

## Resolution ICC-ASP/22/Res.3

Adopted at the 9th plenary meeting, on 13 December 2023, by consensus

### ICC-ASP/22/Res.3

## Strengthening the International Criminal Court and the Assembly of States Parties

*The Assembly of States Parties,*

*Mindful* that each individual State has the responsibility to protect its population from the crime of genocide, war crimes, and crimes against humanity, that the conscience of humanity continues to be deeply shocked by unimaginable atrocities in various parts of the world, and that the need to prevent and the duty to end the most serious crimes of concern to the international community to put an end to the impunity of the perpetrators of such crimes is now widely acknowledged,

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

*Convinced* that the International Criminal Court (“the Court”) is an essential means of ending impunity for such crimes and preventing their recurrence, of promoting respect for international humanitarian law and human rights, thus contributing to freedom, security, justice and the rule of law, as well as to the prevention of armed conflicts, the preservation of peace and the strengthening of international security and the advancement of post-conflict peacebuilding and reconciliation with a view to achieving sustainable peace, in accordance with the purposes and principles of the Charter of the United Nations,

*Convinced also* that justice and peace are complementary and mutually reinforce each other,

*Welcoming* that the international community has agreed to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels and, in this regard, encouraging societies facing conflicts to move from war to peace through peaceful solutions,

*Convinced* that justice and the fight against impunity and holding to account the perpetrators of the most serious crimes of concern to the international community and persons criminally responsible under the Statute are, and must remain, indivisible and that in this regard universal adherence to the Rome Statute of the International Criminal Court is essential,

*Welcoming* the Court’s central role as the only permanent international criminal court within an evolving system of international criminal justice and the contribution of the Court to guarantee lasting respect for and the enforcement of international justice,

*Recalling* the primary responsibility of national jurisdictions to investigate and prosecute the most serious crimes of international concern and the increased need for cooperation in ensuring that national legal systems are capable of investigating and prosecuting such crimes,

*Reaffirming* its commitment to the Rome Statute of the International Criminal Court and its determination that the most serious crimes of concern to the international community as a whole must not go unpunished, and *underlining* the importance of the willingness and ability of States to genuinely investigate and prosecute such crimes,

*Welcoming* the efforts and achievements of the Court in bringing those most responsible for the crimes under the Rome Statute to justice and thus to contribute to the prevention of such crimes and *noting* the jurisprudence of the Court on the issue of complementarity,

*Welcoming* also in this regard relevant contributions from the Court relating to sexual and gender-based crimes, such as the Office of the Prosecutor’s Policy Paper on Sexual and Gender-Based Crimes, as well as contributions from States Parties and other relevant actors,

including initiatives for advancing the knowledge and understanding of such crimes, and convinced that these initiatives should be an integral part of strategic dialogues and actions to strengthen the Court and national courts in the fight against impunity, while fully respecting their judicial independence,

*Recalling* that the application of articles 17, 18 and 19 of the Rome Statute concerning the admissibility of cases before the Court is a judicial matter to be determined by the judges of the Court,

*Recalling further* that greater consideration should be given to how the Court will complete its activities in a situation country and that possible completion strategies could provide guidance on how a situation country can be assisted in carrying on national proceedings when the Court completes its activities in a given situation,

*Recognizing* that crimes within the jurisdiction of the Court threaten the peace, security and well-being of the world and, in consequence, that these are values protected by the Rome Statute,

*Underscoring* its respect for the independence and impartiality of the Court and its commitment to ensuring respect for and the implementation of the Court's judicial decisions,

*Recalling* the statement by the President of the Security Council of 12 February 2013 in which the Council stated its intention to continue fighting impunity, reiterated its previous call regarding the importance of State cooperation with the Court in accordance with the respective obligations of States and expressed its commitment to effective follow-up of Council decisions in this regard,

*Recalling* the full range of justice and reconciliation mechanisms with restorative measures that are complementary to criminal justice processes, including truth and reconciliation commissions, national reparations programmes and institutional and legal reforms, including guarantees of non-recurrence,

*Acknowledging* relevant decisions of the Court that have recognized that contributions to the promotion of peace and reconciliation may be a relevant consideration in sentencing decisions, on a case by case basis,

*Recalling* the decision by the Assembly of States Parties ("the Assembly") to establish a representation of the Court at the African Union Headquarters in Addis Ababa, and *reiterating* that such presence would promote dialogue with the Court and the understanding of its mission within the African Union and among African States, individually and collectively,

*Appreciating* the invaluable assistance that has been provided by civil society to the Court,

*Reaffirming* the importance of States Parties' cooperation with the Court to the fulfilment of its mandate, and *gravely concerned* by the repeated attempts at intimidation to deter cooperation with the Court and its officials,

*Gravely concerned* by the recent reports of attacks, threats and intimidation directed at some civil society organizations and those cooperating with the Court,

*Welcoming* the efforts undertaken by the Bureau and its Working Groups to identify ways to strengthen the International Criminal Court and the Rome Statute system through concrete, actionable recommendations aimed at enhancing the performance, efficiency and effectiveness of the Court,

*Emphasizing* the importance of equitable geographical representation and gender balance in the organs of the Court and, as appropriate, in the work of the Assembly and its subsidiary bodies,

*Mindful* of the need to encourage the full participation of States Parties, Observers and States not having observer status in the sessions of the Assembly and to ensure the broadest visibility of the Court and the Assembly,

*Recognizing* that victims' rights to equal and effective access to justice, protection and support; adequate and prompt reparation for harm suffered; and access to relevant information concerning violations and redress mechanisms are essential components of justice, *emphasizing* the importance of effective outreach to victims and affected communities in order to give effect to the unique mandate of the Court towards victims and

*determined* to ensure the effective implementation of victims' rights, which constitute a cornerstone of the Rome Statute system, *emphasizing* the essential role of the Trust Fund for Victims to help make the Court's justice a reality for victims,

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

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

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

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

*Conscious* of the vital role of field operations in the Court's work in situation countries and the importance of stakeholders working together to create suitable conditions for field operations,

*Conscious also* of the risks faced by personnel of the Court in the field, and *noting with appreciation* the work carried out by country offices,

*Recalling* that the Court acts within the constraints of an annual programme budget approved by the Assembly,

1. *Reconfirms* its unwavering support for the Court as an independent and impartial judicial institution, *reiterates* its commitment to uphold and defend the principles and values enshrined in the Rome Statute and to preserve its integrity undeterred by any threats or measures against the Court, its officials and those cooperating with it, and *renews* its resolve to stand united against impunity;
2. *Reaffirms* its support for the consistent implementation of the Court's mandate across the situations and cases under its jurisdiction in the interests of justice and the victims' right of access to justice, and stresses the need for sustainable resources for all situations and cases as well as cooperation with the Court to that end;

## **A. Universality of the Rome Statute**

3. *Welcomes* the State that has ratified the Rome Statute of the International Criminal Court since the twenty-first session, *invites* States not yet parties to the Rome Statute of the International Criminal Court to become parties to the Rome Statute, as amended, as soon as possible and *calls upon* all States Parties, all international and regional organizations, and civil society to intensify their efforts to promote the universality and full implementation of the Rome Statute;
4. *Invites* all States Parties not yet parties to the Agreement on the Privileges and Immunities of the International Criminal Court, to become parties to this Agreement;
5. *Notes with deep regret* the notification of withdrawal from the Rome Statute submitted by a State Party under article 127(1) of the Statute on 17 March 2018 as well as the withdrawal of its instrument of accession by another State on 29 April 2019, and *calls upon* these States to reconsider these withdrawals;<sup>1</sup>
6. *Welcomes with appreciation* also the continuation by the President of the Assembly of the dialogue on the "Relationship between Africa and the International Criminal Court" initiated by the Bureau during the fifteenth session of the Assembly of States Parties, and invites the Bureau to further widen and deepen this dialogue as needed with all interested State Parties;

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<sup>1</sup> Depository Notification C.N.138.2018.TREATIES-XVIII.10, see at: <https://treaties.un.org/doc/Publication/CN/2018/CN.138.2018-Eng.pdf>.

7. *Welcomes* the initiatives undertaken to celebrate 17 July as the Day of International Criminal Justice<sup>2</sup> and *recommends* that, on the basis of lessons learnt, all relevant stakeholders, together with the Court, continue to engage in preparation of appropriate activities and share information with other stakeholders to that effect through the Secretariat of the Assembly<sup>3</sup> and otherwise;

8. *Decides* to keep the status of ratifications under review and to monitor developments in the field of implementing legislation, inter alia with a view to facilitating the provision of technical assistance that States Parties to the Rome Statute, or States wishing to become parties thereto, may wish to request from other States Parties or institutions in relevant areas, and *calls upon* States to annually provide the Secretariat of the Assembly of States Parties with updated information about actions and activities in support of international justice, as per the Plan of Action (paragraph 6(h));<sup>4</sup>

9. *Recalls* that the ratification of the Rome Statute must be matched by national implementation of the obligations emanating therefrom, notably through implementing legislation, in particular in the areas of criminal law, criminal procedural law, and international cooperation and judicial assistance with the Court and, in this regard, *urges* States Parties to the Rome Statute that have not yet done so to adopt such implementing legislation as a priority and *encourages* the adoption of victims-related provisions, as and when appropriate;

10. *Welcomes* the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute<sup>5</sup> and notes with appreciation the efforts of the Court's President, the Office of the Prosecutor, the President of the Assembly, the Assembly, States Parties and civil society to enhance the effectiveness of universality-related efforts and to encourage States to become parties to the Rome Statute, as amended, and to the Agreement on the Privileges and Immunities of the International Criminal Court, as well as relevant efforts undertaken in the framework of the Universal Periodic Review of the Human Rights Council;

11. *Recalls* rule 42 of the Rules of Procedure of the Assembly of States Parties, and *underscores* the importance of promoting the universality of the Rome Statute and of strengthening the openness and transparency of the Assembly;

12. *Welcomes* the commemorative process to mark the twenty-fifth anniversary of the adoption of the Rome Statute undertaken by the Presidency of the Assembly of States Parties, with the support of the Court, States and civil society, which emphasized the historic significance and universal relevance of the Rome Statute;<sup>6</sup> *underscores* its fundamental importance to address the harm suffered by victims and affected communities; and promoted an in depth reflection on its future, pursuant to a recommendation of the Independent Expert Review;

13. *Welcomes* the exhibition *Common Bonds: From the Rome Conference to today*, that launched the commemorative process in July 2023 in The Hague as well as the ministerial roundtable and panels discussion on *Strategic vision for the next decade: how to ensure consistent and sustainable support for the ICC* held at the United Nations Headquarters in New York on 17 July 2023 followed by a symposium on the same theme at the Siracusa International Institute for Criminal Justice and Human Rights on 12 and 13 October 2023 in Siracusa, Italy;

14. *Takes note* of the outcome of the discussions, including in particular, the *Siracusa Declaration on ensuring consistent and sustainable support for the International Criminal Court* drafted at the end of the Siracusa symposium, as well as the "Ethical Principles for International Criminal Judges" on guidance to international judges on ethics;

15. *Thanks* all States, organizations and academic institutions that took initiatives throughout the year to mark the historic adoption of the Rome Statute on 17 July 1998;

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<sup>2</sup> *Official Records... Review Conference...* 2010 (RC/11), part II.B, Kampala declaration (RC/Decl.1), para 12.

<sup>3</sup> See at: <https://asp.icc-cpi.int/asp-events/ICJD/default>.

<sup>4</sup> ICC-ASP/5/Res.3, annex I.

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

<sup>6</sup> See at: <https://asp.icc-cpi.int/asp-events/25a-Adoption-RS>.

## **B. Agreement on Privileges and Immunities**

16. *Welcomes* the States Parties that have become a party to the Agreement on the Privileges and Immunities of the International Criminal Court and *recalls* that the Agreement and international practice exempt salaries, emoluments and allowances paid by the Court to its officials and staff from national taxation, and in this regard *calls upon* States Parties, as well as non-States Parties that have not yet done so to become parties to this Agreement as a matter of priority and to take the necessary legislative or other action, pending their ratification or accession, to exempt their nationals employed by the Court from national income taxation with respect to salaries, emoluments and allowances paid to them by the Court, or to grant relief in any other manner from income taxation in respect of such payments to their nationals;

17. *Reiterates* the obligations of States Parties to respect on their territories such privileges and immunities of the Court as are necessary for the fulfilment of its purposes and *appeals* to all States which are not party to the Agreement on Privileges and Immunities in which the Court's property and assets are located or through which such property and assets are transported, to protect the property and assets of the Court from search, seizure, requisition and any other form of interference;

## **C. Cooperation**

18. *Refers* to its resolution ICC-ASP/22/Res.5 on cooperation;

19. *Calls upon* States Parties to comply with their obligations under the Rome Statute, in particular the obligation to cooperate in accordance with Part 9, and *also calls upon* States Parties to ensure full and effective cooperation with the Court in accordance with the Rome Statute, in particular in the areas of implementing constitutional and legislative framework, enforcement of Court decisions and execution of arrest warrants;

20. *Reaffirms* the importance of supporting all those cooperating with the Court, including States and relevant international bodies and entities, in order to secure the ability of the Court to fulfil its critical mandate of holding accountable perpetrators of the most serious crimes of concern to the international community and delivering justice to victims;

21. *Further calls upon* States Parties to continue to express their political and diplomatic support to the Court, *recalls* the sixty-six recommendations annexed to resolution ICC-ASP/6/Res.2 and *encourages* States Parties and the Court to consider further measures to enhance their implementation and to strengthen their efforts to ensure full and effective cooperation with the Court;

22. *Urges* States Parties, in the face of the recent coercive measures taken against the elected officials of the Court, to give full effect to the relevant provisions of the Rome Statute<sup>7</sup> and, as appropriate, the Agreement on the Privileges and Immunities of the International Criminal Court<sup>8</sup> concerning the privileges and immunities of elected officials, staff of the Court, counsel and persons assisting defence counsel, including their immunity which shall continue to be accorded after the expiry of their terms of office, termination of their employment with the Court or cessation of their functions, and to take any action if deemed necessary by the security or other assessment made by a State Party, in accordance with existing legal framework, to ensure their security, safety and protection against any undue hindrance created by such coercive measures;

23. *Welcomes* the Court's report and comprehensive presentation on cooperation,<sup>9</sup> which contained disaggregated data over the responses provided by States Parties, including highlighting the main challenges;

24. *Underlines* the necessity to continue the discussions on practical solutions to improve cooperation between States and the Court with a view to enhancing prospects for the implementation of pending arrest warrants;

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<sup>7</sup> Article 48, paragraph 2 and 3 of the Rome Statute of the International Criminal Court.

<sup>8</sup> Article 15, paragraph 1, Article 16, paragraph 1 (b) and Article 18, paragraph 1 (b) of the Agreement on the Privileges and Immunities of the International Criminal Court.

<sup>9</sup> ICC-ASP/22/24.

25. *Recalls* that international cooperation and judicial assistance is governed by part 9 (Articles 86-102) of the Rome Statute;
26. *Underlines also* the necessity to continue the discussions between the co-facilitators on cooperation and the focal points no-cooperation and the Court;
27. *Welcomes* the plenary session on cooperation held during the twenty-second session of the Assembly of States Parties which offered an opportunity for a reflection between States Parties, the Court and members of civil society on 25 years of cooperation, as well as a more technical discussion regarding the issue of arrests;
28. *Underlines* the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, and *calls on* all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations;
29. *Recalls* the importance of the non-legally binding Declaration of Paris on asset recovery annexed to resolution ICC-ASP/16/Res.2;
30. *Recalls* the existence of the secured digital platform for States Parties to exchange relevant information on cooperation and financial investigations and assets recovery;
31. *Recalls* the recommendations on cooperation contained in the 30 September 2020 Independent Experts Report;<sup>10</sup>
32. *Recalls* the Procedures relating to non-cooperation adopted by the Assembly in ICC-ASP/10/Res.5 and revised by the Assembly in resolution ICC-ASP/17/Res.5, *recognizes* with concern the negative impact that the non-execution of Court requests *continues* to have on the ability of the Court to execute its mandate, and *takes note* of the past decisions of the Court on non-cooperation;
33. *Recalls* the Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation,<sup>11</sup> which was revised as annex III to ICC-ASP/17/31 and *encourages* States Parties to make use of it as they see fit in order to improve the implementation of the Assembly procedures relating to non-cooperation;
34. *Takes note* of the report of the Bureau on non-cooperation,<sup>12</sup> *welcomes* the efforts of the President of the Assembly in implementing the Assembly procedures relating to non-cooperation and *recalls* that the President serves *ex officio* as focal point for his or her region,<sup>13</sup> *calls upon* all stakeholders, at all levels, to continue assisting the President of the Assembly, including when accomplishing his or her task with the support of the regional focal points for non-cooperation;
35. *Recalls* the role of the Assembly of States Parties and the Security Council with respect to non-cooperation as provided for by articles 87, paragraph 5, and 87, paragraph 7, of the Rome Statute, and *welcomes* the efforts of States Parties to strengthen the relationship between the Court and the Council;
36. *Welcomes* the Arria formula meeting of the Security Council on the twenty-fifth anniversary of the Rome Statute and the contribution of the Court to the maintenance of international peace and security, held on 18 July 2023;
37. *Calls upon* States Parties to continue their efforts to ensure that the Security Council addresses the communications received from the Court on non-cooperation pursuant to the Rome Statute, *encourages* the President of the Assembly and the Bureau to continue consulting with the Security Council and also *encourages* both the Assembly and the Security Council to strengthen their mutual engagement on this matter;

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<sup>10</sup> ICC-ASP/19/16.

<sup>11</sup> ICC-ASP/15/31, Add.1, annex II.

<sup>12</sup> ICC-ASP/22/35.

<sup>13</sup> ICC-ASP/11/29, para. 12.

38. *Encourages* the authorities in Sudan to effectively cooperate with the Court in accordance with Security Council resolution 1593, while *expressing continued concern* about the military conflict erupted in the Sudan on 15 April 2023;

39. *Noting* the past orders of the Pre-Trial Chamber to the Registrar concerning action to be taken in case of information relating to travel of suspects, *urges* States to share with the focal points on non-cooperation any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued;

#### **D. Host State**

40. *Recognizes* the importance of the relationship between the Court and the host State in accordance with the terms of the Headquarters Agreement and *notes with appreciation* the on-going commitment of the host State to the Court with a view to its more efficient functioning;

#### **E. Relationship with the United Nations**

41. *Recognizes* the need for enhancing the institutional dialogue with the United Nations, including on Security Council referrals and on questions considered by the Security Council and other situations involving the maintenance of international peace and security which are subject to the jurisdiction of the Court;

42. *Welcomes* the twice-yearly reports of the Prosecutor on the situations referred by the United Nations Security Council pursuant to resolutions 1593 (2005) and 1970 (2011), and *noting* the Prosecutor's repeated requests for effective Security Council follow-up, *recognizes* the efforts of some members of the Security Council in this regard, reiterates its deep concern by the on-going lack of effective follow-up despite these efforts, and *urges* all members of the Security Council to support future such requests;

43. *Recognizes* that ratification or accession to the Rome Statute by members of the United Nations Security Council enhances joint efforts to combat impunity for the most serious crimes of concern to the international community as a whole;

44. *Also recognizes* the Security Council's call regarding the importance of State cooperation with the Court and *encourages* further strengthening of the Security Council's relationship with the Court by:

(a) providing effective follow-up of situations referred by the Council to the Court and on-going political support;

(b) enabling financial support by the United Nations for expenses incurred by the Court due to referrals of the Council;

(c) continued support for the work of the Court through cooperation and assistance by peacekeeping and special political missions mandated by the Council, including by considering extending best practices with respect to the drafting of mandates of peacekeeping operations while respecting their basic principles, and increased engagement between Sanctions Committees and the Court with a view to improving their cooperation and achieving better coordination on matters pertaining to areas of mutual concern;

(d) considering mandating peacekeeping and special political missions to contribute, where appropriate, to the strengthening of national justice systems through training, outreach and other forms of assistance;

(e) enhanced engagement by the Council with Court representatives and on matters related to the Court in various formats; and

(f) institutionalizing Council cooperation with and support for the Court in this regard;

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

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

46. *Encourages* all United Nations Offices, Funds and Programmes to strengthen their cooperation with the Court, and to collaborate effectively with the Office of Legal Affairs as focal point for cooperation between the United Nations system and the Court;

47. *Recalls* article 4 of the Relationship Agreement between the Court and the United Nations, and *stresses* the continuing need to ensure the ability of the Court to fully exercise its capacity of observer to the United Nations and its ability to interact and engage in dialogue with the United Nations, including through its attendance and participation as observer in the activities of the United Nations General Assembly, and through the Court's officials' regular visits to the United Nations to provide briefings and updates on its activities;

48. *Commends* the important work of the New York Liaison Office of the Court, *reiterates* its full support for the Office and *stresses* the importance of the continued and further strengthening of the implementation of its functions in accordance with ICC-ASP/4/6, paragraphs 2, 3 and 4;

49. *Calls upon* Bureau members and other States Parties to continue providing States Parties with information about their efforts at the United Nations, and in particular at the Security Council, notably through regular briefings provided by the designated State Party member of the Security Council, as well as in any other international or regional fora to promote the fight against impunity;

50. *Welcomes* the presentation of the annual report of the Court to the General Assembly of the United Nations<sup>15</sup> and in particular its focus on the relationship between the Court and the United Nations, *also welcomes* the annual adoption of the resolutions concerning the Court by the General Assembly, *encourages* States Parties to support the resolution and *further encourages* them to continue their constructive engagement with United Nations Member States to further strengthen this resolution;

51. *Notes with concern* that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and *notes* that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €89.7 million;

52. *Stresses* that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;

53. *Urges* States Parties to pursue, within the General Assembly of the United Nations, the implementation of article 115, paragraph (b), of the Rome Statute, also taking into account that article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations states that the conditions under which any funds may be provided to the Court by a decision of the General Assembly shall be subject to separate arrangements;

54. *Notes* that all cooperation received by the Court from the United Nations is provided strictly on a reimbursable basis;

## **F. Relationships with other international organizations and bodies**

55. *Welcomes* the efforts undertaken by various regional and other international organizations to support the Court in the fulfilment of its mandate, as well as efforts of the Court to engage with various regional bodies and entities;

56. *Recalls* the memoranda of understanding and agreements on cooperation concluded by the Court with regional and other international organizations including those concluded with the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) in 2022 and the and the European Union Agency for Law Enforcement Cooperation (EUROPOL) in 2023;

57. *Emphasizes* ongoing efforts aimed at intensifying dialogue with the African Union and to strengthen the relationship between the Court and the African Union and *welcomes* the Court's further regular engagement in Addis Ababa with the African Union and diplomatic missions in anticipation of establishing its liaison office, *recognizes* the

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<sup>15</sup> United Nations document A/78/322.



engagement of the President of the Assembly with officials of the African Union in Addis Ababa and *calls upon* all relevant stakeholders to support strengthening the relationship between the Court and the African Union;

58. *Encourages* the Court to continue efforts to enable a frank and constructive dialogue between the Court and the African States Parties to the Rome Statute as a key measure to strengthen relations between the Court and its African partners and address challenges within the context of this relationship;

59. *Recommends* that the Court studies the desirability and feasibility of establishing other regional representations to promote dialogue, cooperation, complementarity, universality and promotion of the Rome Statute, as well as to raise awareness for balanced representation of nationals of states parties from all regions and asks the Registrar to report to the Bureau on this question, in the first quarter of 2024, including its budgetary implications, and ways to maximize the use of existing resources drawing upon experiences and lessons learned, including in regards to other relevant external presences;

60. *Welcomes* the efforts to further the presence of the Court at meetings of regional organizations;

61. *Recalls* the obligation of the High Contracting Parties to undertake to respect and ensure respect for the Geneva Conventions and *recalls* the contribution that the International Humanitarian Fact-finding Commission, established by article 90 of the Additional Protocol I to the 1949 Geneva Convention, could make in ascertaining facts related to alleged violations of international humanitarian law and facilitating, where appropriate, the prosecution of war crimes, both at the national level and before the Court;

## **G. Activities of the Court**

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

63. *Notes with satisfaction* the fact that owing, not least, to the dedication of its staff, considerable progress continues to be made in the Court's activities including its preliminary examinations, investigations and judicial proceedings in various situations which either States Parties or the United Nations Security Council<sup>17</sup> referred to the Court or which the Prosecutor initiated *proprio motu*;

64. *Recalls* its invitation to the Court to continue to take note of best practices of other relevant international and national organizations, tribunals and mechanisms, including those gained by national institutions that have already investigated and prosecuted crimes that fall within the Court's jurisdiction, in solving challenges similar to those encountered by the Court, while reiterating its respect for the independence of the Court;

65. *Encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

66. *Recognizes* the importance of achieving accountability for all Rome Statute crimes while recalling that there is no hierarchy between them, *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twenty-third session of the Assembly;

67. *Notes with appreciation* the efforts undertaken by the Office of the Prosecutor to achieve the efficiency and transparency of its preliminary examinations, investigations and prosecutions;

68. *Welcomes* the adoption of the Office of the Prosecutor's Policy Papers on Gender Persecution, on Gender-based Crimes, and on Children and *notes* the continuous review by the Prosecutor of the various policy papers of the Office, with a view to consolidating and enhancing them where necessary;

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

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

69. *Welcomes* the continued implementation by the Office of the Prosecutor of its Policy Papers on Case Selection and Prioritization, on Children, on Gender-Based Crimes, and on Gender Persecution and, in this regard, *stresses* the importance of the effective investigation and prosecution of sexual and gender-based crimes and crimes against children by the Court and by national courts, in order to end impunity for perpetrators of such crimes, and *calls upon* States Parties to consider the Policy Papers to strengthen the investigation and prosecution of these crimes domestically;

70. *Expresses its appreciation* to the Office of the Prosecutor for consulting with States Parties and other stakeholders before the issuance of its policies and strategies and *welcomes* the contributions made by States Parties in this regard;

71. *Also welcomes* the efforts undertaken by the Court to implement the One-Court principle, and to coordinate its activities among its organs at all levels, including through the implementation of measures to increase clarity on the responsibility of different organs, while respecting the independence of the judges and the Prosecutor and the neutrality of the Registry and *encourages* the Court to undertake all necessary efforts to fully implement the One-Court principle, inter alia with a view to ensuring full transparency, good governance, efficient use of financial resources and sound management;

72. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims for the period 2023-2025 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims;

73. *Notes with appreciation* the continued efforts undertaken by the Registrar to mitigate the risks faced by the Court in relation to its field offices and to enhance the Court's field operations with a view to increasing their efficiency and visibility and *encourages* the Court to continue to optimize its field offices and activities in close cooperation with the United Nations, as appropriate, in order to ensure the Court's continued relevance and impact in States in which it carries out its work;

74. *Welcomes* the on-going efforts undertaken by the Court to improve its use of alternative sources of information and evidence as well as its capacities to this end, including in the field of financial investigations, *encourages* the Court to continue these efforts and *notes* the importance of providing the Court with the appropriate means for this purpose;

75. *Recognizes* the important work done by the field-based staff of the Court in difficult and complex environments and *expresses its appreciation* for their dedication to the mission of the Court;

76. *Emphasizes* the need for the Court to continue to improve and adapt outreach activities with a view to further developing and implementing effectively and efficiently the Strategic Plan for Outreach<sup>18</sup> in affected countries, including, where appropriate, by early outreach from the outset of the Court's involvement, including during the preliminary examination stage;

77. *Recalls* that the issues of public information and communication about the Court, the Trust Fund for Victims, and its activities constitute a shared responsibility of the Court and States Parties, while *acknowledging* the significant contribution of other stakeholders to developing a coordinated and comprehensive approach;

## **H. Elections**

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

79. *Stresses* the importance of nominating and electing as judges qualified, competent and experienced persons of the highest quality and of high moral character, impartiality and integrity who possess the qualifications required in their respective States for appointment to the highest judicial offices, in accordance with article 36 of the Rome Statute, as well as the importance of elected judges who have made their solemn undertaking being available to

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

<sup>19</sup> ICC-ASP/22/4.

take up their full-time service when the Court’s workload so requires, and for this purpose encourages States Parties to conduct thorough and transparent processes to identify the best candidates;

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

81. *Recalling* its decision to task the Bureau with the development of a vetting process for all elected officials of the Court, welcomes the report of the Bureau on the establishment of a permanent due diligence process for elected officials, adopts the due diligence procedure for elected officials of the International Criminal Court (“due diligence procedure”) contained in annex II to this resolution, requests the Bureau to consider any amendments to other mandates and procedures which may be necessary to implement the due diligence procedure in the future, and emphasizes that the due diligence procedure will need to be taken into account in any future decisions on the process for the election of the Judges, Prosecutor, Deputy Prosecutor(s), Registrar and Deputy Registrar;

## **I. Secretariat of the Assembly of States Parties**

82. *Recognizes* the important work done by the Secretariat of the Assembly (“the Secretariat”), *reiterates* that the relations between the Secretariat and the different organs of the Court shall be governed by principles of cooperation and of sharing and pooling of resources and services, as set out in the annex to resolution ICC-ASP/2/Res.3, and *welcomes* the fact that the Director of the Secretariat participates in the meetings of the Coordination Council when matters of mutual concern are considered;

83. *Recalls* the general oversight function of the Bureau over the Secretariat, as contained in the resolution establishing the Secretariat;<sup>20</sup>

84. *Recalls* the report of the Bureau on the assessment of the Secretariat and the recommendations contained therein;<sup>21</sup>

## **J. Counsel**

85. *Notes* the important work of independent representative bodies of counsel or legal associations, including any international legal association relevant to rule 20, sub-rule 3, of the Rules of Procedure and Evidence;

86. *Takes note* of the report on the constitution and activities of the International Criminal Court Bar Association;<sup>22</sup>

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

88. *Notes* the need to improve gender balance and equitable geographical representation on the list of counsel and thus *continues to encourage* applications to the list of counsel established as required under rule 21, sub-rule 2, of the Rules of Procedure and Evidence with a particular view to ensuring equitable geographical representation and gender balance, as well as legal expertise on specific issues such as violence against women or children, as appropriate;

## **K. Legal aid**

89. *Adopts*, effective 1 January 2024, the “Legal Aid Policy of the International Criminal Court” (ICC-ASP/22/9), thereby superseding the Registry’s single policy document on the Court’s legal aid system (ICC-ASP/12/3) and any interim measures taken by the Court in accordance with ICC-ASP/21/Res. 2, paragraph 92;

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<sup>20</sup> ICC-ASP/2/Res.3, annex, para. 10.

<sup>21</sup> ICC-ASP/17/39.

<sup>22</sup> ICC-ASP/22/23.

90. *Requests* the Court to make the amendments to the Court's legal framework necessary to ensure the effective implementation of the new Legal Aid Policy of the International Criminal Court;

91. *Stresses* the need for continuous monitoring and scrutiny of the legal aid system and, to this end, *requests* the Court to report on the application of the new Legal Aid Policy of the International Criminal Court by 31 August 2024, in consultation with members of defence and victims' teams, in order to facilitate the Assembly's review and consideration of the Legal Aid Policy at the twenty-third session of the Assembly;

92. *Requests* the Bureau to address the question of whether the existing legal framework (comprising of, *inter alia*, the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court) provides a legal basis for tax exemptions to be granted to defence and victims' counsel and persons assisting counsel, who are subject to the Legal Aid Policy of the International Criminal Court, with a view to achieving a common understanding among the States Parties, and report on the matter, with recommendations or options, in advance of the twenty-third session of the Assembly;

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

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

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

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

96. *Welcomes* the continued structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence;

97. *Takes note* of the Bureau's report on the Study Group on Governance;<sup>23</sup>

98. *Extends* for another year the mandate of the Study Group;<sup>24</sup>

99. *Takes note* of the final report of the Independent Expert Review, dated 30 September 2020, the Comprehensive Action Plan, adopted by the Bureau on 28 July 2021 and the Matrix on progress in the assessment of the IER recommendations of the Review Mechanism, dated 28 July 2023 and *notes* that the Study Group will continue to consider the implementation of recommendations allocated to it as the Platform for discussion;

## **M. Proceedings of the Court**

100. *Emphasizes* that the effectiveness of proceedings of the Court is essential to the rights of victims and those of the accused, the credibility and authority of the institution and the promotion of the universality of the Statute, as well as the best possible use of the Court's resources;

101. *Welcomes* the Court's efforts to enhance the efficiency and effectiveness of proceedings, as well as the efforts on the part of States Parties and civil society in this regard, *and emphasizes* the importance of continued dialogue on this matter, as well as the shared responsibility of the Court and States Parties in this regard;

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<sup>23</sup> ICC-ASP/22/7.

<sup>24</sup> Established in resolution ICC-ASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICC-ASP/12/Res.8, ICC-ASP/13/Res.5, ICC-ASP/14/Res.4, ICC-ASP/15/Res.5, ICC-ASP/16/Res.6, ICC-ASP/17/Res.5, ICC-ASP/18/Res.6, ICC-ASP/19/Res.6, ICC-ASP/20/Res.5 and ASP/21/Res.2.

## **N. Working methods review**

102. *Recognizes* the benefits of rationalizing the working methods of the subsidiary bodies of the Bureau and the Assembly in order to cope with an increasing workload;

103. *Welcomes* the steps already undertaken by the Bureau for the improvement of the working methods and governance of the Bureau and the Assembly, *decides* to continue these efforts, and to that effect:

(a) *stresses* the need for the full implementation of the revised general roadmap for facilitations contained in annex II of resolution ICC-ASP/15/Res.5;

(b) *Calls* on facilitations of the Bureau to begin their work during the intersessional period as early as possible during the first half of the year, as appropriate;

(c) *welcomes* the holding of Bureau meetings both in New York and in The Hague;

(d) *acknowledges* the importance of ensuring that the agenda of the Assembly allows sufficient time for substantive discussions;

(e) *recognizes* the importance of exchange of information as well as mutual consultations between the New York Working Group and The Hague Working Group on matters of joint concern with a view to enhancing efficiency while avoiding duplication of efforts;

(f) *encourages* all States Parties to use the Extranet designed for the work of the subsidiary bodies of the Bureau and the Assembly containing all necessary documentation on the work in progress; and

(g) *also encourages* States Parties to deliver statements no longer than five minutes and to submit written statements instead of oral ones;

104. *Recognizes* the importance of the work carried out by the facilitators and the focal points;

105. *Recalls* the representative geographical character of the Bureau and *encourages* Bureau members to strengthen their communication with States Parties of their respective regional group to inform the discussion of the Bureau, including by establishing appropriate mechanisms for providing regular updates on the work of the Bureau;

106. *Reiterates* that the Bureau shall have representative character in its composition, taking into account, in particular, equitable geographical distribution and the adequate representation of the principal legal systems of the world, and *requests* the Bureau to remain seized of the matter;

107. *Welcomes* the report of the Bureau on the scheduling of Assembly sessions and the recommendations therein, and *decides* to revert to the question at an appropriate time, preferably ahead of the twenty-fifth session of the Assembly;

108. *Decides* to hold the Assembly sessions alternately two years at the seat of the Court and one year at the Headquarters of the United Nations, when elections are held, as a rule with a length of up to six days, preferably over one calendar week, unless judicial or prosecutorial elections are scheduled, and *stresses* the need of effective, efficient, concise and productive Assembly sessions, with broadest participation of States Parties and effective use of resources, as well as the need of avoiding duplication with a division of labour between New York and The Hague;

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

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

110. *Stresses* the central importance that the Rome Statute accords to the rights and needs of victims, as victims' right to present and have their views and concerns considered at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected and to protection of their safety, physical and psychological well-being, dignity and privacy, under article 68 of the Rome Statute, as well as their right to claim reparations

awarded and access to relevant information are essential components of justice and, in this regard, *emphasizes* the importance of effective outreach to victims and affected communities in order to give effect to the mandate of the Court;

111. *Recalls* article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court and the Trust Fund for Victims, and *notes* that assistance and reparations to victims may promote reconciliation and contribute to peace-building;

112. *Acknowledges* the importance of protective measures for victims and witnesses, including considering the best interests, rights and well-being of children and maintaining the physical and psychological welfare of witnesses, particularly victims of sexual and gender-based crimes, for the execution of the Court's mandate, *stresses* the need for States to conclude agreements with the Court in order to facilitate expeditious international relocation of persons at risk, *urges* all States to consider concluding such relocation agreements and *encourages* all States to contribute to the Special Fund for Relocations;

113. *Stresses* that, since the identification, tracing and freezing or seizure of any assets of the convicted person are indispensable for reparations, it is of paramount importance that all necessary measures are taken to that end, in order for relevant States and relevant entities to provide timely and effective assistance pursuant to articles 75, 93, paragraph 1(k), and 109 of the Rome Statute, and *calls upon* States Parties to enter into voluntary agreements, arrangements or any other means to this end with the Court, as required;

114. *Recalls* the Court's previous commitment to review its Revised Strategy in Relation to Victims once a judicial cycle is finished,<sup>25</sup>

115. *Renews its appreciation* to the Board of Directors and the Secretariat of the Trust Fund for Victims for their continuing commitment towards victims and affected communities; and in this regard, *notes with appreciation* the latest report by the Board of Directors on the activities of the Trust Fund for Victims to the Assembly<sup>26</sup> as well as the efforts of the Board of Directors to improve the governance, efficiency and effectiveness of the Trust Fund for Victims;

116. *Notes* the significant increase in the activities of the Trust Fund for Victims, to include the on-going implementation of three reparations programmes in the Democratic Republic of Congo and Mali, one interim programme for priority victims in urgent need and its associated reparation proceedings towards a full programme of reparations in the Democratic Republic of the Congo, and an additional ongoing reparations proceeding in Uganda, as well as the expansion of assistance programmes for the benefit of victims to seven situations before the Court;

117. *Calls upon* States, international and inter-governmental organizations, individuals, corporations and other entities to make voluntary contributions, in accordance with their financial ability, to the Trust Fund for Victims in order to broaden its resource base, improve the predictability of funding and maintain responsiveness to harm suffered by victims as well as to the Court's judicial developments, and *renews its appreciation* to those that have done so;

118. *Invites* States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and *expresses its appreciation* to those that have already done so;

119. *Invites* States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and *expresses its appreciation* to those that have already done so;

120. *Notes* the intention of the Trust Fund for Victims to raise voluntary contributions and private donations, in order to ensure the implementation of Court-ordered reparations and assistance activities to the benefit of victims in cases and situations before the Court, in particular to fully complement the €31.1 million liability in the cases of *Thomas Lubanga* and *Bosco Ntaganda* and for the continuation in 2024 of multi-annual assistance programmes;

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<sup>25</sup> ICC-ASP/13/Res.4, para. 1.

<sup>26</sup> ICC-ASP/22/14.

## **P. Recruitment of staff**

121. *Takes note* of the Court's report on Human Resources Management,<sup>27</sup> and requests the Court to further strengthen its efforts, in the recruitment of staff, to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties, gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children, and encourages further progress in this regard;

122. *Calls* upon the Court to report the outcome of its efforts to seek equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance to the Assembly at its twenty-third session, including, but not limited to, improvements in the recruitment process and annual recruitment data;

123. *Welcomes* the initiative by the Registry to hold a two-day Workshop on Geographical Representation and Gender Balance (GRGB) in order to assess the current situation and to identify strategies and concrete proactive measures to significantly enhance GRGB in a comprehensive, systemic, and sustainable manner;

124. *Takes note* of the continued dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, and *welcomes* the report of the Bureau and its recommendations;<sup>28</sup>

125. *Urges* States Parties to undertake efforts to identify and enlarge pools of potential applicants to the Court's professional positions from States Parties from non- and under-represented regions and countries, including through the financing by the Assembly of the Court's internship and visiting professional programmes, and by States Parties of Junior Professional Officer (JPO) programmes, through targeted outreach initiatives and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

126. *Welcomes* the establishment by the Court of a programme to fund, through voluntary contributions, the placement of interns and visiting professionals from developing regions with a particular focus on candidates from non-represented and under-represented States Parties, *welcomes* the voluntary contributions received thus far and *calls upon* States Parties to contribute to this programme; and *requests* the Court to further devise mechanisms that can ensure in a more sustainable and systematic manner the funding of placements of interns and visiting professionals from developing regions;

127. *Welcomes* the Court-wide, Office of the Prosecutor, Registry and Trust Fund for Victims Strategic Plans for 2023-2025, and their strategic goals to improve the geographical representation and gender balance as one of the Court's priorities;

128. *Further welcomes* the adoption of the Court's first Strategy on Gender Equality and Workplace Culture on 8 December 2022;

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

## **Q. Complementarity**

130. *Recalls* the primary responsibility of States to investigate and prosecute the most serious crimes of international concern and that, to this end, appropriate measures need to be adopted at the national level, and international cooperation and judicial assistance need to be strengthened, in order to ensure that national legal systems are willing and able genuinely to carry out investigations and prosecutions of such crimes;

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<sup>27</sup> CBF/41/15.

<sup>28</sup> ICC-ASP/22/31.

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

131. *Resolves* to continue and strengthen, within the appropriate fora, effective domestic implementation of the Rome Statute, to enhance the capacity of national jurisdictions to prosecute the perpetrators of the most serious crimes of international concern in accordance with internationally recognized fair trial standards, pursuant to the principle of complementarity;

132. *Welcomes* the international community's engagement in strengthening the capacity of domestic jurisdictions and inter-State cooperation to enable States to genuinely prosecute Rome Statute crimes;

133. *Also welcomes* efforts by the United Nations, international and regional organizations, States and civil society in mainstreaming capacity-building activities aimed at strengthening national jurisdictions with regard to investigating and prosecuting Rome Statute crimes into existing and new technical assistance programmes and instruments, and *strongly encourages* additional efforts in this regard by other international and regional organizations, States and civil society;

134. *Stresses* that the proper functioning of the principle of complementarity entails that States incorporate the crimes set out in articles 6, 7 and 8 of the Rome Statute as punishable offences under their national laws, to establish jurisdiction for these crimes and to ensure effective enforcement of those laws, and *urges* States to do so;

135. *Welcomes* the report of the Bureau on complementarity and the recommendations made on future consultations set out therein,<sup>30</sup> and *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

136. *Also welcomes* the information by the Secretariat of the Assembly of States Parties on the progress in giving effect to its mandate to facilitate the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions; *welcomes further* the work that has already been undertaken by the Secretariat and the President of the Assembly, and *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twenty-third session of the Assembly;

137. *Encourages* States, international and regional organizations and civil society to submit to the Secretariat information on their complementarity-related activities and *further welcomes* the efforts made by the international community and national authorities, including national capacity-building activities to investigate and prosecute sexual and gender-based crimes that may amount to Rome Statute crimes, in particular the continued efforts on the strategic actions to ensure access to justice and to enhance empowerment of victims at national level, recalling the recommendations presented by the International Development Law Organization<sup>31</sup> during the fourteenth session of the Assembly;

138. *Encourages* the Court to continue its efforts in the field of complementarity, including through exchange of information between the Court and other relevant actors, while recalling the Court's limited role in strengthening national jurisdictions and *also encourages* continued inter-State cooperation, including on engaging international, regional and national actors in the justice sector, as well as civil society, in exchange of information and practices on strategic and sustainable efforts to strengthen national capacity to investigate and prosecute Rome Statute crimes and the strengthening of access to justice for victims of such crimes, including through international development assistance;

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<sup>30</sup> ICC-ASP/22/19.

<sup>31</sup> International Development Law Organization paper entitled "Complementarity for sexual and gender-based atrocity crimes", November 2015.



## R. Independent Oversight Mechanism

139. *Recalls* its decision in resolution ICC-ASP/21/Res.2 requesting the Bureau to remain seized of review of the work and operational mandate of the Independent Oversight Mechanism and to follow up on the recommendations content in the report of the facilitation, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-second session;

140. *Welcomes* the discussions held during 2023 on the review of the work and operational mandate of the Independent Oversight Mechanism, which is a subsidiary body of the Assembly of States Parties;

141. *Takes note* of the Final Report of the Independent Expert Review of the International Criminal Court and the Rome Statute System,<sup>32</sup> in particular its recommendations related to the work and operational mandate of the Independent Oversight Mechanism, which deserves thorough discussions among States Parties and consideration and may call for further revisions of the mandate;

142. *Recalls that* the revised Operational Mandate of the Independent Oversight Mechanism applies provisionally until, and without prejudice to, any decision of the Assembly to amend or replace the mandate after its consideration of the report and the recommendations of the Independent Expert Review;

143. *Welcomes* the complementary initiatives undertaken by the Bureau, the Assembly oversight bodies and the Court to try to ensure that the different organs of the Court have streamlined and updated where required, and, to the extent possible, consistent ethics charters and codes of conduct;

144. *Reiterates* the critical importance of the Independent Oversight Mechanism in carrying out its work in an independent, transparent and impartial manner free from any undue influence;

145. *Welcomes* the annual report of the Head of the Independent Oversight Mechanism;<sup>33</sup>

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

147. *Emphasizes* the importance of adherence to the highest professional and ethics standards by all Court staff and elected officials, *acknowledges* the essential role played and work done by the Independent Oversight Mechanism, and that the revised operational mandate of the Independent Oversight Mechanism<sup>34</sup> enables it to investigate the alleged conduct of former elected officials and staff both while they were in office and when they separated from service as prescribed in its paragraph 10, *takes note* of the status report provided by the Office of the Prosecutor, and *invites* the Court to provide at the earliest opportunity in advance of the twenty-third session of the Assembly any relevant update and recommendation on any necessary follow-up action for the Court and/or the Assembly;

148. *Welcomes* the progress made in formally aligning the regulatory framework of the Court with the operational mandate of the Independent Oversight Mechanism, in particular Administrative Instruction on Investigation of Unsatisfactory Conduct and Administrative Instruction on Unsatisfactory Conduct and Disciplinary Proceedings as well as the Administrative Instruction on Discrimination, Harassment, including Sexual Harassment, and Abuse of Authority, and *encourages* the Court, with the support of the Independent Oversight Mechanism, as necessary, to continue working to ensure that all relevant documents are updated and aligned with the mandate of the Independent Oversight Mechanism in order to harmonize the applicable rules;

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<sup>32</sup> ICC-ASP/19/24.

<sup>33</sup> ICC-ASP/22/21.

<sup>34</sup> ICC-ASP/19/Res.6, annex II.

## S. Programme budget

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

150. *Recalls* that, according to its Rules of Procedure,<sup>35</sup> the Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications and *emphasizes* the importance of ensuring that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

151. *Takes note with concern* of the report of the Bureau on the arrears of States Parties;<sup>36</sup>

152. *Emphasizes* the importance of endowing the Court with the necessary financial resources, and urges all States Parties to the Rome Statute to transfer their assessed contributions in full and by the deadline for contributions or, in the event of pre-existing arrears, immediately, in accordance with article 115 of the Rome Statute, rule 105.1 of the Financial Regulations and Rules, and other relevant decisions taken by the Assembly;

153. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute voluntarily to the Court and *expresses its appreciation* to those that have done so;

## T. Review Conference

154. *Recalls* that at the successful first Review Conference of the Rome Statute, held in Kampala, Uganda, from 31 May to 11 June 2010, States Parties adopted amendments to the Rome Statute, in accordance with article 5, paragraph 2, of the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime<sup>37</sup> and adopted amendments to the Rome Statute to expand the jurisdiction of the Court to three additional war crimes when committed in armed conflicts not of an international character;<sup>38</sup>

155. *Calls upon* all States Parties to consider ratifying or accepting these amendments, noting they shall enter into force in accordance with article 121, paragraph 5, of the Rome Statute, *notes with appreciation* the recent ratifications of the amendments<sup>39</sup> and *notes* that two States Parties have lodged declarations in accordance with article 15 *bis*, paragraph 4, of the Rome Statute;<sup>40</sup>

156. *Welcomes* the activation of the International Criminal Court's jurisdiction over the crime of aggression as of 17 July 2018, as decided by consensus by the Assembly in its resolution ICC-ASP/16/Res.5, marking the first time that a permanent international court has the authority to hold individuals accountable in respect of this crime, thereby completing the achievements of the Rome and Kampala Conferences of 1998 and 2010;

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;<sup>41</sup>

158. *Invites* States Parties to resume the discussions on the issue of peace and justice that arose during the stock-taking exercise held at the Review Conference;

159. *Recalls with appreciation* pledges of increased assistance to the Court made by thirty-five States Parties, one observer State, and one regional organization, *calls upon* these States and the regional organization to ensure the swift implementation of these pledges and *also calls upon* States and regional organizations to submit additional pledges and to report further at the twenty-third session of the Assembly, in written form or through their statement at the general debate on the implementation thereof;

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<sup>35</sup> ICC-ASP/18/Res.1, annex.

<sup>36</sup> ICC-ASP/22/16.

<sup>37</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6.

<sup>38</sup> *Ibid.*, RC/Res.5.

<sup>39</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-b&chapter=18&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-b&chapter=18&lang=en) and [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-10-a&chapter=18&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-10-a&chapter=18&clang=_en).

<sup>40</sup> <https://www.icc-cpi.int/resource-library#>.

<sup>41</sup> *Official Records ... Review Conference ... 2010* (RC/11), part II, RC/Res.6, paragraph 4.

## U. Consideration of amendments

160. *Welcomes* the report of the Working Group on Amendments;<sup>42</sup>

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

162. *Also calls upon* all States Parties to ratify or accept the amendments to article 8 adopted at the sixteenth and eighteenth sessions of the Assembly;<sup>43</sup>

## V. Participation in the Assembly of States Parties

163. *Calls upon* States, international organizations, individuals, corporations and other entities to contribute in a timely manner and voluntarily to the Trust Fund to allow the participation of least developed countries and other developing States in the annual session of the Assembly and *expresses its appreciation* to those that have done so;

164. *Encourages* the continuation of efforts undertaken by the President of the Assembly to hold an on-going dialogue with all stakeholders, including regional organizations and *calls upon* all States Parties to support the President in her undertakings aimed at strengthening the Court, the independence of proceedings and the Rome Statute system as a whole;

165. *Recalls* the long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society, and *reaffirms* resolution ICC-ASP/2/Res.8 on recognition of the coordinating and facilitating role of the NGO Coalition for the ICC;

166. *Calls upon* all States to refrain from any acts constituting attacks, threats, intimidation or reprisals against participants in the work of the Assembly;

167. *Takes note of* the Guidelines for enhancing the security of participants in the work of the Assembly adopted by the Bureau on 4 October 2023 and *requests* 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; and

168. *Decides* to entrust the Court, the President of the Assembly, the Bureau, the Advisory Committee on Nominations, the Working Group on Amendments, the Study Group on Governance, the Independent Oversight Mechanism, the Secretariat, and the Board of Directors and the Secretariat of the Trust Fund for Victims, as appropriate, with the mandates contained in annex I to the present resolution.

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<sup>42</sup> ICC-ASP/22/29.

<sup>43</sup> ICC-ASP/16/Res.4 and ICC-ASP/18/Res.5.

## Annex I

### Mandates of the Assembly of States Parties for the intersessional period

1. With regard to **universality of the Rome Statute**,
  - (a) *endorses* the recommendations of the report of the Bureau on the Plan of action for achieving universality and full implementation of the Rome Statute;<sup>1</sup> and
  - (b) *requests* the Bureau to continue to monitor the implementation of the Plan of action for achieving universality and full implementation of the Rome Statute and to report thereon to the Assembly at its twenty-third session;
2. With regard to the **Agreement on Privileges and Immunities**, *requests* the Bureau to continue to support the ratification of the Agreement;
3. With regard to **cooperation**,
  - (a) *urges* the Bureau, through The Hague Working Group, to continue the discussions on the proposals resulting from the seminar of the co-facilitation held in The Hague on 7 November 2018 entitled “Arrests: a key challenge in the fight against impunity”;
  - (b) *requests* the Bureau, through its Working Groups, to continue the discussions on voluntary framework agreements or arrangements, and to report thereon to the Assembly at its twenty-third session;
  - (c) *invites* the Bureau, through its Working Groups, to discuss the feasibility of establishing a coordinating mechanism of national authorities;
  - (d) *invites* the Bureau, through its Working Groups, to continue to strengthen the relationship between the UN and its agencies and entities, including for capacity building, the ICC and States Parties, to foster cooperation with the Court;
  - (e) *invites* the Court to continue improving its practice in transmitting specific, complete and timely requests for cooperation and assistance, including by considering consultations with the State Party concerned when necessary;
  - (f) *encourages* the Bureau, through its Working Groups, to continue its review of the implementation of the 66 recommendations on cooperation adopted by States Parties in 2007,<sup>2</sup> in close cooperation with the Court, where appropriate;
  - (g) *requests* the Bureau to maintain a facilitation of the Assembly of States Parties for cooperation to consult with States Parties, the Court, other interested States, relevant organizations and non-governmental organizations in order to further strengthen cooperation with the Court;
  - (h) *requests* the Bureau, through the facilitation on cooperation, in accordance with the resolution on the Review of the International Criminal Court<sup>3</sup> and the Review Mechanism’s Comprehensive Action Plan<sup>4</sup>, to continue to review the implementation of the recommendations related to cooperation as appropriate, and to report thereon to the Assembly at its twenty-third session;
  - (i) *requests* the Court to continue to submit an updated report on cooperation to the Assembly at its annual session, containing disaggregated data over the responses provided by States Parties, including highlighting the main challenges;
  - (j) *mandates* the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris, including by continuing the work to further develop the secured digital platform;

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

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

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

<sup>4</sup> [https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP20/RM-Comprehensive\\_Action\\_Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive_Action_Plan-ENG.pdf).

(k) *requests* the Registrar to engage with States Parties with regard to issues outlined in paragraph 22 of this resolution and to report to the Bureau, through the cooperation facilitation, in the first half of 2024 on the outcome of these discussions;

(l) *requests* the President of the Assembly to continue to engage actively and constructively with all relevant stakeholders in accordance with the Assembly procedures *relating* to non-cooperation, both to prevent instances of non-cooperation and to follow up on any matter of non-cooperation referred by the Court to the Assembly;

(m) *requests* that any information concerning potential or confirmed travel of persons against whom an arrest warrant has been issued be promptly shared with the Court by the focal points on non-cooperation; and

(n) *requests* the Bureau to continue to actively engage throughout the intersessional period with all relevant stakeholders to continue to ensure effective implementation of the Assembly procedures relating to non-cooperation and to submit a report on its activities to the Assembly at its twenty-third session;

4. With regard to the **relationship with the United Nations**,

(a) *invites* the Court to continue its institutional dialogue with the United Nations, based on the Relationship Agreement between the United Nations and the International Criminal Court; and

(b) *requests* the Registry to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council<sup>5</sup> ahead of the twenty-third session of the Assembly;

5. With regard to **relationships with other international organizations and bodies**, *invites* the Court to include in its annual report to the United Nations General Assembly a section on the status and implementation of specific agreements on cooperation with other international organizations;

6. With regard to **elections**,

(a) *decides* to continue to review the procedure for the nomination and election of judges as set forth in resolution ICC-ASP/3/Res.6, as amended, with a view to making any improvements as may be necessary, taking into account the work conducted so far as reflected in the facilitator's report;<sup>6</sup>

(b) *requests* the Bureau to report to the Assembly at its twenty-third session on possible amendments to other mandates and procedures which may be necessary in order to implement the due diligence procedure for elected officials; and

(c) *requests* the Bureau to update the Assembly, at its twenty-third session, on the progress of the review of the procedure for the nomination and election of judges;

7. With regard to the Secretariat, *invites* the President to report to the twenty-third session of the Assembly on the implementation of the recommendations contained in the report of the Bureau on the assessment of the Secretariat;<sup>7</sup>

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

(a) *requests* the Court to make the amendments to the Court's legal framework necessary to ensure the effective implementation of the new Legal Aid Policy of the International Criminal Court;

(b) *requests* the Court to report on the application of the new Legal Aid Policy by 31 August 2024, in consultation with members of defence and victims' teams, in order to facilitate the Assembly's review and consideration of the Legal Aid Policy at the twenty-third session of the Assembly;

(c) *requests* the Bureau to address the question of whether the existing legal framework (comprising of, inter alia, the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court) provides a legal basis for tax exemptions

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<sup>5</sup> ICC-ASP/19/17.

<sup>6</sup> Report of the Bureau on the review of the procedure for the nomination and election of judges (ICC-ASP/22/33).

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

to be granted to defence and victims' counsel and persons assisting counsel, who are subject to the Legal Aid Policy of the International Criminal Court, with a view to achieving a common understanding among the States Parties, and report on the matter, with recommendations or options, in advance of the twenty-third session of the Assembly;

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

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

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

9. With regard to the **Study Group on Governance**,

(a) *invites* the Court to further engage in a structured dialogue with States Parties with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence, and to provide State Parties with its update on implementation of the respective IER recommendations; and

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

10. With regard to **proceedings of the Court**,

(a) *invites* the Court to intensify its efforts to enhance the efficiency and effectiveness of proceedings including by adopting further changes of practice;

(b) *encourages* the Bureau, including through the two working groups and the Study Group on Governance, to continue to support the Court's efforts to enhance the efficiency and effectiveness of proceedings; and

(c) *encourages* the Court to take note of the best practices of relevant international and national organizations, tribunals, and mechanisms related to sexual and gender-based crimes, including practices related to investigation, prosecution and training, in solving challenges related to crimes under the Rome Statute, including sexual and gender-based crimes, while reiterating its respect for the independence of the Court;

11. With regard to the **working methods review**,

(a) *decides* that its annual session shall have a duration of up to six working days with a possible extension of up to three additional days in election years, as required, and to focus, in such cases, the first three days on the elections of judges;

(b) *also decides* that its annual sessions shall include one or two plenary segments on specific agenda items;

(c) *invites* the facilitators and focal points, when appropriate, to present their work to the Assembly;

(d) *also invites* the facilitators and focal points to commit themselves for a period of up to three years considering the particularities and the complexity of each mandate and to submit, in addition to their regular reports, a final written report to the Assembly at the end of their mandate, including lessons learnt;

(e) *invites* the Bureau to implement the recommendations of the 2013 working methods report;<sup>8</sup>

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

(f) *requests* the Bureau to establish facilitations only if the mandate requires open-ended consultations, and the matter cannot be addressed by a less resource-intensive mechanism, such as a rapporteur or a focal point;<sup>9</sup>

(g) *invites* the Bureau to use existing technologies such as video-conferencing in order to ensure participation of members of the Bureau not represented at the venue of the Bureau meeting;

(h) *requests* the Bureau to continue conducting evaluations of the established mandates and, where appropriate, consider the inclusion of end-dates and that it prepare recommendations on the reduction of the number and length of reports;

(i) *Requests* the Bureau 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; and

(j) *requests* all facilitators and focal points, in consultation with States Parties, to undertake an exercise to further streamline the present resolution for the twenty-third session, including through continued implementation of the Guiding Principles on the streamlining and drafting of proposals for this resolution;

12. With regard to **victims and affected communities, reparations and the Trust Fund for Victims**,

(a) *requests* the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;

(b) *encourages* the Board of Directors and the Secretariat of the Trust Fund for Victims to continue to strengthen its on-going dialogue with the organs of the Court, States Parties and the wider international community, including donors as well as non-governmental organizations, who all contribute to the valuable work of the Trust Fund for Victims, so as to ensure increased strategic and operational visibility and to maximize its impact and ensure the continuity and sustainability of the Fund's interventions;

(c) *requests* the Court and the Trust Fund for Victims to continue developing a strong collaborative partnership, mindful of each other's roles and responsibilities, to implement Court-ordered reparations;

(d) *decides* to continue to monitor the implementation of the rights of victims under the Rome Statute, with a view to ensuring that the exercise of these rights is fully realized and that the continued positive impact of the Rome Statute system on victims and affected communities is sustainable;

(e) *requests* the Court to initiate consultations for the development of an updated Revised Strategy in Relation to Victims, taking into account the ongoing consideration of the relevant Independent Expert Review recommendations, and to report to the Assembly at its twenty-third session; -

(f) *mandates* the Bureau to continue considering victims-related issues as necessary or as they arise, having recourse to any appropriate process or mechanism; and

(g) *requests* the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings; such statistics may include, as appropriate, information on gender, criminal offense and situation, among other pertinent criteria as determined by the relevant Chamber;

13. With regard to **recruitment of staff**,

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<sup>9</sup> As outlined, e.g., in paras. 21(a) and 23(b) of the report on the Evaluation and rationalization of the working methods of the subsidiary bodies of the Bureau (ICC-ASP/12/59).

(a) *endorses* the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its thirty-eighth resumed session and urges the Court to take the necessary steps to implement it;

(b) *requests* the Court to submit to the Assembly a comprehensive report on human resources by the end of May 2024, to be considered by the Assembly at its twenty-third session, which would include an update on the implementation of the recommendations on the topic made by the Committee in 2023;

(c) *requests* the Court to include in that report an outline of its efforts to improve the recruitment process in seeking equitable geographical representation with a particular focus on candidates from non-represented and under-represented States Parties and gender balance, including annual recruitment data;

(d) *requests* the Bureau to continue engaging with the Court to identify ways to improve equitable geographical representation and gender balance in professional posts, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the twenty-third session of the Assembly; and

(e) *urges* the Court to continue to seize the opportunities of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;

14. With regard to **complementarity**,

(a) *requests* the Bureau to remain seized of this issue and to continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity-related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard; and also including to assist on issues such as witness and victims protection and sexual and gender-based crimes;

(b) *encourages* the Bureau to engage with interested States Parties and other relevant actors to identify ways to support Court efforts in this regard with respect to sexual and gender-based crimes that amount to Rome Statute crimes, with a view to reporting thereon to the twenty-third session of the Assembly; and

(c) *requests* the Secretariat to, within existing resources, continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders, including international organizations and civil society, aimed at strengthening domestic jurisdictions, and to invite States to submit information on their capacity needs for the consideration of States and other actors in a position to provide assistance, and to report on the practical steps taken in this regard to the twenty-third session of the Assembly;

15. With regard to the **Independent Oversight Mechanism**,

(a) *Requests* the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism and to follow up on the recommendations contained in the report of the facilitation report, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-third session;

16. With regard to the **programme budget**,

(a) *requests* the Secretariat, together with the Committee on Budget and Finance, to continue to make the necessary arrangements to ensure that the Committee is represented at all stages of the deliberations of the Assembly at which documents that contain financial or budgetary implications are considered;

(b) *decides* that the Bureau, through the President of the Assembly, the Coordinator of the working group and the facilitator, should continue to monitor the status of payments received throughout the financial year of the Court and consider additional measures to promote payments by all States Parties, as appropriate, continue to engage in dialogue with States Parties that have outstanding contributions or are in arrears, and, via the annual facilitation on the topic of arrears, report thereon to the Assembly at its twenty-third session;



(c) *requests* the Secretariat to inform States Parties periodically of States that have recovered their voting rights following payment of their arrears;

17. With regard to the **Review Conference**, *requests* the Secretariat to make publicly available on the Court's website information provided by States and regional organizations on the pledges of increased assistance to the Court made in Kampala;

18. With regard to **consideration of amendments**,

(a) *invites* the Working Group to continue its consideration of all amendment proposals, in accordance with the Terms of Reference of the Working Group; and

(b) *requests* the Working Group to submit a report for the consideration of the Assembly at its twenty-third session;

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

(a) *decides* that the Committee on Budget and Finance shall hold its forty-third session virtually on 29 January 2024 to elect the Chair and Vice-Chair and to discuss other matters, that its forty-fourth session would take place from 15 to 19 April 2024 and its forty-fifth session from 2 to 13 September 2024, both in The Hague; and

(b) *also decides* that the Assembly shall hold its twenty-third session in The Hague from 2 to 7 December 2024, and its twenty-fourth session in The Hague.

## Annex II

### **Due diligence procedure for candidates for elected officials of the International Criminal Court**

#### **Introduction**

1. The following due diligence procedure for elected officials of the International Criminal Court (hereafter “due diligence procedure”) shall apply to all candidates for Judges, Prosecutor, Deputy Prosecutor, Registrar and Deputy Registrar of the International Criminal Court (“the Court”).
2. The due diligence procedure shall be conducted by the Independent Oversight Mechanism (“IOM”) with the assistance of the Registry of the Court and the Secretariat of the Assembly of States Parties, as appropriate.
3. The due diligence procedure is intended only to assist States Parties and/or the authority in charge of the election process,<sup>1</sup> as appropriate, to assess whether there might be relevant concerns as to whether such candidates possess “high moral character” as required by the Rome Statute. It is without prejudice to other efforts or mechanisms to assess the professional skills and competencies of such candidates.

#### **Background check**

4. The opening of the nomination process for candidates for judges or any vacancy announcement for an elected official shall provide information on this due diligence procedure and include a requirement for the candidates to complete a detailed questionnaire to be provided to them by the IOM, providing consent to contact former employers and employees, State authorities, or academic institutions, as appropriate.
5. The Secretariat of the Assembly, or the authority in charge of the election process, as appropriate, shall provide to the IOM the nominations by States or list of names of candidates with all accompanying supporting documentation.
6. The IOM shall contact the candidates and require them to complete a detailed questionnaire, and provide consent to contact former employers and employees, State authorities, or academic institutions.
7. When sending the questionnaire and request for consent to candidates in accordance with paragraph 6, the IOM shall provide the candidates with an appropriate deadline for submission and advise of the consequences of non-compliance set out in paragraph 8. This communication from the IOM shall also be copied to the nominating States Parties (where relevant).
8. The IOM shall inform the Presidency of the Assembly of any failure of a candidate to submit a completed questionnaire, or provide the required consent, within the deadline. The IOM shall also include information in its report to the Presidency of the Assembly on the impact of that failure on its ability to assess the candidate in accordance with paragraph 23 and, on that basis, may recommend that the candidate not be considered further for election.
9. The IOM shall conduct an in-depth background check of criminal, academic and employment records of the candidates with the assistance of relevant sections of the Registry, as appropriate. The check shall include a review and analysis of open-source information and contacts with former employers and, where feasible, employees who may have worked with the candidates.
10. States Parties commit to assisting the IOM fully in any inquiries regarding this review, and to respond to any IOM request in a timely manner.

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<sup>1</sup> Without prejudice to future decisions of the Assembly, the “authority in charge of the election process” means: the Advisory Committee on Nominations of Judges, for the election of Judges; a Committee that may be established, for the election of the Prosecutor; the Prosecutor, for the election of the Deputy Prosecutor; and the Presidency of the Court, for the election of the Registrar and Deputy Registrar.

## **Confidential channel for the receipt of allegations of misconduct**

11. For the purposes of this due diligence procedure, “misconduct” refers to human rights violations; incidents in the workplace or in connection with work of harassment, including sexual harassment, abuse of authority, discrimination and bullying; as well as other ethical or legal breaches of a serious nature such as fraud or corruption.<sup>2</sup>

12. As soon as the IOM has received the nominations or list of names, the IOM shall open a confidential channel for the receipt of allegations of misconduct against any of the candidates nominated by States or included in a public list provided to the Assembly of States Parties.

13. The opening of the confidential channel shall be communicated to all States Parties by the Secretariat of the Assembly of States Parties and shall be disseminated through the Court’s website and social media accounts, as well as through efforts by States Parties and civil society to provide information thereon to relevant agencies and professional associations. In particular, States Parties that have nominated candidates for judges shall ensure that the process for submitting information to the channel, including how allegations received will be treated, is provided to the organizations where the candidate has previously worked or is currently working, noting that they are being considered as judicial candidates at the Court.

14. The confidential channel for the receipt of allegations shall remain open for a time determined by the IOM for each election, which shall in no case be less than sixty (60) days. In the event of an extension of a nomination period, where relevant, the IOM shall ensure equal treatment between candidates.

## **Review of allegations of misconduct**

15. Any allegation made shall be accompanied by relevant information and documentation to the extent that it is available to the complainant.

16. The IOM shall acknowledge receipt of any allegation received, and explain the process of review, and how the information received will be treated. The complainant shall also be informed that they may be contacted by the IOM to provide additional details of their allegations, and that failure to provide such additional information may lead to the allegation not being reviewed any further. Anonymous allegations shall not be accepted.

17. The allegation and its review by the IOM shall be confidential and always remain so. Under no circumstances shall the identity of the complainants be disclosed without their prior consent. Only when the allegation cannot be reviewed and assessed based on available corroborative evidence, and disclosure is necessary to ensure fairness, may the IOM seek the consent of the complainant to any such disclosure. When such conditions are met and the IOM does not obtain the required consent from the complainant, the IOM shall set aside the allegation and discontinue its review.

18. The IOM shall first review the allegation and consider whether it relates to misconduct. If it does not, the review of the allegation shall be discontinued. If the allegation relates rather to concerns about the candidate’s qualifications, abilities, or past performance, the IOM shall convey the relevant information, taking into consideration any confidentiality concerns expressed by the complainant, to the Chair of the Advisory Committee on Nominations of Judges (“ACN”), or the authority in charge of the election process, as appropriate.

19. When the allegation relates to misconduct, the IOM shall review the credibility of the allegation, including by obtaining further information and details from the complainant, either in writing or through an interview, and corroborating, to the extent possible, the information obtained.

20. The IOM shall also assess the materiality of the allegation, determining the type of misconduct at issue and its seriousness.

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<sup>2</sup> In this context, the definitions of harassment, sexual harassment, abuse of authority, and discrimination shall be those found in the International Criminal Court’s Administrative Instruction *Addressing Harassment, Including Sexual Harassment, and Abuse of Authority* (Ref. ICC/AI/2022/003), 6 April 2022, available online.

21. Any allegation found to be credible and material by the IOM shall be put to the candidate, to allow them a full and fair opportunity to respond to the allegation, either in writing or through an interview. Any candidate contacted by the IOM in this context shall be warned not to retaliate against any complainant and shall be informed of the consequences of retaliation as set out in paragraph 22.

22. If the IOM receives any allegations of retaliation against the complainant by the candidate, it shall assess the credibility and materiality of those allegations as a form of misconduct as set out in this procedure. If any allegation of retaliation is found to be credible and material, the IOM shall inform the nominating State Party (where relevant) and the ACN Chair or other relevant authority in charge of the election process. The IOM shall further include this information in its report to the Presidency of the Assembly.

## **Reporting**

23. At the conclusion of the review process and within the time period to be established for each election process, the IOM shall submit to the Presidency of the Assembly a report regarding any concerns it may have identified that it considers could affect the assessment of high moral character of any of the candidates for elected officials pursuant to paragraph 1. In particular, it shall include an assessment as to whether, on the basis of all the information before it, there is sufficient credible and material evidence, in the IOM's view, to raise concerns about the candidate's high moral character. A copy of this report shall be transmitted to the Chair of the ACN, or the authority in charge of the election process, as appropriate.

24. The IOM report to the Presidency of the Assembly shall also include information on the overall number of allegations received that lacked sufficient credibility or materiality to be put to the candidates, or that otherwise were not reviewed by the IOM such as anonymous allegations, allegations for which there was lack of consent to disclose identity when necessary, or performance-related allegations. In order to preserve the confidentiality of the process, only general information on the reasons to set aside the allegation shall be provided.

25. If an allegation was presented to a candidate, a short summary of that allegation and the response provided by the candidate shall be included in the report to the Presidency of the Assembly in a manner that ensures that the complainant's identity is not disclosed and no identifying details are provided.

26. Should the IOM be unable to reach a definite conclusion on the allegation by the time of its report to the Presidency of the Assembly, it shall identify whether it would be possible to take further investigative steps to confirm or refute the allegation, and what these steps would entail in terms of time and resources, including any impact these steps may have on the overall process.

27. The IOM shall provide any candidate who was notified of an allegation against them the IOM's assessment of the allegation, at the same time as the report is submitted to the Presidency of the Assembly. The IOM shall also inform the complainant and the nominating State Party (where relevant) of its assessment in such cases.

28. The IOM shall also submit a report to the Assembly containing a general overview of the procedure undertaken, as well as any insights on lessons learned for the future.

## **Decision on the way forward**

29. If the IOM report contains any matters that, in the IOM's view, based on its assessment of sufficient levels of evidence, credibility and materiality in accordance with paragraph 23, may raise concerns about the high moral character of any of the candidates, the Presidency of the Assembly shall request written observations on such matters from the authority in charge of the election process, as appropriate. The Presidency shall transmit the IOM report and written observations received to the Bureau. The Presidency shall also recommend a course of action to be adopted by the Bureau or the Assembly, as appropriate, including, *inter alia*, briefing States Parties on the information contained in the IOM report.