## **6. Preparations for the twenty-second session of the Assembly**

### *a) Programme of work*

The Bureau approved the updated programme of work for the twenty-second session, dated 26 October 2023, on the understanding that it would be updated in the coming weeks before the Assembly session, and that it was also subject to modification during the session itself, to take into consideration any developments and needs which may arise.

### *b) Credentials Committee*

The President reminded Bureau members that the Credentials Committee would be appointed by the Assembly<sup>3</sup> upon a recommendation of the Bureau. She once more requested Bureau members to consult within their regional groups and to inform the Secretariat of the nominated States as soon as possible.

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<sup>2</sup> Agenda and decisions of the 10 March 2023 meeting of the Bureau: <http://>

<sup>3</sup> Pursuant to rule 25 of the Rules of Procedure of the Assembly of States Parties.

*c) Nomination of national tellers for elections*

As regards the nomination of five national tellers for the elections to be held during the twenty-second session, the President reminded Bureau members that they should consult within their respective regional groups in order to identify one candidate from each regional group for the function of national teller. They should inform the Secretariat of the names of the delegates nominated no later than 20 November 2023.

*Mock ballot*

The President reminded States Parties that the Secretariat had scheduled a mock ballot, which would be held on Friday, 1 December 2023, at United Nations Headquarters in Conference Room 4 at 13:15 to 14:45 hours. The mock ballot would also be the occasion for the national tellers to prepare for their role. She encouraged all States Parties to attend since this exercise had, in the past, proved useful in assisting delegations with the election procedure and in providing clarifications where necessary.

*d) Nomination of a Rapporteur for the twenty-second session*

The President recalled her request to the African and the Asia-Pacific regional groups that they should consult in order to identify one candidate for appointment as Rapporteur of the twenty-second session of the Assembly. They should inform the Secretariat of the nominee as soon as possible.

## **7. Oral report of the Bureau**

The Bureau took note that the President would circulate the draft Oral report of the Bureau under a silence procedure in the coming days. The President would present the report to the Assembly at its first session, on 4 December 2023.

## **8. Judicial elections: update on public roundtables**

The facilitator on the procedure for the nomination and election of judges, Mr. Matúš Košuth (Slovakia), briefed the Bureau on the status of the preparations for the roundtables with judicial candidates, scheduled for the afternoon of Monday 6 November and the morning and afternoon of Tuesday 7 November. He recalled that the roundtables would be held in-person in the ECOSOC Chamber of the United Nations, would be streamed live via UN WebTV, and the recordings would be posted on the ASP webpage.

As of 1 November, all candidates had confirmed their participation in person, and moderators had been identified for the roundtables: the Coordinator of the New York Working Group and Vice-President of the Assembly, H.E. Mr. Bob Rae (Canada) would represent States Parties, and civil society would be represented by Ms. Elizabeth Evenson (Human Rights Watch) during the roundtable session held on the afternoon of Monday 6 November; Ms. Melissa Verpile (Parliamentarians for Global Action) during the session held on the morning of Tuesday 7 November; and Ms. Akila Radhakrishnan (Global Justice Center) during the session held on the afternoon of Tuesday 7 November.

Mr. Košuth thanked States Parties and NGOs that had submitted proposals for questions to be answered by the candidates for judges during the roundtables, including the questions falling under, or related, to the list of topics shared with States and civil society, further to the invitation extended by the Secretariat on behalf of on behalf of the Coordinator of the New York Working Group on 12 October 2023. He recalled that, in line with the Modalities for 2023 Public Roundtables for Judicial Candidates, the topics for individualized questions for each candidate intend to supplement the assessment performed by the Advisory Committee on nominations of judges, and informed that had been working closely with the Vice-Presidency in New York on the final form of the questions to be posed to the

candidates for each session. Additional information in connection with the roundtables would be conveyed by the Secretariat in the following days.

## **9. Status of contributions**

The President informed the Bureau that, as at 31 October 2023, the Court had received 90 per cent of the assessed contributions to the approved budget for 2023. The total amount of outstanding contributions, for 2023 and for prior years, was €35.65 million. A total of 25 States Parties had outstanding contributions of more than one year, and 13 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute.

As regards possible requests for a waiver of the loss of voting rights at the twenty-second session of the Assembly,<sup>4</sup> the Bureau requested the Secretariat to send a formal communication to the 13 States Parties ineligible to vote, informing them of the minimum payment required in order to recover voting rights, and providing a deadline of 28 November 2023 for any request for a waiver. The Bureau would consider any such requests at its next meeting, and make a recommendation to the Assembly thereon.

A view was expressed that the Coordinators of the regional groups could engage with any States Parties with outstanding contributions or arrears from their respective regional groups, in order to facilitate a discussion to encourage payment. The President welcomed any such initiatives.

## **10. Other matters**

### *a) Twenty-fifth anniversary of the adoption of the Rome Statute*

The President noted that on 12 and 13 October in Siracusa, Italy, a Symposium had been organized with the support of the Siracusa International Institute for Criminal Justice and Human Rights. The event was part of the commemoration process of the 25<sup>th</sup> anniversary, and a continuation of the discussion held in New York on the “Strategic Vision for the Next Decade: How to Ensure Consistent and Sustainable Support for the International Criminal Court”. The event culminated in the adoption of the Siracusa Declaration on Ensuring Consistent and Sustainable Support for the International Criminal Court. The President thanked the Institute and all the participants for the fruitful discussions which would enrich the debate on these important topics in the years to come.

The President informed the Bureau that she would be attending another event organized as part of the 25th anniversary commemorations: a High-Level Regional Seminar in Seoul, Republic of Korea, on 14 and 15 November 2023, entitled “The International Criminal Court and the Asia-Pacific: past, present and future of the Rome Statute – vision for the greater regional solidarity”, which was being jointly organized by the Government of the Republic of Korea and the Court, with the support of the European Union. The objective of the event was to raise awareness of the ICC and the Rome Statute system in the Asia-Pacific region through increased dialogue with high level ministerial, judicial and technical State actors from the region. The event also aimed to support the ICC’s universality efforts and to promote cooperation in the region.

### *b) Recommendation for the budget for one additional meeting of the ACN in 2024*

The President recalled that, at its 7 September 2023 meeting, the Bureau had agreed to recommend that the Assembly approve additional resources of €51,500 for a three-day in-person meeting of the Advisory Committee on Nominations of Judges in 2023. The purpose of the meeting

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<sup>4</sup> Article 112, paragraph 8, of the Rome Statute provides as follows: “A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.”

was to enable the Committee to fulfil the Assembly mandate to prepare guidelines for national-level nomination procedures. The President noted that, following a recent meeting with the facilitator on the review of the procedure for the nomination and election of judges, the Committee had reviewed its requirements and now proposed to hold two three-day in-person meetings in 2024. At the first meeting, the Committee members would prepare a first draft of the guidelines, which would then be circulated to States Parties for comments. At the second meeting, the Committee would consider comments from States Parties and finalize the guidelines for submission to the Assembly, allowing the Committee to prepare a proposal which would better meet States Parties' expectations and needs. The Committee had submitted an addendum to the report on the work of its ninth session (ICC-ASP/22/4/Add.1) outlining the request and setting out the programme budget implications, which would be a total of €80,000 for the two meetings.

The facilitator on the review of the procedure for the nomination and election of judges, Mr. Matúš Košuth (Slovakia), provided some context to the request, noting that the Committee had a mandate to prepare the draft guidelines in consultation with States Parties and other stakeholders, but had received a limited number of submissions from States Parties, which made it very difficult to prepare a reference document on that basis. The possibility to receive comments on the draft guidelines from States Parties would enable the Committee to prepare a better proposal for the Assembly. The in-person format had been suggested in order to facilitate the careful drafting process that would be required. Ultimately, the decision would be one for States Parties.

In response to a query, the President noted that the request was not recurrent, and related only to 2024, in order to fulfil the mandate to submit draft guidelines to the Assembly at its twenty-third session. Some Bureau members asked whether it would be possible for the second meeting to take place virtually, in order to reduce the budgetary implications. The Bureau decided to refer the matter for consideration in the Hague Working Group facilitation on the budget. The facilitator on the budget, Ambassador Ksenija Milenkovic (Serbia), indicated that she would invite the Chair of the Advisory Committee, or a representative designated by the Committee, to brief the facilitation on the request. Additional written information on the proposal would also be requested.

*c) Adoption of the reports of the facilitations*

The President noted that Bureau expected to receive the reports of the various facilitations in New York and in The Hague in the coming days, and that they would be considered by the Bureau under a silence procedure.

The President mentioned that the IOM had indicated that it would submit its annual report by mid-November. This report would be issued as a document of the twenty-second session so it would be a public document and the Head of the IOM, Mr. Saklaine Hedaraly, would present the report at the eighth plenary meeting of the Assembly session, on 8 December 2023.

*d) Agenda and decisions of the ninth meeting of the Bureau*

The President recalled that the draft Agenda and decisions of the ninth meeting of the Bureau were circulated under the usual silence procedure, which ran until the end of 30 October. During that period, the Secretariat received some comments on the draft. The President would circulate a revised draft indicating the modifications in tracked changes, for adoption under another silence procedure.

*e) Next meeting of the Bureau*

The President advised that the next Bureau meeting would be held at the end of November or early December, possibly 30 November or 1 December, in advance of the twenty-second session. Given that the Conference of Parties of the OPCW would be held on 27 November to 1 December, efforts would be made to set a meeting time that allows Bureau members in The Hague to also participate.

## Annex I

### **Decision on the Terms of Reference and criteria for the recruitment panel for the Head of the IOM 2023\***

The Bureau, recalling its decision of 24 August 2023, by which it decided to undertake the recruitment of the Head of the Independent Oversight Mechanism with the assistance of a balanced selection panel comprised of five independent subject-matter experts, one for each region, to be appointed by the Bureau as soon as practicable from a list of suggested experts compiled by the Registrar,

Decided:

1. To adopt the Terms of Reference for the recruitment panel for the Head of the Independent Oversight Mechanism annexed to this decision;
2. To request the Registrar to provide the Bureau with a list of ten candidates for the recruitment panel of experts, two from each region, who meet the following criteria:
  - a) extensive relevant work experience (more than 12 years) and expertise at the senior level in the area of investigation of misconduct, evaluation or inspection, in a public service organization, preferably in an international organization;
  - b) management knowledge and experience including managing staff performance and overseeing the administration of an office; and
  - c) fluency in either of the working languages of the Court, English or French, and preferably in both. Knowledge of another official language of the Court is desirable; and
3. That the recruitment panel, which shall be composed of a balanced mix of female and male experts, representing each of the five geographical groups, will ideally include:
  - a) three experts with senior work experience in investigations of misconduct or in the conduct of due diligence processes, two of which having performed investigative functions themselves;
  - b) one expert with senior work experience in evaluations; and
  - c) one expert with senior work experience in inspections.
4. To inform the Registrar that the Bureau's strong preference is that the ten candidates on the Registrar's list should provide their services on the recruitment panel on a *pro bono* basis.

## Appendix

### **Terms of reference for the recruitment panel for the Head of the Independent Oversight Mechanism (IOM)<sup>5</sup>**

#### **Mandate**

1. The mandate of the recruitment panel ("panel") shall be to assist the Bureau in its decision-making on the recruitment of the Head of the Independent Oversight Mechanism at the earliest possible date, in accordance with resolution ICC-ASP/12/Res.8.<sup>6</sup> The panel would endeavour to assist the Bureau by submitting recommendations. The Bureau would then make the decision on the person to be appointed as Head of the IOM.

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\* Adopted by the Bureau on 31 October 2023.

<sup>5</sup> Insofar as the terms of reference do not provide for a specific circumstance, the Rules of Procedure of the Assembly of States Parties shall apply.

<sup>6</sup> Paragraph 5 provides as follows: "5. Invites the Bureau to commence the recruitment of the Head of the Independent Oversight Mechanism at the earliest possible date;"



2. The mandate would be of limited duration and would conclude upon the appointment of the Head of the IOM.

### **Composition**

3. The panel shall consist of five independent subject-matter experts and shall reflect gender balance and equitable geographical distribution.<sup>7</sup> The Experts shall work independently and shall not receive any instructions in the fulfilment of their tasks from the Registrar, States Parties, or any other parties. The Experts shall avoid any conflict of interest, or being placed in a situation which might reasonably be perceived as giving rise to a conflict of interest.

#### *Selection of members*

4. The members of the panel shall be appointed by the Bureau from a list of suggested experts compiled by the Registrar. The panel members shall act on a *pro bono* basis, if possible.

### **Working methods of the panel**

#### *Chairperson and Vice-Chairperson*

5. The panel shall elect a Chairperson and a Vice-Chairperson, observing gender balance.

#### *Meetings*

6. The panel shall meet as often as necessary or as required by the Chairperson.

#### *Communication*

7. The Panel shall convene remotely via technological means of communication as a rule. The panel shall convene in person when carrying out the function of the technical assessment of candidates and its recommendation to the Bureau.

#### *Confidentiality*

8. The members of the panel shall ensure the confidentiality of all communications and discussions during the recruitment process.

#### *Functions of the panel*

9. The Head of the IOM shall be appointed by the Bureau in his/her personal capacity on the basis of his/her relevant qualifications and experience.

10. The functions of the panel shall include the assessment of candidates at each stage of the recruitment process which should be established in advance before each stage to ensure consistency, fairness and transparency.

11. The panel will be facilitated throughout all stages of the recruitment process by an *ex-officio* officer from the Human Resources Section of the Registry.

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<sup>7</sup> As a precedent for equitable geographical representation, see the 19 October 2010 decision of the Bureau, by which it adopted the draft decision on the appointment of the Selection Panel to carry out the recruitment procedure for the Head of the Independent Oversight Mechanism, para. 3. ([http://www.icc-cpi.int/iccdocs/asp\\_docs/Bureau/ICC-ASP-2010-Bureau15-D-27Oct2010.pdf](http://www.icc-cpi.int/iccdocs/asp_docs/Bureau/ICC-ASP-2010-Bureau15-D-27Oct2010.pdf)).

*Procedures to be applied by the panel*

*a) Consensus*

12. Every effort shall be made to agree on the recommendations to the Bureau by consensus. If consensus cannot be reached, the recommendations shall be adopted by vote of a simple majority of the members present and voting. In the case of a tie, the Chairperson's vote shall be decisive. The phrase "members present and voting" means members present and casting an affirmative or negative vote.

*b) Quorum*

13. The presence of an absolute majority of the members constitutes the quorum for adopting the recommendations.

*c) Voting rights*

14. Each panel member shall have one vote.

*Reporting*

15. The evaluation procedure of the panel shall be transparent. The panel shall regularly and in detail brief the Bureau on its activities. The States Parties to the Rome Statute shall be kept informed through the reporting procedures to the Bureau.

*Replacement of the Chairperson or the Vice-Chairperson*

16. If the Chairperson or the Vice-Chairperson ceases to be able to carry out his/her functions or ceases to be a member of the panel, he/she shall cease to hold such office and a new Chairperson or Vice-Chairperson shall be elected for the unexpired term.

*Interview and evaluation of candidates with the same nationality as a panel member*

17. Where it has been established that a candidate has the same nationality as a member of the panel, that member shall, as of the short-listing stage, recuse himself/herself and shall not participate in the evaluation of that candidate.<sup>8</sup>

*Vacancy on the panel*

18. Where a vacancy arises, the Bureau shall appoint another member of the Panel, bearing in mind the gender and geographical balance of the panel.

*Recommendations of the panel*

19. Every effort shall also be made to arrive by consensus at the adoption of recommendations for consideration of the Bureau. Once the panel has completed its work, it shall submit to the Bureau a short-list of suitable candidates in the final selection report, which would include information and analysis of a technical character, strictly on the suitability of the candidates. The panel will recommend the most suitable candidate(s) for appointment as Head of the IOM in alphabetical order, and recommend to place any other suitable candidates on the Roster for the position.

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<sup>8</sup> ICC-ASP/1/Res.10, annex, para. 4, as amended by resolution ICC -ASP/4/Res.4, annex I: "For the purpose of recruitment, candidates who could be regarded as nationals of more than one State shall be considered nationals of the State in which they ordinarily exercise civil and political rights."

## **Selection process**

### **Stages for the selection process**

20.

a) The stages for the selection process shall chronologically proceed in the following order:

- (i) Long-listing; then,
- (ii) Short-listing; then,
- (iii) Anonymous written exams; then,
- (iv) Interviews; then,
- (v) Technical assessment of candidates and recommendation; and finally,
- (vi) Selection of candidate by the Bureau / Rostering of suitable candidates.

b) All criteria for each stage, the pertinent questions for the written exam and interviews, the weights of each question vis-à-vis the total score, and the passing score for the written exam must be established prior to each stage of the selection process and shall be objective, comparable and quantifiable.

c) A detailed outline of the process of each of the stages will be included in the final selection report, which will be shared with the Bureau members on strict condition of confidentiality.

### ***Long-listing***

21.

a) The panel shall request the facilitation by the HRS of the Court in its long-listing, which shall be done by criteria on the basis of eligibility requirements set forth in the vacancy announcement.

### ***Short-listing***

22.

a) The panel shall request the facilitation of the HRS in its short-listing, which shall be done by criteria on the basis of suitability to the post of the Head of the IOM based on the candidate's submitted application. The criteria should be objective and related to all requirements as indicated in the vacancy announcement.

b) The purpose of short-listing is to limit the number of candidates to a maximum of 15 candidates. Where the number of long-listed candidates is 15 or less, all candidates shall be allowed to take the written exam.

### ***Written exam***

23.

a) The panel shall prepare a set of pre-established questions which pertain to the "duties and responsibilities" and "knowledge, skills, abilities" indicated in the vacancy announcement. HRS will facilitate the consolidation of these questions along with the weights attached to each question totalling 100%. The number of questions and their complexity shall determine the weight as agreed by the panel.

b) The questions will remain confidential and unbeknownst to any party or individual except for the panel and representative of HRS until they are given to the candidates during the written exam.

c) The anonymous written exam results will be assessed independently and individually by the members of the panel and consolidated by HRS for final approval by the panel.

***Interviews***

24.

- a) The panel shall be facilitated by the representative of the HRS in conducting the interviews.
- b) When assessing questions, in line with the principles of competency based interviewing, due regard shall be given to those who provide answers relating to actual experience.
- c) Similar to the questions for the written exams, the questions will remain confidential and unbeknownst to any party or individual except for the panel and/or representative of the HRS until the conclusion of all interviews.

***Selection decision***

25.

- a) The candidates who are deemed to pass the interviews and have been found suitable shall be presented to the Bureau, along with the ratings, assessment and recommendation as necessary.
- b) The final selection for the post of Head of the IOM shall be made by the Bureau. Inclusion of candidates, who passed the interviews, into a Roster shall also be decided by the Bureau as applicable.

***Notification and implementation of the decision***

26.

- a) HRS shall inform the selected candidate of the selection decision within 7 days after the decision is made in writing by the Bureau.
- b) Candidates placed on a Roster shall likewise be informed of such placement within 14 days after the decision is made by the Bureau and that they may be selected for this post, subject to the approval of the Bureau of the selection or if it decides to proceed with another selection procedure, if it becomes available within 2 years from the time the decision in writing is made by the Bureau. Other candidates not selected or not placed on the Roster shall be so informed by HRS within 14 days after the selection decision is made in writing. Applicants eliminated prior to the assessment exercises shall likewise be informed.
- c) If the selected candidate fails to take up the functions within the specified time frames for personal reasons or vacates the position within one year, the Bureau may decide to select another candidate from the Roster. It is recommended, due to these circumstances to simply select a candidate who is rostered without going through the cumbersome process of this selection procedure.
- d) The on-boarding of the candidate will follow the Court's regular on-boarding process, including security clearance and a medical clearance.

## **Annex II**

### **Comments of the GRULAC Bureau Members of the Assembly of States Parties to the Rome Statute of the International Criminal Court on the Terms of Reference for the recruitment panel for the Head of the Independent Oversight Mechanism (IOM)**

#### **Position paper**

31 October 2023

1. The GRULAC Bureau Members wish to acknowledge and thank all the work done by the Facilitator Edward Haxton on the draft Terms of Reference for the recruitment panel for the Head of the Independent Oversight Mechanism (IOM).
2. While the GRULAC Bureau Members join the consensus around the proposed draft Terms of Reference for the recruitment panel for the Head of the IOM, we would like to state the following:
  - a) The GRULAC Bureau Members consider that the mandate of the panel of experts is to identify the most suitable candidates in alphabetical order. In that sense, and in order to grant greater credibility to this process, the panel of experts is to identify, depending on the number of applications received, at least three most suitable candidates for the Head of the IOM position. These considerations are equally applicable to the suggestions to be made by the panel concerning the list of other suitable candidates for the post.
  - b) The GRULAC Bureau Members would like also to underscore that the identification of the most suitable candidates and the suggestions concerning the list of other suitable candidates to be made by the panel of experts are of a non-binding character.

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