



**BUREAU OF THE ASSEMBLY OF STATES PARTIES**

**Ninth meeting**

**4 October 2023**

*(via Zoom)*

Agenda and decisions

**1. Review Mechanism: update**

A State Party representative on the Review Mechanism, Ambassador Michael Imran Kanu (Sierra Leone), informed the Bureau that the Mechanism had decided to hold roundtables in 2023, in light of the advanced stage of assessment of the IER recommendations. The discussions would centre around the implementation of IER recommendations that had been positively assessed.

The Review Mechanism had circulated its work programme for the second semester. It planned to hold three roundtables. The first roundtable, which was held on 29 September, had focused on Tenure (IER recommendation R105). This recommendation had been positively assessed by the Court and by States Parties at the two meetings that the Review Mechanism held on 28 February and 27 June 2022. As a result of the positive assessment, the Assembly had, at its twenty-first session, endorsed the positive assessment and invited the Court to develop a detailed proposal for a tenure policy for approval by the twenty-second session, and its introduction as of 1 January 2024.<sup>1</sup> At the 29 September meeting, the Registrar had informed participants of the steps taken by the Court in implementation of the Assembly's mandate. In addition to the proposals to amend the Court's legal regime of the Staff Regulations and Staff Rules, an internal seminar was planned in October 2023 on geographical representation and gender balance (GRGB) in the recruitment of staff, as well as the preparation of a toolkit. The outcome of the seminar, including the toolkit, would be made available to States. In the 29 September meeting, some States had raised concerns regarding GRGB in relation to Tenure; the extension of contracts; and whether the concept of Tenure related to the person or the post. The meeting was not intended to draw any conclusions and the Review Mechanism would report to the President on the outcome of that meeting.

The second roundtable would be held on 20 October and would focus on outstanding recommendations relating to the governance of the Secretariat of the Trust Fund for Victims. It would also assess two outstanding recommendations, R365 and the second part of R163. With that, the Review Mechanism would have completed the assessment of the recommendations which it had allocated to itself as the platform for discussion. There were approximately 28 recommendations pending from the facilitations, and the Review Mechanism hope to receive the assessments of those recommendations before the Assembly session.

The third roundtable would be dedicated to the "Future of the Review Mechanism". Ambassador Kanu recalled that the Assembly had held a plenary meeting on this topic at its twenty-first session, where some views had been expressed. The Mechanism had taken note of them. At the commemoration of the twenty-fifth anniversary of the adoption of the Rome Statute, held in New York on 17 July, the Co-Chair of the Review Mechanism, Ambassador Paul van den IJssel (Netherlands), participated in a panel discussion on the future of the Review Mechanism. The Review Mechanism planned to hold a plenary meeting at the twenty-second session.

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<sup>1</sup> ICC-ASP/21/Res.4, para. 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

The Review Mechanism planned to circulate a paper 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.

The President thanked Ambassador Kanu for his clear presentation. As regards the roundtable on Tenure, she recalled that the Assembly expected the policy to be implemented as of 1 January 2024, but there were still some pending questions, e.g. how tenure would impact on GRGB. She noted that the facilitator on GRGB would be invited to the Registry's internal seminar on GRGB. While the seminar would not deal with tenure *per se*, perhaps the outcome of the seminar and the toolkit to be elaborated would address the concerns raised by some States. In addition, the Registry's amendments to the Staff Regulations and Staff Rules were based on the policy proposed in February 2023. If there were modifications to the policy, the legal texts would need to be further amended. The conversation would need to continue and she would also discuss the issue with the Review Mechanism Co-Chairs. Finally, she looked forward to receiving the Review Mechanism's paper on the way forward and to the discussion at the roundtable during the twenty-second session of the Assembly.

## **2. Protection of the Court, its officials and staff and those cooperating with it**

### *a) Remarks by the Registrar*

In the wake of a recent cybersecurity incident at the International Criminal Court ("ICC"), the Registrar briefed the Bureau under agenda item 2, "*Protection of the Court, its officials and staff and those cooperating with it*". The Registrar elucidated the current situation, outlining the steps taken to address the breach, and emphasizing the current and enhanced risk context in which the Court operates. The Registrar stressed that a collective and resolute response from States Parties was essential to effectively address this attack on the Court.

The Registrar observed that despite proactive and combined measures and investments in the IT infrastructure over the years, the Court was not immune to the sophisticated and targeted cyber-attack that took place three weeks ago. Immediate steps were taken to mitigate the effects of the attack, and to understand the impact of the possible damage. The Registrar thanked the Host State for its excellent support in this regard, and mentioned that the Court had also engaged a recommended commercial vendor to take over the immediate incident response and forensic analysis efforts. The Registrar also emphasised that additional mitigating measures had been implemented to enhance the overall protection of the Court's personnel, operations and systems.

The Registrar stressed that the attack displayed a high degree of skill and persistence. The Registrar concluded that, from the ongoing forensic analysis results, the attack appeared to be an act of espionage, given the high level of expertise involved.

In light of the gravity of the recent cyber-attack, the Registrar reflected on the way forward for the Court, particularly focusing on a two-track approach, as also recommended by experts: recovery and rebuilding. Recovery entailed a methodical resumption of services with fortified defences and intensified monitoring, while rebuilding necessitates a strategic overhaul of the Court's IT architecture to minimize the risk and impact of potential future cyber threats.

The Registrar also identified his intention to present to States Parties, as complementary and exceptional response, the establishment of a dedicated Special Fund for Security, calling for voluntary contributions to reinforce the Court's physical and especially cyber security infrastructures and operations against evolving threats.

The Registrar stressed that the steadfast support and expertise of the States Parties would be indispensable in these efforts, as the Court was striving to fortify its defences and preserve trust and legitimacy in the face of continuing and severe security challenges.

Bureau members thanked the Registrar for his comprehensive overview of the cyber-attack and its consequences, as well as his forward-looking approach to steps being taken in that regard. They rejected this attack on the Court and stood in full solidarity with the Court and the individuals within the Court. Concern was expressed regarding the issuance of arrest warrants against some officials of the Court. In response to a query on attribution, the Registrar indicated that the investigation was on-going and that the incident had not yet been attributed to any entity.

Regarding the budgetary implications of addressing the attacks against the Court, it was suggested that States should look at this with a long-term lens. Since this was not a one-off occurrence, some States suggested that the Court's security was too important to be left to the unpredictability of voluntary contributions to a special fund.

In response to a query on the reasoning regarding the option of voluntary contributions to a special fund, the Registrar recalled the legal regime of the Rome Statute, i.e. article 115, on the regular budget and article 116, on voluntary contributions. He noted that voluntary contributions

had been made to a number of different funds created within the Court, and stressed that such contributions should be done in such a way as to not prejudice article 115 or the regular budget. In addition, the Assembly had adopted Guidelines on voluntary contributions, and Financial Regulation 7.2 required the prior consent of the Assembly for the acceptance of contributions which directly or indirectly involved additional financial liability for the Court.

The Registrar noted that, while the rebuilding project costs would be one-off costs, it could also generate some recurrent costs, in the form of maintenance or running costs. The Registrar would, as far as possible, disclose these costs in advance, as part of the Special Fund proposal, and noted that a project of this nature would entail reporting to States Parties. The Court faced a situation of urgency and timelines. The Registrar would also like to initiate a validation process relying on experts from different States Parties to review the rebuilding plan developed by the Court and provide their advice and views. As this could take a few months, it would be very difficult to present this as an addendum to the 2024 proposed programme budget. The alternative of a supplementary budget, which could be adopted at a resumed session of the Assembly, in 2024, would represent a significant increase the baseline of the regular budget, emanating mostly from non-recurrent costs.

He cited the experience of the Organisation for the Prohibition of Chemical Weapons (OPCW), which had been the victim of a cyber-attack in 2018. States had created a special account with the same rationale, and the OPCW had been successfully implementing improvements in its systems based on the voluntary contributions fund. Crucial and key resources had been requested in the regular ICC budget for security purposes, and would continue to be requested for the measures needed.

In response to a question on the total sum the Court was looking at for this project, the Court was still in the process of evaluating what would be the impact of the infrastructure rebuild and the Registrar hoped to inform States Parties soon on this. In response to another query, he clarified that there were two types of trust funds within the Court: funds created by the authority of the Assembly,<sup>[1]</sup> and funds created under the authority of the Registrar.<sup>[2]</sup> His proposal for a fund for infrastructural changes would be presented along the lines of a grant proposal, i.e. a proposal where the Court would clearly define its needs and cost them; that would be time-restricted; and that would allow States Parties to contribute with a full understanding of what the implications would be.

#### *b) Adoption of draft press release*

The Bureau discussed the draft press release titled “The Bureau of the Assembly of States Parties rejects attacks against the International Criminal Court and its officials”, dated 29 September 2023. In order to avoid conflating the two issues in one press release, the Bureau agreed to consider two separate texts via a silence procedure, to be issued as press releases either by the Bureau or the ASP Presidency, rejecting criminal proceedings initiated against high officials of the Court, and condemning the recent cyber security attack against the Court, respectively

#### *c) Adoption of draft Guidelines and recommendations for enhancing the security of participants in the work of the Assembly*

Further to the discussion at its eighth meeting on 7 September 2023, the Bureau adopted the “Guidelines and recommendations for enhancing the security of participants in the work of the Assembly”, dated 29 September 2023 (see annex). The Guidelines will be incorporated into the existing “Guidelines for the preparation and conduct of sessions of the Assembly”, adopted by the Bureau on 15 November 2018 and amended on 8 September 2021.

The Bureau further recommended the inclusion of additional language in the omnibus resolution in reference to the adoption of the “Guidelines and recommendations for enhancing the security of participants in the work of the Assembly”.

### **3. Briefing by the facilitator on the Recruitment of the Head of the IOM**

The facilitator on the Recruitment of the Head of the Independent Oversight Mechanism (IOM), Mr. Edward Haxton (United Kingdom of Great Britain and Northern Ireland), informed the Bureau that, on 18 September 2023, the facilitation had discussed the draft Terms of reference for the recruitment panel for the Head of the Independent Oversight Mechanism, as well draft Criteria for the Registrar to use to compile the list of suggested experts. The consultations had been productive. He had held discussions with the Registry and a further round of consultations were scheduled for 9 October. He thanked the Bureau for its constructive approach and hoped that these documents could pave the way for a smooth recruitment process.

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<sup>[1]</sup> Such as the Trust Funds for Least Developed Countries and other Developing States; and for family visits.

<sup>[2]</sup> Such as the Trust Fund for relocation of witnesses; for interns and visiting professionals; and the recent OTP Trust Funds for technologies and gender based violence.

The President hoped that, following the next round of consultations, the Bureau would be in a position to adopt the Terms of reference and Criteria and that the experts could be appointed as soon as possible.

#### **4. Briefing by the facilitator on the composition of the Committee on Budget and Finance**

Further to the decision of the Bureau at its meeting on 7 September 2023, the facilitator on the composition of the Committee on Budget and Finance (CBF), Ms. Mossamat Shahanara Monica (Bangladesh), provided the Bureau with the status of her consultations. She presented to the Bureau a non-paper titled “Options for the allocation of seats in the Committee of Budget and Finance”, dated 29 September 2023, which reflected the options on the possible reallocation of seats within the CBF and the way forward for the facilitation, which entailed continued consultations among delegations to achieve a general agreement on a specific option from those contained in the non-paper. The way forward would be presented to the twenty-second session of the Assembly for its consideration.

The proposal would also indicate that the Assembly’s decision should not set a precedent for future decisions on the geographical distribution of any other subsidiary body of the Assembly and would also take into consideration a transition period for its implementation, so that any change to the current composition of the CBF would not have an impact on the terms of the existing members

Bureau members welcomed the progress in the discussions on the composition of the CBF, and stated their readiness to engage in the consultations proposed by the facilitator. A view was expressed that the only criterion established for the election of members to the CBF was contained in ICC-ASP/1/Res.4,<sup>2</sup> i.e. equitable geographical distribution, and that additional criteria such as financial contribution to the Court’s budget, allocation of resources in different situations, efficiency and effectiveness of the CBF and possible financial and logistical implications of the reallocation, were not to be considered. A view was expressed that consultations in The Hague on the topic would also be beneficial.

A proposal was made to limit consultations in order to achieve a decision by the twenty-second session of the Assembly. A view was expressed that, in view of the urgency of the issue, a decision thereon should be adopted at the twenty-second session of the Assembly. In addition, it was noted that GRGB was the only criterion indicated in ICC-ASP/1/Res.4<sup>3</sup> and that other criteria, such as financial contributions of States Parties, should not play a role. Another view was expressed that the options presented by the facilitator in the non-paper would require careful analysis and could require time beyond the next session of the Assembly.

The Bureau took note of the non-paper titled “Options for the allocation of seats in the Committee of Budget and Finance”, dated 29 September 2023, and invited the facilitator to present an update at its next meeting.

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

The President informed the Bureau that, at the end of the silence procedure on 3 October 2023, the draft vacancy announcement for the post of Director of the Secretariat had been adopted. She had written to the Registrar requesting him to proceed with the posting of the vacancy announcement on the website of the Court as soon as possible, for a period of two months.

As regards the modalities of recruitment, the Bureau had before it paper titled “Background note on selection process 2006-2007”, dated 1 July 2023. The President invited comments on whether the previous process should be replicated or whether new elements should be included for the future process. A view was expressed that the Bureau should not replicate the previous process, in which there was a pre-selection committee in The Hague and a selection committee in New York. In addition, at that time, there had been 59 applications, but it was unknown how many applications the Bureau would need to review in the future process. It was pointed out that the Bureau was in the process of establishing a recruitment panel for the Head of the IOM and should also establish a panel of experts for the recruitment of this post.

The President noted that the modalities for the recruitment of the Head of the IOM might be agreed by the Bureau at its 9 October consultations. The Bureau could then think further on how it would proceed with the modalities for the recruitment of the Director, which could possibly include the appointment of a facilitator. The Bureau would return to this item at its 1 November 2023 meeting but should decide on the modalities before the end of the posting period of the vacancy announcement. Some Bureau members raised a concern about the potential for a gap in the position of Director and requested that measures be taken to address this situation.

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<sup>2</sup> ICC-ASP/1/Res.4, Annex, para. 2: The Assembly shall elect the members of the Committee on Budget and Finance, who should not be of the same nationality, on the basis of equitable geographical distribution. The members of the Committee shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall carry out their duties for three calendar years and may be re-elected. Of the 12 members who are initially elected, 4 shall be elected for a period of one year, 4 for a period of two years and the remaining 4 for a period of three years

<sup>3</sup> Annex, para. 2.

A view was expressed that, in order to enhance the required transparency in the recruitment of the post of Director, the recruitment should be conducted only after the incumbent had left office on 31 January 2024.

## **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 2 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.

#### *(i) Mock ballot*

The President informed States Parties that the Secretariat would hold a mock ballot on Friday, 1 December 2023, at United Nations Headquarters, in Conference Room 4 from 13:15 to 14:45 hours. This information would be circulated to all States Parties. 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.

### *b) Credentials Committee*

The President reminded Bureau members that the Credentials Committee would be appointed by the Assembly<sup>4</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 before the end of October 2023.

### *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 by 20 November 2023.

### *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 before the end of October 2023.

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

The representative of Canada, on behalf of the Western Europe and other States group (WEOG), informed the Bureau that consultations to identify the future President were still on-going and the regional group hoped to make an announcement at the end of October.

As regards the other Bureau members, the President encouraged all regional groups to continue their internal consultations on their respective Bureau members and to submit the information to the Secretariat, if possible, by the end of October.

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<sup>4</sup> Pursuant to rule 25 of the Rules of Procedure of the Assembly of States Parties.

## 8. Elections

### *a) Judicial elections: update on public roundtables*

The President informed the Bureau that preparations for the roundtables with judicial candidates to be held in the afternoon of Monday 6 November and in the morning and afternoon of Tuesday 7 November were underway. The roundtables will be held in the ECOSOC Chamber of the United Nations Headquarters, and will be live-streamed on UN WebTV.

The roundtables will be moderated by the Vice-President and Coordinator of the New York Working Group, Ambassador Bob Rae (Canada), on behalf of States Parties, and a representative of civil society. Vice-President Rae was in consultations with civil society, with the support of the facilitator on the procedure for the nomination and election of judges, to determine the co-moderators representing civil society for each of the roundtable sessions.

Additional information on the roundtables would be provided by the Secretariat in due course and would be available on the ASP website.

### *(i) Minimum regional voting requirements*

The President informed the Bureau that queries had been raised seeking clarification regarding the minimum voting requirements (MVRs) for the Asia-Pacific group, since that group had not presented at least double the MVRs for that group, i.e. it had presented three candidates. In that regard, she recalled that in accordance with paragraph 20 (b) of the applicable resolution ICC-ASP/3/Res.6,<sup>5</sup>

“If the number of candidates from a regional group is not at least double the respective minimum voting requirement, the minimum voting requirement shall be half the number of candidates from that regional group (rounded up to the nearest whole number where applicable). If there is only one candidate from a regional group, there shall be no minimum voting requirement for that group.

This formula, when applied to the regional group, resulted in an MVR of two candidates for that group.

## 9. Status of contributions

The President informed States Parties that as at 30 September 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 €35.9 million. She emphasized that a total of 26 States Parties had outstanding contributions of more than one year, and 15 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute.

She also recalled that at its tenth meeting on 2 December 2022, the Bureau had 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, in order to determine the way forward.”

The facilitator for the budget, Ambassador Ksenija Milenković (Serbia), explained that the topic of arrears and voting rights had been discussed at a joint meeting of the budget and arrears facilitations on 3 October, where recommendation 140<sup>6</sup> was discussed. Given that there was still no facilitator for arrears in New York, Vice-President Rae had provided a comprehensive state of play during the meeting. Ambassador Milenković informed the Bureau that the overwhelming majority of States Parties that had engaged in the discussion were of the view that the recommendation should be assessed positively, emphasizing that States Parties have an obligation to pay on time and that efforts should be made to minimise the number of States in arrears. However, there was no clear agreement on the modalities on how to deal with the States Parties on arrears. Some States had expressed concern over the proposed measures to be considered under the IER recommendation. Based on the discussions, she estimated it would be possible to propose an assessment which could be distributed for consideration. The representative of Canada supported the conclusion made by Ambassador Milenković and made the point that States Parties were unanimously of the view that there were tools within the Rome Statute currently at the disposal of States Parties of key importance in the context of upcoming elections.

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<sup>5</sup> Procedure for the nomination and election of judges, the Prosecutor and Deputy Prosecutors of the International Criminal Court.

<sup>6</sup> “Noting the concerning state of arrears and potential liquidity crisis facing the Court, the Experts recommend that the ASP explore additional means to encourage timely and in full payment of contributions by States Parties, taking into account practices from other international organisations. For example, the ASP could explore setting a lower threshold of arrears beyond which States Parties lose their voting rights or inability of States Parties in arrears to present candidates for elected officials’ positions.”

The President recommended that the Bureau return to this topic at its next meeting in order to recommend the way forward, including potentially adopting the recommendation to the next Assembly.

## **10. Other matters**

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

The President reminded Bureau members of the commemorative event on 12 and 13 October in Siracusa, Italy, organized with the support of the Siracusa Institute. She noted that the event was intended to be a continuation of the discussions held in New York on 17 and 18 July, and that it would be hybrid with interpretation provided in English and French. She also recalled that the latest version of the programme was circulated by the Secretariat and that the Secretariat would continue providing updates about the event. She concluded by noting that further information about other commemorative events and any updated documentation was available on the respective webpage of the Assembly and asked Bureau members to send any information in this regard to the Secretariat to update the page.

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## **Annex**

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

#### **Proposal by the Presidency**

#### **Guidelines and recommendations for enhancing the security of participants in the work of the Assembly**

### **Background**

The Assembly of States Parties to the Rome Statute of the International Criminal Court holds its regular session once a year, with the participation of States, observers, and non-governmental organizations. Side-events are also organized in the margins of the sessions, during which human rights defenders and individuals cooperating with the Court also participate. In addition to annual regular sessions, there are meetings convened by the Working Groups of the Assembly in The Hague and New York as well as meetings convened by the various mandate holders of the Assembly throughout the year, most of them also open to the wide participation of state and civil society representatives.

During the twenty-first session of the Assembly of States Parties, held in The Hague in December 2022, some States and non-governmental organizations representatives expressed concerns about security risks for human rights defenders by virtue of their work in support of the Court or accountability in general. In the closing plenary meeting, the President referred to these concerns and recalled that the Assembly and the Court have a shared responsibility to promote and protect the goals and work of the Court, including from any threat or attack against the Court itself, its officials or those cooperating with it. She noted her intention to engage in consultations on this important matter and she committed to exploring appropriate measures which could be taken to enhance the security of all those who participate in Assembly sessions. Since the Assembly session, consultations have taken place on existing mechanisms to counter intimidation and reprisals in other fora, including with Senior officials of the United Nations, notably the Assistant Secretary-General for Human Rights and UN focal point on reprisals, as well as representatives of non-governmental organizations.

Considering these consultations, the Presidency proposes the adoption by the Bureau of Guidelines for enhancing the security of participants in regular Assembly sessions as well as its side events. The proposed Guidelines are set out in annex I and, if agreeable, could be incorporated into the existing Guidelines for the preparation and conduct of sessions of the Assembly.<sup>7</sup>

In addition to the adoption of the Guidelines by the Bureau, it is proposed that the Bureau recommends that additional language be included in the Omnibus resolution in connection with the Guidelines in order to recall that it is the primary responsibility of States to prevent, and refrain

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<sup>7</sup> Adopted by the Bureau on 15 November 2018 and updated on 8 September 2021. Available at: [https://asp.icc-cpi.int/sites/asp/files/2022-04/Guidelines-preparation-conduct-ASP-with-appendix.ENG\\_15Feb22.pdf](https://asp.icc-cpi.int/sites/asp/files/2022-04/Guidelines-preparation-conduct-ASP-with-appendix.ENG_15Feb22.pdf).

from attacks, threats or acts of intimidation or reprisals against individuals by virtue of their participation in Assembly sessions and side events as well as in other meetings of Working Groups and mandate holders of the Assembly and to encourage the Bureau to continue developing measures to this effect in consultation with States Parties, the Court and Civil Society and to report to the Assembly at its twenty-third session (2024).

The adoption of the guidelines and the incorporation of additional language in the omnibus resolution, aiming at offering to participants a more secure space at Assembly sessions and side event as well as in meetings of other bodies of the Assembly, would follow up on the strategy for responding to threats or attacks against the Court, its officials and those cooperating with it, adopted by the Bureau on 29 July 2022.<sup>8</sup>

## Appendix

### Guidelines for enhancing the security of participants in the regular sessions of the Assembly of States Parties and its side events adopted by the Bureau of the Assembly of States Parties

#### I. General principles<sup>9</sup>

The general principles underlying the proposed Guidelines are the following:

- The right of participants to have unhindered access to public meetings of the sessions of the Assembly of States Parties and side-events held in the margins of those sessions.
- The freedom for participants from any form of intimidation or reprisals, or fear of intimidation or reprisals, by virtue of their work in support of the Court, including their participation in the Assembly of States Parties.
- The right of participants to privacy, confidentiality, and non-discrimination.
- The importance of ensuring that the Assembly offers a safe, secure and open space, where the risk of reprisals or other attacks, threats, acts, intimidation or reprisals against participants is minimized to the fullest extent possible.
- The responsibility of States to refrain at all times from acts constituting attacks, threats, intimidation or reprisals against persons by virtue of their participation in the sessions of the Assembly and its side events. This responsibility also entails to take appropriate measures to prevent, protect against, investigate, and ensure accountability and to provide remedy for such acts through appropriate channels and procedures.

#### II. Measures against allegations of attacks, threats or reprisals

1. Guided by the general principles, and to ensure a safe, secure and open space and a fruitful dialogue at Assembly sessions and their side events, all State and non-governmental organization representatives are reminded of the importance of ensuring a free and inclusive expression of views, before, during and following Assembly sessions including for participants attending side events. To this effect, they must refrain from any acts or omissions constituting a form of attack, threat, intimidation or reprisal, including but not limited to:<sup>10</sup>
  - Acts, omissions or contacts intended to dissuade a person from participating in the Assembly session and side events.
  - Acts, omissions or contacts intended to interfere with participation in the Assembly session or side events, including but not limited to sustained disruption of discussions through hostile language against certain participants.
  - Taking pictures or making audio or visual recordings of participants without their consent.
2. Allegations of acts, omissions or contacts such as those referred to in paragraph 1 may be submitted in writing to the President of the Assembly through the Secretariat of the Assembly of States Parties. Such information may be submitted in confidence. The Secretariat of the Assembly, on behalf of the President of the Assembly, shall confirm receipt of such information.

<sup>8</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-08/Bureau-Proposal-Rec-169-ENG.pdf>. An annex to the strategy, approved by the Bureau on 2 December 2022, is available at: <https://asp.icc-cpi.int/sites/asp/files/2022-12/PASP-Request-R169-Good-Practices.pdf>.

<sup>9</sup> These general principles are broadly based on the general principles set forth in the *San Jose Guidelines against intimidation or reprisals* (HRI/MC/2015/6, OP 5(e)); and the *United Nations Guidance Note on the Protection and Promotion of Civic Space*, available at [https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN\\_Guidance\\_Note.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf)

<sup>10</sup> The acts listed are based on discouraged conduct enumerated in guidelines and codes of conducts during meetings of several organizations, such as the the *Virtual Safety Guidelines and Principles*, shared by NGO CSW during the event 'Preventing and Addressing Intimidation & Reprisals for Cooperation with the UN in the context of CSW67' on 2 March 2023, available at <https://ngocsw.org/wp-content/uploads/2021/10/Virtual-Safety-Guidelines-and-Principles.pdf>; the *International Bar Association Harassment Policy*, available at <https://www.ibanet.org/iba-harassment-policy>; the *Code of Conduct*, Section E of the 2023 Annual Meeting of the American Society of International Law (ASIL) Frequently Asked Questions, available at [https://www.asil.org/sites/default/files/annualmeeting/pdfs/ASIL\\_AM\\_FAQS.pdf?v=3](https://www.asil.org/sites/default/files/annualmeeting/pdfs/ASIL_AM_FAQS.pdf?v=3), p. 5; the *EJC Code of Conduct* of the American Bar Association/National Legal Aid & Defender Association Equal Justice Conference, available at [https://www.americanbar.org/groups/probono\\_public\\_service/ejc/codeofconduct/#:~:text=Use%20welcoming%20and%20inclusive%20language,their%20own%20behavior%20and%20actions;](https://www.americanbar.org/groups/probono_public_service/ejc/codeofconduct/#:~:text=Use%20welcoming%20and%20inclusive%20language,their%20own%20behavior%20and%20actions;) and conduct mentioned in meetings with the President of the Assembly.



3. Should the President of the Assembly consider it appropriate, he or she shall take steps to ensure a response to the alleged attack, threat, intimidation or reprisal, including but not limited to those listed in Part I of the annex to the strategy for responding to threats or attacks against the Court, its officials and those cooperating with it, adopted by the Bureau on 2 December 2022.<sup>11</sup>
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<sup>11</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-12/PASP-Request-R169-Good-Practices.pdf>