



BUREAU OF THE ASSEMBLY OF STATES PARTIES

Third meeting

6 March 2024

(via remote link)

Agenda and decisions

The meeting was chaired by the President, Ambassador Päivi Kaukoranta (Finland). Vice-Presidents Ambassador Michael Imran Kanu (Sierra Leone) and Ambassador Margareta Kassangana (Poland) also participated.

1. Briefing by the Registrar on the Special Fund for Security

The Registrar briefed the Bureau on the Special Fund for Security, which had been established as an exceptional measure in order to receive voluntary contributions for necessary security expenditure following the serious cyber-security incident experienced by the Court in 2023. The Registrar expressed his appreciation to those States Parties that had already contributed to the Special Fund, or were in the process of finalizing their contributions. He indicated that those contributions, which amounted to a total of approximately €900 thousand, were not sufficient to meet the Court's urgent security needs in 2024, for which an amount of €4.5 million was required. He outlined the measures being taken to identify any possible savings within the approved budget of the Registry in order to fund the priority investments.

In response to a query regarding the possibility of accessing the Contingency Fund for such expenditure, the Registrar clarified that it was not currently possible under the Financial Regulations and Rules and would therefore require authorization from the Assembly of States Parties.

The President thanked the Registrar for the briefing and indicated that the Bureau may return to the issue in the future, if necessary.

2. Review Mechanism: update

A State Party representative on the Review Mechanism, Ambassador Paul van den IJssel (Netherlands), briefed the Bureau on the work of the Review Mechanism.

The Review Mechanism had held its first meeting on 12 February 2024, which adopted the work programme for the first semester of 2024. It intended to hold three meetings dedicated to "Tenure" and one meeting dedicated to "Workplace culture". The Mechanism planned to hold meetings to discuss the implementation of some positively assessed IER recommendations. Ambassador van den IJssel invited States Parties and other stakeholders to approach the Review Mechanism with suggestions on possible topics for consideration in the second semester. Further, he noted that the adjusted "Matrix on Progress in the assessment of the IER recommendations" indicated that there were two outstanding recommendations to be assessed in 2024.¹ The Review Mechanism encouraged the respective

¹ R78 and R140.

facilitations to complete the assessments as soon as possible. He reiterate that assessment was only part of the work, and that implementation was important.

At its 12 February meeting, the Review Mechanism had also considered the topic “Tenure”. The meeting discussed new proposals to amend the Court’s proposed tenure policy, and heard views from participants on a number of issues, a key one being the application of the tenure policy to the person, not to the post as had been proposed by the Court in 2023.² It also considered other issues, such as geographical representation, the employment of staff from non-States Parties, and the tax liability of the Court for this category of staff. Some elements of Tenure, like the opportunity to apply for a new position, was raised but was not discussed at length.

Ambassador van den IJssel indicated that there seemed to be a preference among States Parties to link the tenure policy to the person and not to the post. There had been no opposition to a proposal to this effect introduced by Canada, Estonia, South Africa and Sweden. The Registry was considering this proposal and there would be a more detailed discussion of it at its 14 March meeting. He stressed that although there seemed to be a clear approach, the discussions were on-going, and no proposal had been agreed or finalized.

As regards the timelines, the Registry would need an indication of how States Parties wished to proceed with the implementation of the tenure policy by mid-2024. This would then allow sufficient time for the Court to work on amendments to its legal framework (such as Staff Rules and Regulations, Administrative Instructions etc.) to enable adoption of the tenure policy by the Assembly in 2024. The Review Mechanism aimed to meet this timeline, so that the Assembly could adopt the new tenure policy at its twenty-third session.

Ambassador van den IJssel informed the Bureau that the Review Mechanism had received a request from a State Party to have the further meetings on Tenure as closed meetings, to which only States Parties and relevant Court officials would be invited. The RM was considering this request.

Ambassador van den IJssel indicated that the IER Chair, Mr. Richard Goldstone, and IER Expert Judge Iain Bonomy had participated in the 12 February meeting. In their view, the discussions were very much in line with the IER Experts’ intention and views on the issue of Tenure.

Some States indicated that they intended to submit additional proposals, and that additional time would be needed to discuss Tenure, instead of setting a deadline of June 2024, since the introduction of Tenure would be a major shift in the Court, as well as taking into account concerns regarding geographical representation and gender balance at the senior level. In response, Ambassador van den IJssel indicated that now was the time to submit proposals. States Parties had been discussing Tenure for some time and the Assembly had decided by consensus at its December 2023 session that the implementation date for the tenure policy would be 1 January 2025,³ instead of 1 January 2024 as previously decided.⁴ The Review Mechanism would need to discuss the proposals presented and give the necessary directions to the Registry, so that it could draft amendments to its legal framework.

A State Party representative on the Review Mechanism, Ambassador Michael Imran Kanu (Sierra Leone), noted in addition that the Review Mechanism had had a systematic approach to its work since the positive assessment of R105, and there had been mandates to the Review Mechanism, including a start date of the Tenure policy. He highlighted that the focus should not be the timeline between June and December 2024, but the proposals should be discussed within the defined timeline before mid-2024, so as to allow the Registry to proceed. He reiterated that the Registry would need to then review its legal framework. The Review Mechanism had been very flexible and had allowed the

²The Registrar presented a “Detailed proposal for a tenure policy” to the Bureau by the Registrar on 14 February 2023, pursuant to resolution ICC-ASP/21/Res.4, para. 9.

³ ICC-ASP/22/Res.7, para. 1.

⁴ ICC-ASP/21/Res.4, para. 9.

presentation of proposals but he encouraged States to finalize their work in time if the Assembly was to meet the timeline.

A Bureau member reiterated concerns regarding the principles of geographical representation and gender balance, especially the impact that Tenure would have on these principles, and stated that additional proposals in that regard would be welcomed.

The President noted that there had been appeals from the Review Mechanism for States Parties to present proposals as soon as possible. She thanked the Review Mechanism for its report on its work and the clarifications regarding how it would proceed with its mandate.

3. Appointment of Assembly mandate-holders

The Bureau appointed mandate-holders of The Hague and New York Working Groups nominated by the respective working groups (see annex). Vice-President Kassangana indicated that consultations were ongoing to identify a facilitator for the topic of legal aid in The Hague Working Group. As regards the New York Working Group, Vice-President Kanu informed the Bureau that the working group was considering a nomination for the facilitator on the omnibus resolution under a silence procedure, and that consultations were still ongoing to identify the Chair of the Working Group on Amendments, the facilitator for arrears, and the ad-country focal point on non-cooperation from the Eastern European Group.

4. Discussion on other mandates arising from resolution ICC-ASP/22/Res.3

a) Review of the amendments on the crime of aggression

The Bureau discussed preparations for the review of the amendments on the crime of aggression foreseen by the Kampala Review Conference,⁵ as referenced in the omnibus resolution adopted at the twenty-second session of the Assembly.⁶ The Bureau had before it a background paper, prepared by the Secretariat, outlining some options on the decision-makers, the venue and format for the preparatory work, and the venue for the review itself. The Director of the Secretariat provided an overview of the various options and the possible budgetary implications, which would ideally be included in the proposed programme budget for 2025, which the Court submits in July 2024 for consideration by States Parties.

Bureau members had an exchange of views on the topic, including the venue and timing of the review. The President indicated that the Bureau would revert to the topic at its next meeting.

b) Composition of the Bureau

As regards the mandate on the composition of the Bureau,⁷ the Bureau had before it a background note, prepared by the Secretariat, outlining the legal norms and the Assembly's decisions in respect of the composition of the Bureau. The point was made that it would be helpful to have additional information, including the actual composition of the Bureau over the years and the geographical distribution of States Parties and Bureau seats at the time relevant decisions were taken.

⁵ Resolution RC/Res.6, para. 4: “*Further decides* to review the amendments on the crime of aggression seven years after the beginning of the Court’s exercise of jurisdiction”.

⁶ Resolution ICC-ASP/22/Res.3, para. 157: “*Recalls* the decision taken by the first Review Conference to review the amendments on the crime of aggression seven years after the beginning of the Court’s exercise of jurisdiction and *notes* that this review is to be prepared ahead of 17 July 2025”.

⁷ Resolution ICC-ASP/22/Res.3, annex I, para. 11(i): “*Requests* the Bureau to discuss the representative character of its composition, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world, and to submit a written summary of views expressed ahead of the twenty-third session of the Assembly, and *further requests* the Bureau to, in light of the written summary, consult with all States Parties on the topic and submit a report, without prejudice to any course of action, ahead of the twenty-fourth session of the Assembly”.

Some Bureau members supported the idea of appointing a focal point from within the Bureau to take forward work on the written summary of views expressed. Other Bureau members considered that a focal point was not necessary at this stage. The President indicated that the Bureau would revert to the topic at its next meeting.

5. Recruitment of the Director of the Secretariat of the Assembly: update

The President provided an update on the steps taken to identify candidates for the recruitment panel for the Director of the Secretariat of the Assembly, pursuant to the 13 December 2023 decision of the Bureau.⁸ The President recalled that the Bureau had decided the recruitment panel shall be composed of a balanced mix of female and male experts, representing each of the five geographical groups, appointed by the Bureau from a list of suggested experts submitted by States Parties and the Registrar. A total of nine nominations had been received, including candidates from each region. The President invited the Bureau members from the regional groups with more than one nomination to consult internally with a view to identifying a consensus candidate by 15 March from those regional groups.

Representatives of the Human Resources Section of the Registry provided a briefing on the support which would be provided to the recruitment panel, once appointed.

6. Recruitment of the Head of the Independent Oversight Mechanism: update

Representatives of the Human Resources Section of the Registry provided an update on the recruitment process for the Head of the Independent Oversight Mechanism, including the support which the Section was providing to the recruitment panel, pursuant to the terms of reference adopted by the Bureau.⁹ The President noted that the Bureau would continue to receive updates on the process going forward.

7. Guidelines for the preparation and conduct of sessions of the Assembly and for enhancing the security of participants: proposed amendments

The Bureau considered proposed amendments to the Guidelines for the preparation and conduct of sessions of the Assembly¹⁰ and the Guidelines for enhancing the security of participants in the work of the Assembly.¹¹ Some Bureau members indicated that they wished to have more time to consider the proposals. The President indicated that the Bureau would return to the topic.

8. ASP23: nomination period for the elections of the Advisory Committee on nominations of judges, Board of Directors of the Trust Fund for Victims and Committee on Budget and Finance

The Bureau had before it draft notes verbales, dated 26 February 2024, by which the Secretariat would inform States Parties of the opening of the nomination period for the three elections scheduled to take place at the twenty-third session of the Assembly: the election of the members of the Advisory Committee on nominations of judges, the election of the members of the Board of Directors of the Trust Fund for Victims, and the election of five new members of the Committee on Budget and Finance. The Bureau agreed to set the nomination period for the elections to run for 12 weeks, from 3 June to 25 August 2024.

⁸ See agenda and decisions of the thirteenth meeting of the Bureau, held on 13 December 2023, annex, available at: https://asp.icc-cpi.int/sites/default/files/asp_docs/2023-Bureau13-Agenda-Decisions.pdf.

⁹ See agenda and decisions of the tenth meeting of the Bureau, held on 1 November 2023, annex, available at: https://asp.icc-cpi.int/sites/default/files/asp_docs/2023-Bureau10-Agenda-Decisions.pdf.

¹⁰ Adopted by the Bureau on 15 November 2018 and updated on 8 September 2021. See: https://asp.icc-cpi.int/sites/default/files/asp_docs/Guidelines-preparation-conduct-ASP-with-appendix-ENG.pdf.

¹¹ Adopted by the Bureau on 29 September 2023. See: https://asp.icc-cpi.int/sites/default/files/asp_docs/Guidelines-preparation-conduct-ASP-with-appendix-ENG.pdf.

9. Status of contributions

The Bureau took note that, as at 29 February 2024, the Court had received 47 per cent of the assessed contributions to the approved budget for 2024. The total amount of outstanding contributions was €119.1 million, of which €98.6 million related to the 2024 budget, and €20.5 million to prior years. A total of 37 States Parties had outstanding contributions of more than one year, and 16 of those were ineligible to vote under article 112, paragraph 8, of the Rome Statute. The President encouraged all States Parties to make their contributions to the budget of the Court as soon as possible.

10. Decision of Trial Chamber X on two requests concerning the delivery of the Trial Judgement in the *Al Hassan* case (4 March 2024)

A Bureau member raised the 4 March 2024 decision of Trial Chamber X on two requests concerning the delivery of the Trial Judgement in the *Al Hassan* case.¹² A representative of the Presidency responded to some queries thereon.

11. Other matters

a) Meeting with members of the Advisory Committee on nominations of judges

The President recalled that at the Bureau's 6 February meeting, she had informed members that she would meet with the Chair of the Advisory Committee on Nominations of Judges (ACN), Ms. Sanji Monageng, as a follow-up to the Chair's 1 February 2024 letter outlining the challenges that the Committee would face in holding virtual meetings in order to fulfil its mandate to prepare Guidelines for national level nomination procedures by the twenty-third session of the Assembly.¹³

On 21 February 2024, the President had held a virtual meeting with the Chair, Vice-Chair and Rapporteur for the "Guidelines". She had explained to the ACN members, regarding the Committee's request for resources for two in-person meetings of three days each in 2024, that no such funds could be identified from within the budget of the Court in light of the decision taken by the Assembly at its twenty-second session. In the ACN's second letter, dated 1 March 2024, the Committee had requested the President, as a matter of urgency, to support it in its open call to States Parties to consider extra-budgetary co-sponsoring of the ACN meetings in 2024, to allow it to efficiently fulfil its mandate.

The President brought the ACN's call to the attention of the Bureau and noted that States Parties wishing to support the ACN's meetings in 2024 would be best advised do so outside the framework of the budget of the Court since an appropriate fund did not exist.

b) Staff Pension Committee- appointment of a Member

Further to a nomination conveyed by the Coordinator of The Hague Working Group, Ambassador Margareta Kassangana, and pursuant to resolution ICC-ASP/3/Res.3, the Bureau appointed Mr. Nigel Mwaura (Kenya) as a member of the Staff Pension Committee for a two-year term.

c) Amendment to article 39 of the Rome Statute

The Bureau took note of the depositary notification¹⁴ issued on 1 March 2024 by the United Nations Secretary-General regarding the amendment to article 39 of the Rome Statute, which had been adopted by the Assembly at its twenty-second session.¹⁵ The President noted that, as set out in the depositary notification, and in accordance with article 122, paragraph 2, of the Rome Statute, the

¹² ICC-01/12-01/18, available at: <https://www.icc-cpi.int/sites/default/files/CourtRecords/0902ebd1807933b1.pdf>.

¹³ ICC-ASP/21/Res.2, annex III, B.

¹⁴ C.N.80.2024, available at: <https://treaties.un.org/doc/Publication/CN/2024/CN.80.2024-Eng.pdf>.

¹⁵ Resolution ICC-ASP/22/Res.2.

amendment shall enter into force for all States Parties six months after its adoption by the Assembly, i.e., on 13 June 2024.

d) Solemn undertaking ceremony for six new judges of the Court

The President noted that a solemn undertaking ceremony would be held on 8 March 2024 for the six new judges of the Court, and that she would participate as a representative of the Assembly.

The Bureau agreed to invite the incoming President of the Court to deliver remarks at the next meeting of the Bureau.

Annex

BUREAU OF THE ASSEMBLY OF STATES PARTIES

Assembly mandate-holders appointed by the Bureau on 6 March 2024

The Hague Working Group

- **Budget**
Facilitator: Ambassador Lauri Kuusing (Estonia)

Sub-topic: Budget Management Oversight
Focal point: Ambassador Jaime Moscoso Valenzuela (Chile)

Sub-topic: Premises
Focal point: Mr. Julián Camilo Silva Sanchez (Colombia)
- **Cooperation**
Co-facilitators: Ambassador François Alabrune (France) and Ambassador Ramatoulaye Ba Faye (Senegal)
- **Complementarity, including sexual and gender-based crimes**
Ad-country focal points: Australia and Uganda
- **Plan of action for achieving universality and full implementation of the Rome Statute**
Ad-country focal points: The Netherlands and Republic of Korea
- **Review of the work and operational mandate of the Independent Oversight Mechanism**
Facilitator: Ambassador Beti Jacheva (North Macedonia)
- **Study Group on Governance**
Co-Chairs: Ambassador Arnaldo Brenes Castro (Costa Rica) and Ambassador René Miko (Czech Republic)
Co-focal points: Ms. Pauline De Decker (Belgium), Mr. Cornelius Scholtz (South Africa) and Ms. Mio Takanashi (Japan)

New York Working Group

- **Geographical representation and gender balance in the recruitment of staff of the Court**
Facilitator: Mr. Marvin Ikondere (Uganda)
- **Review of the procedure for the nomination and election of judges**
Facilitator: Ms. Melinda Vittay (Hungary)
- **Non-cooperation**
Ad-country focal points: Mexico, Sierra Leone, Vanuatu

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