

**Twenty-third session**

The Hague, 2-7 December 2024

Report of the Court on Human Resources Management**Addendum****Summary of discussions and findings****Workshop on Geographical Representation and Gender Balance***31 October – 1 November 2023¹***I. Introduction**

1. A Workshop on Geographical Representation and Gender Balance (GRGB) was held on 31 October and 1 November 2023, to assess the current situation and to identify strategies and concrete proactive measures to significantly enhance GRGB in a comprehensive, systemic, and sustainable manner. The findings from the Workshop are expected to eventually lead to, after internal and external consultations, the adoption and implementation of a new legal and policy framework for geographical representation and gender balance for the International Criminal Court (“ICC”), thus ensuring an effective and lasting impact.

2. The participants comprised of the Registry’s senior management, including the Registrar and the Directors, representatives of the relevant Registry Sections – notably Human Resources Section (HRS), the Legal Office and the Immediate Office of the Registrar – representatives of the Presidency, Chambers and the Office of the Prosecutor (OTP) – including the Immediate Office of the Prosecutor, Legal Advisory Section, and OTP-HRS – the Court’s Focal Point for Gender Equality, other Registry Sections and other offices of the Court, such as the Secretariat of the Trust Fund for Victims, Office of Internal Audit, Secretariat of the Assembly of States Parties, as well as the Staff Union Council. The facilitator for GRGB, Mr Marvin Ikondere, Legal Advisor of the Permanent Mission of Uganda to the United Nations, also participated during the first day.

II. Opening Session

3. Over the years, GRGB has garnered increased attention from various internal and external oversight bodies and mechanisms, including the Independent Expert Review (IER)²

¹ Advance version.

² R15, R29, and R88.

and the Committee on Budget and Finance (CBF).³ The issue has also been regularly discussed during meetings of the facilitation dedicated to GRGB within the New York Working Group of the States Parties.⁴

4. During the opening session, the Registrar highlighted that improving GRGB was a central objective of the Court, as reflected in the strategic goals of the Court and the Registry, both in the previous (2018-2022) and the current strategic plans cycle (2023-2025). Geographical representation and gender balance are also crucial for the legitimacy of the Court.

5. He further emphasised that the establishment of the Focal Point for Gender Equality was an important milestone, strengthening the institutional framework in terms of gender equality and gender balance, as demonstrated by the adoption of the ICC Strategy on Gender Equality and Workplace Culture (GEWC Strategy) and the different actions it includes regarding gender parity.

6. Despite increased attention to GRGB issues in recent years and multiple initiatives implemented, the progress achieved thus far can be characterized as very limited. Although the number of over-represented States Parties has consistently decreased since 2019, the number of under-represented States Parties has on the other hand increased. While the percentage of female staff has increased both at D-1 level and P-4 level, it has however decreased at the P-5 level, which is in part due to departure of female staff at that level. While the Court has made serious and genuine efforts towards improving GRGB, the lack of significant progress is undermining the trust by the States Parties in the Court on this matter, as well as its legitimacy as an organisation truly reflective of different legal traditions and cultures around the world.

7. The Registrar also highlighted that improving GRGB was a shared responsibility. Senior management is primarily responsible for implementing relevant policy and legal frameworks. All managers at the Court should consider geographical representation and gender balance when hiring personnel. The Assembly of States Parties and its subsidiary bodies oversee the Court's GRGB practices, monitor related developments, and can provide necessary guidance and support if the legal framework needs to be adjusted to enable this change.

8. The opening session provided an opportunity for all attendees to share their preliminary observations on the GRGB and related issues across the Court's organs, offices, and sections. This session served as the foundation for subsequent discussions, mapping out the various issues at stake, in order to ensure that all the relevant aspects would be covered in the course of the following two days.

9. It was underlined that the GRGB is addressed in various legal texts of the Court, including the Rome Statute which stipulates that the Court "shall have regard" to GRGB in the employment of staff (Article 44(2) and Article 36(8)),⁵ Resolution ICC-ASP/1/Res.10 of the Assembly of States Parties ("the ASP"), Staff Regulation 4.2,⁶ Staff Regulation 4.3,⁷ Section 1 of the Administrative Instruction on Equal Employment Opportunity and Treatment (ICC/AI/2005/006), and the ICC Recruitment Guidelines for Established Posts. In

³ Including during the latest, 41st session, that took place from 8 to 12 May 2023.

⁴ See for instance *Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court*, 22 November 2022.

⁵ Rome Statute, Art 44(2): "In the employment of staff, the Prosecutor and the Registrar shall ensure the highest standards of efficiency, competency and integrity, and shall have regard, *mutatis mutandis*, to the criteria set forth in article 36, paragraph 8." The latter refers to three criteria: "(i) The representation of the principal legal systems of the world; (ii) Equitable geographical representation; and (iii) A fair representation of female and male judges."

⁶ Staff Regulation 4.2: "The paramount consideration in the appointment, transfer or promotion of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to representation of the principal legal systems of the world, equitable geographical representation and fair representation of female and male staff members."

⁷ Staff Regulation 4.3: "In accordance with the principles of the Rome Statute, selection of staff members shall be made without distinction as to race, sex or religion. The selection shall normally be made on a competitive basis."

addition, Staff Regulation 4.4. stipulates that the “fullest regard” shall be paid to internal candidates, namely staff already in the service of the Court.⁸

10. Key legal provisions and guiding principles highlight that the paramount consideration in staff appointments, transfers, or promotions shall be the necessity of securing the highest standards of efficiency, competence, and integrity. “Due regard” shall also be paid to the representation of principal legal systems of the world, equitable geographical representation, and fair representation of female and male staff members.⁹ The application of these various criteria, and how they relate to each other, is not always straightforward. Nevertheless, it was noted that some clear principles may be gleaned from the case law of the Administrative Tribunal of the International Labour Organization (ILOAT).

11. According to the ILOAT, provisions such as Staff Regulation 4.2 mandate that the “overriding consideration” for appointment to professional posts is whether a candidate meets the criteria set out for the post as advertised and her or his appointment is meritorious in a manner that secures the highest standards of efficiency, competence and integrity.¹⁰ Therefore, for the ILOAT, the “bottom line” must always be that the person best qualified should be appointed.¹¹ As to the role of GRGB preferences, the ILOAT has ruled that these must be given effect to where the choice has to be made between candidates who are evenly matched. On the other hand, GRGB preferences have “no role to play” where there is a “significant and relevant difference” between the candidates.¹² It was further noted that the legal position is more or less the same at the United Nations (UN), as reflected in the UN’s relevant Staff Regulations (which are essentially identical to the ICC’s), the jurisprudence of the UN administrative tribunals and the UN Administrative Instruction on Temporary special measures for the achievement of gender parity (ST/AI/2020/5).

12. Diversity was also highlighted not only as a requirement and a matter of legitimacy, but also as a matter of strength of the organisation. The more diverse the Court’s workforce is, the greater the opportunities for the Court to address the multiple and varied challenges it is facing.

13. A number of participants pointed out that the Court’s available resources impacted on GRGB, from different perspectives. Limited capacity to process full recruitment processes for fixed-term positions and high vacancy rates across services in order to find savings has led to hiring managers often opting for Short-term Appointments (STAs), where the consideration of geographical representation (GR) is not adequately accounted for.

14. The increased workload has also generally encouraged the recruitment of candidates who can immediately perform the required functions, rather than those who would have the potential to grow in the role. Some therefore pointed to the need for a paradigm shift in the way competencies and experiences are assessed, as well as how vacancy announcements are drafted, even though the system currently applied at the Court is similar to the one applied at the United Nations. Participants also highlighted the need to enhance capacity for HRS to streamline its work regarding the recruitment process so that the choice to resort to an STA recruitment is limited.

15. Participants also pointed out that the recruitment process needed to take into account rapidly emerging developments in the area of Artificial Intelligence. Artificial Intelligence tools could assist in expediting and streamlining recruitment process, but they may also carry geographic or gender bias.

16. Some practical aspects were also brought up, such as the operational reality of some Sections. For instance, both the Security and Safety Section (SSS) and the Detention Section in the Registry, given the nature of their work, contain mostly GS-OL locally recruited staff, who are not formally accounted for geographical representation. Moreover, in case of the SSS, it remains a challenge for organisations to find female candidates for such posts. Here,

⁸ Staff Regulation 4.4: “Subject to the provisions of article 44 of the Rome Statute and without prejudice to the recruitment of new talent at all levels, the fullest regard shall be paid, in filling vacancies, to the requisite qualifications and experience of staff members already in the service of the Court.”

⁹ Staff Regulation 4.2.

¹⁰ ILOAT Judgment No. 3652, consideration 12.

¹¹ ILOAT Judgment No. 2004, consideration 20.

¹² ILOAT Judgment No. 2392, consideration 9.

it was highlighted that the way vacancy announcements are drafted plays an important role in enabling or not a more gender- inclusive approach – indeed, the requirement for military experience for security staff has in the past had the impact of limiting greatly accessibility to these posts for female candidates. This highlights a need for further reflection on the criteria and requirements identified in vacancy announcements, and how they can carry implicit excluding consequences for GRGB purposes.

17. It was suggested that GRGB should also feature to some extent in the context of onboarding by new staff, in order to raise awareness of the matter. This could be incorporated in the onboarding programme through diverse groups of speakers and/or mention of GRGB during the onboarding process.

18. The attendees welcomed the Registrar’s initiative to organise the Workshop and assess the progress made over the past years and explore opportunities regarding GRGB. The discussions from the opening session indicated that the Workshop agenda covered all the major aspects relevant for the GRGB discussion.

III. Summary of discussions during focused sessions

a. GRGB: The current state of affairs at the ICC

19. The primary objective of the first focused session was to analyse the current available data and assess the Court’s present initiatives and capacities to address GRGB. It also served as an opportunity to examine and refine the tools and criteria used for assembling and analysing GRGB-related data at the ICC, in order to provide a clear overview of the opportunities and areas for improvement.

20. The HRS provided a comprehensive overview of relevant statistics, current initiatives, and an analysis of some gaps and shortcomings in the current approach, as well as opportunities in terms of how data is collected.

21. It was clarified that, according to resolution ICC-ASP/1/Res.10, the Court's selection of staff in the Professional category is guided by a system of desirable ranges based on that of the United Nations. These desirable ranges, or percentages, are calculated by considering three factors: the total number of States Parties, each State's financial contribution to the budget, and its population size. Substantial weight is given to membership (40%), which is equal for each State Party, the greatest importance is given to the State's contribution (55%), and the remaining 5% is determined based on the population size of the country (United Nations model 40-55-5). The desirable ranges for geographical representation at the Court are always considered per State Party, not per regional group.

22. It was noted that according to current practices, geographical representation is based on the staff on established posts in the Professional Category, excluding language staff (referred to as “geographical posts”). As of September 2023, this corresponded to 434 out of a total head count of 1,072, whereby the remainder also includes elected officials, STAs, General Temporary Assistance (GTA) contracted staff, Junior Professional Officers (JPOs), and language staff.

23. It was emphasized that there is no “one-size-fits-all” formula to improve geographical representation. As of September 2023, there were 83 non- and under- represented States at the ICC. Each country has its own distinct reality and multiple and varied reasons for non- or under-representation. Certain States therefore may require tailored solutions to address the issue of geographical representation effectively. In order to do so, relevant and detailed statistics for the nationals of that State, including the appropriate analysis thereof, are crucial - for instance, at what stage of the recruitment process and why the majority of the nationals from a particular State drop out.

24. While female staff are well or even over-represented at the junior levels, the numbers significantly and gradually drop from P-4 level and upwards. Addressing under-representation of women at managerial positions is a key priority of the Court, as also reflected in the GEWC Strategy.

25. Some comparisons with and references to the UN were made. For instance, the UN has a dedicated outreach team to attract possible candidates with the right skills from non-

and under-represented countries. Moreover, the UN runs specific programmes for females from the Global South, such as the Talent Pipeline Programmes, or for nationals at the junior level from non- and under-represented states, such as the Young Professional Programme/Examination. The Court has a JPO programme but it serves a different purpose, which is not directly linked to geographic representation. There are currently JPO programmes at the Court both for under- and over-represented States Parties.

26. It was noted that all these UN initiatives and programmes are rooted in the UN legal framework, including General Assembly Resolutions, Staff Regulations and Rules, and the UN Administrative Instruction on Staff Selection and Mobility.

27. Special attention was given to the UN Secretariat's temporary special measures for the achievement of gender parity. The primary objective is to achieve 50/50 gender balance at all levels in the UN by applying the mentioned policy until the goal is realized throughout the UN. The primary responsibility and accountability lie with the "heads of entities." Although some participants encouraged the possibility of using a similar model at the ICC, further legal and policy considerations are first needed, in line with component 30 of the ICC GEWC Strategy, as it would be further discussed in Session "e".

28. Budget and capacity – and the associated limitations – were highlighted among important considerations. It is impossible to create tailor-made solutions for nationals of each one of the 83 non- and under-represented States. For this reason, it is important to set clear priorities by the States and the Court, given the resources available. In the past for example, the Court focused its additional efforts on the States that were most under-represented, across different regions.

29. Multilingualism was considered as essential by the participants as it positively affects the workplace culture. The official languages of the Court are Arabic, Chinese, English, French, Russian and Spanish, while under article 50 paragraph 2 of the Rome Statute, English and French are the two working languages of the Court. This could for instance include testing for both working languages proficiency during the recruitment process, and awarding additional points to candidates that can perform in both languages.

30. Nevertheless, it is important to also be cognisant of the possible impact on recruitment process that language requirements may have in different countries or regions. Most vacancies require the knowledge of at least one working language of the Court, English or French, but some vacancies, depending on the function, may require the knowledge of both. In some countries or regions, neither English nor French are native languages, which means that a requirement of speaking both working languages would effectively require a candidate from that region to be fluent in at least three languages to qualify for such a position.

31. To mitigate these potential obstacles for applicants from such regions, the Court could possibly, instead of demanding fluency in both English and French for certain positions, play a more active role in language training and development of the staff after recruitment.

32. It was noted that, as recommended by the External Auditors, approved GTA staff, in particular those in longer term service, should also be considered in the context of GR, as they are Fixed-Term appointments and represent a substantial part of the Court's workforce and staff costs. The recruitment process for GTAs is equally rigorous as that for established posts. However, established posts may still need to be accounted for separately. This is because GTAs are inherently less attractive to applicants from more remote regions or countries from the Headquarters, due to the temporary nature of the contract. Achieving the same desirable range for GTAs as for established posts may therefore not be realistic or even possible. Nonetheless, geographical statistics on GTAs could form part of the bigger picture regarding GRGB.

b. New Avenues for under and non-represented States and Applicants from States not party to the Rome Statute

33. The session provided an opportunity to explore whether the organization could implement special considerations for applicants from non- and under-represented States

Parties and whether certain measures, even if temporary, could be applied with respect to applications from nationals of States that are not (yet) party to the Rome Statute.

34. Discussions focused first on the consideration of recruiting for a roster for common or generic profiles for entry-level positions (P-2 level), such as for instance Associate Legal Officer or Associate Admin Officer, exclusively from non- and under-represented States, similar to the UN Young Professionals Programme (YPP). While this was assessed as an important tool, caution was given for the Court's relatively small size and capacities, compared to the UN. It was specifically noted that in the case of the UN, the larger volume of positions recruited creates the economies of scale that may justify such an investment. It was suggested that it would be useful to explore whether other organisations of a similar size to the ICC (e.g. OPCW) have a similar programme and, if so, how they have adapted it to their specific needs and challenges, including what kind of policies they have put in place.

35. Participants highlighted the operative guidance provided by the ASP that the Court "may" consider nationals of States not party to the Rome Statute, from the ASP resolution in the early years of the Court's work, which was made in the context of aspiring universality at the time.¹³ The situation has changed since, and a number of States have been calling recently for the freezing of the hiring of nationals of States not party to the Rome Statute, as reflected, among others, in discussions within the facilitation on GRGB.¹⁴

36. It was added that a number of organisations, such as EUROJUST, allow only nationals of their member states to apply. These are however mostly regional organisations, whereas the Court has aspired to universality.

37. Participants highlighted the need for a clear and established Court-wide approach to considering and/or hiring (or not) nationals of States not party to the Rome Statute. The current situation, whereby vacancy announcements are silent on this issue and whereby hiring managers are given no specific guidance, may lead to inconsistent approaches across the Court. It may also create inefficiencies in recruitment if such issues are addressed only at the very end of the recruitment process.

38. Participants emphasized that the existing legal framework, including ILOAT case law, does not currently offer a clear legal basis for introducing special considerations or certain measures for applicants from non- and under-represented States, as well as for applicants from States not party to the Rome Statute. It was stressed that this might lead to legal challenges, posing a potential legal, financial and reputational risk for the Court. In addition, GRGB consideration should not be to the detriment of the staff members already in the service of the Court, as per Staff Regulation 4.4, mentioned earlier.

39. The participants agreed that introducing special considerations for applicants from non- and under-represented States, as well as certain measures regarding nationals of States not party to the Rome Statute, were concrete measures that would make a real difference and, as such, were worth exploring, provided that the various legal and operational challenges have been thoroughly considered. It would be therefore desirable to engage more actively with the States/ the Assembly of States Parties (ASP) in order to properly consider more specific guidelines in this regard, in line with the relevant Regulations and Rules and the rights of staff members, in order to enable the Court to take appropriate actions.

c. Indirect impact on GRGB: STAs, IVPs, JPOs, secondees, and GS-staff

40. The session was dedicated to a comprehensive examination of the contractual modalities of STAs, interns, visiting professionals, and gratis personnel/secondees. Although these positions are not considered directly towards GR, experience has shown that individuals

¹³ "Nationals from States Parties and from those States having engaged in the process of ratification of or accession to the Statute should have adequate representation on the staff of the Court; however, applications from nationals from non-States Parties may also be considered", Resolution ICC-ASP/1/Res.10.

¹⁴ In the *Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court*, 22 November 2022, the relevant recommendation was: "The Court should address, within a reasonable timeframe, the issue related to the possibility of freezing the hiring of nationals of States that are not Parties to the Rome Statute, as repeatedly recommended by the Committee" (para 41). This recommendation was also reiterated in the *Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court of 21 November 2023* (para 56).

occupying these roles have an opportunity of securing fixed term positions having gained experience at the Court.

41. It is necessary to contextualise the utility of STAs and the limitations of their use. STAs are a necessary contractual modality which allows the Court to meet seasonal or peak workloads, not offered by other contractual modalities. As a result, recruitment process for STAs is inevitably simpler with wider flexibility given to the hiring manager to select a candidate compared to other contractual modalities. Furthermore, recent budgetary constraints have resulted in the loss of HRS and recruitment capacity, which in turn has created an over-reliance on STAs.

42. It was however observed that STAs in particular have an indirect but significant impact on GR. Such short-term appointments are normally less attractive for applicants from countries and regions more remote from Headquarters. Furthermore, there are also no clear GR provisions in STA recruitments.

43. STAs could be used more as a tool for internal mobility. For instance, in non-family duty stations, hiring individuals on established posts for an extended period (more than two and up to five years) may not be practical towards those staff members and may impact long-term flexibility and adaptability of operations. Therefore, utilizing STAs, which are normally limited to the period of one year and can exceptionally be extended to two years, could provide an opportunity to internally fill certain positions. In this way, by focusing on the use of STA mostly on internal candidates, the negative impact of STAs on geographical representation would also be somewhat mitigated by reducing the influx of external candidates on STAs, which as noted, do not favour applicants from more remote countries/regions from Headquarters, would be reduced. STAs could be first advertised internally, and only if no suitable candidate is found, then externally.

44. It was also mentioned that internal mobility could improve organisational agility to respond to developments in situations and cases before the Court, allow for career development of staff and cross-fertilization of expertise and knowledge within the Court, and between the HQ and Country Offices. It also contributes to staff morale and motivation, as well as to workplace culture. At the UN, internal mobility is greatly facilitated by the sheer size of the organisation. The ICC operates with much smaller workforce, requiring custom-made solutions.

45. It was emphasized that the Court benefits from the contributions of over 200 interns and visiting professionals each year, the vast majority of whom are unfunded. This lack of funding discourages applicants from non- or under-represented States. This greatly limits the pool of applicants and undermines GR efforts.

46. In this context, the Court has established a Trust Fund For The Development of Interns and Visiting Professionals s from countries that appear on the United Nations list of developing regions¹⁵ that are State Party to the Rome Statute . The Court has received donations from States Parties and private donors, and these contributions have funded 27 positions in 2023. Although this is still a small amount of the total number of interns and visiting professionals, this positive trend should be continued and strengthened.

47. The Junior Professional Officer (JPO) programme was also discussed. This programme is seen as an entry point for junior professionals as it offers contracts ranging from one to three years and allows the JPOs to gain the relevant experience and in-house training, which then can greatly assist them in obtaining a non-JPO contract modality at the Court after the expiration of their JPO contract. The majority of former JPOs have subsequently managed to obtain another contract with the Court, even though GR itself is not the purpose of the JPO programme.

48. It was raised that the Court could actively encourage non- and under-represented States to participate in the JPO programme. Over-represented States could contribute funds to support both their nationals and nationals from States that are non- and under-represented.

49. The common theme highlighted by the participants was the need for adequate funding for Interns and Visiting Professionals (IVPs) and JPOs from non- and under- represented

¹⁵ <http://unstats.un.org/unsd/methods/m49/m49regin.htm>

States Parties. This could create conditions to attract many more nationals from these countries and promote GR, as well as diversity and inclusion more broadly.

50. A sustainable funding for all interns would be in principle the best way to ensure diversity and fairness in the consideration process. A more comprehensive evaluation of interns' circumstances within the ICC is necessary, encompassing not just GRGB-related aspects but also their working conditions.

51. As for the gratis personnel/secondees, the participants briefly touched upon this category and pointed out that this pool of personnel too needed to be as geographically diverse as possible, both for the sake of diversity itself within this group, but also due to the possible long-term effect on GR, through recruitment of ex-secondees for ICC jobs. A trust fund for secondees from developing countries could possibly address this issue to some extent.

52. The rationale for GRGB is to ensure that the Court is representative of international community, including its legal traditions. Although gratis personnel is not accounted for the purpose of geographical representation. Relying heavily on gratis personnel from a particular region or regions may generate imbalances in perceptions regarding GR within the Court and significantly impact its internal working culture.

53. Finally, in relation to General-service staff, it was noted that at the UN, General Service staff are not allowed to apply directly for P-level positions but must instead undergo a particular G-to-P exam. However, this strict segregation between P- and GS-staff has been criticised within the UN and has been found to significantly undermine staff morale. The participants were in agreement with the fact that the system currently in place at the ICC, whereby GS-staff are allowed to apply for P- level positions, should be maintained. This however means that GR consideration could also extend to the staff in the GS categories, to the extent possible and within certain flexibility. GS staff are local staff, as also reflected in their entitlements, and applying too strict GR requirements could not be realistic vis-à-vis the pool of possible candidates.

d. Recruitment Process and recruitment-related issues: established posts

54. The session explored in detail the recruitment process and the recommendations made by the Study of the ICC Recruitment Processes, which took place in the second half of 2021. This consultancy review entailed examining the ICC's policies, reports, and other relevant documents related to recruitment; interviewing representatives from the Court's Organs involved in recruitment activities; carrying out a benchmarking study of the recruitment practices of other comparable organizations; and undertaking a complete end-to-end business process mapping exercise of the ICC's recruitment process. Implementing dedicated solutions and improvements in the recruitment process was considered by the participants as one of the major avenues for advancing GRGB.

55. The Court is currently applying a number of measures in order to ensure GRGB considerations are embedded in different procedural steps in the recruitment process. Recruitment panels are composed of geographically and gender diverse members, of whom at least one panel member cannot be working under the hiring manager; vacancy announcement are shared with the Embassies for further distribution among their networks and are posted on social media as part of the essential outreach activities; all panel members must undertake a mandatory training on unconscious bias before joining the panel; the Court has invested in its use of LinkedIn to better promote its vacancies and source candidates. However, these and other efforts have not proven to be sufficient in order to lead to the expected results.

56. It was highlighted that GRGB consideration should be strengthened and mainstreamed from the outset of the recruitment process, and at every stage of the process: from the drafting of the vacancy announcement, to outreach, sourcing, short-listing, testing, and up to appointment. GRGB is therefore also being considered in the context of discussions on the new Administrative Instruction on Staff Selection.

57. The drafting of a vacancy announcement with inclusive and gender neutral language was deemed crucial to promote diversity and inclusion. In addition, in relation to professional

requirements indicated in the vacancy announcements, the consideration of experience or education may not consistently align with the understanding prevalent in many national systems. Moreover, in order to enhance its appeal to a broader range of candidates, a suggestion was made to include the benefits that the Court provides to its staff in the vacancy announcement, including regarding flexible working arrangements and work-life balance.

58. The necessity to improve outreach was also highlighted, while noting this is also intricately linked to the issue of resources. The Court currently has no resources dedicated to HR outreach. In the UN, there are dedicated resources for outreach. Some States or regions may require a tailor-made approach (for instance, in many States in Asia, LinkedIn, which is frequently used by the Court, is not broadly used), which may be more resource-intensive than the standard approaches.

59. The introduction of a point-based recruitment system was also discussed, which would apply at the short-listing stage and would be based on various elements such as education, language skills and experience, but also GRGB. This could assist in developing a more objective basis for sourcing among hundreds of applications in a way that gives due regard to GRGB at the outset of the shortlisting process.

60. It was mentioned that rosters offer an important pool of candidates that are immediately appointable. Composition of rosters is therefore important, as well as giving due regard to the candidates from States Parties when recruiting from rosters, especially those that are non- and under-represented. This had also been highlighted in the discussions within the GRGB facilitation of the States Parties.¹⁶ While many hiring managers at the Court have been taking this into account in practice, it would be necessary, as the External Auditors have also recommended, to establish rules to ensure consistency of outcomes.¹⁷

61. To maximize the use of rosters, it was also pointed out that the current validity of rosters of two years is too short, and that the UN has a practice of rosters being valid indefinitely.

62. Currently, the Court cannot hire on STAs from the rosters for Established Posts, which frequently creates additional workload to the hiring managers and the HRS to run the STA recruitment, even in the presence of qualified and suitable candidates for the same job profile.

63. Improving the employer brand of the Court as a whole was also considered important in order to attract a larger and more varied pool of applicants. The Court could, for instance, make greater use of audio-visual testimonies of staff. In this regard, there is a connection between the goal of improving workplace culture and efforts to broaden applicants pool from a GRGB perspective. The better the working culture, the more attractive the Court becomes as an employer. The opposite is also the case. Negative perceptions on workplace culture affect the Court's brand as an employer and may negatively impact on career development for staff who wish to apply outside the Court.

64. A predominantly administrative role of the HRS ex officio member in the recruitment process, which greatly limits HRS's substantive input during recruitment in terms of GRGB, was also highlighted. At the moment, HRS can only suggest to the panel to include additional members from non- and under-represented States parties in the short-list, but it is ultimately for the panel to decide whether to follow HRS advice or not. Similarly, HRS ex officio member in the Registry has no voting right on the panel. In the OTP, however, HRS ex officio does have a voting right. It would be necessary to look into strengthening the role of the HRS within the recruitment process and ensuring a more consistent Court-wide approach in terms of the role of HRS representatives in recruitment. In addition, it should be noted that the Focal Point for Gender Equality continues to have the possibility to serve as an observer in

¹⁶ For instance, para 5, *Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court*, 22 November 2022.

¹⁷ Recommendation 9.b: "Strive to achieve meaningful outcomes toward the equitable geographical representation by employing various methods such as establishment of rules to prioritise candidates from non- and under-represented States Parties in the recommendation process by hiring managers in response to requests for candidates to be appointed from rosters", *Performance Audit Report on Temporary Personnel 2022*.

recruitments for specific positions, including senior positions across the Court, and has already been doing so.

65. Participants flagged that at the moment, there are no concrete guidelines for the hiring managers regarding recruitment decisions, as well as no accountability mechanism for their decisions. There are policy and legal documents that state that the Court should give due regard to GRGB, and relevant principles may be gleaned from ILOAT case law. However because GRGB considerations are not entirely and always clearly integrated into all the stages of the recruitment process, what it means in practice for the hiring managers is not always clear. That is particularly so when it comes to the role of GRGB in the steps leading up to the final selection of a candidate for a post (e.g. the drafting of the vacancy announcement, outreach, longlisting, testing and shortlisting). In the context of gender, as it will be mentioned later, the practice of the UN is to make hiring managers accountable for recruitment decisions based on the introduced temporary special measures. Developing this guidance for hiring managers and integrating accountability for their recruitment decisions in their performance appraisal cycles are therefore options to be further explored.

66. One of the main GRGB-related recommendations in the Study of the ICC Recruitment Processes was the introduction of a “GRGB Talent Pipeline”. This would be implemented through job openings for generic profiles and rosters. A comparable initiative exists at the UN and would ensure that there is a sustainable influx of new candidates for the new job openings at the Court. Following up on other recommendations from the Study of the ICC Recruitment Processes is also important, as their implementation will contribute to the efficiency of the recruitment process as a whole.

67. It was noted that in general, the recruitment process could be further streamlined, automatized and simplified, including through the use of Artificial Intelligence, enhanced self-screening, pre-recorded interviews and the like. Some participants pointed out to the dangers of Artificial intelligence by being possibly used during recruitments by candidates for the written tests. As Artificial Intelligence tools develop further, it will be important to take this into account when administering written exams. Likewise, the use of Artificial Intelligence may enhance the Court’s ability to better source applicants. This however should be implemented if relevant biases are properly addressed through a tailored training of Artificial Intelligence.

68. Participants also highlighted challenges in recruiting qualified and skilled individuals for certain job profiles, in particular in the languages and IT fields. Post levels and salaries proposed at the ICC tend to be less attractive than in other international organisations and in the private sector, which represents an additional hurdle for recruitment. There is also a disconnect between educational and professional requirements for these jobs when compared to the market of highly qualified individuals in these fields.

69. The Registry has requested and the CBF has recommended the Assembly to approve in the Proposed Programme Budget 2024 a dedicated human resource position focusing on GRGB as of 2024. If approved by the Assembly, the position in question will contribute to outreach and coordination efforts of Court-wide GRGB initiatives and other programmes, in particular the JPO programme and Trust Fund for the development of interns and visiting professionals.

70. Finally, participants underlined the importance of exit and legacy interviews for personnel leaving the organisation in order to analyse the reasons for staff departure; this could serve as a useful metric regarding diversity and inclusion, and whether GRGB plays a role.

e. Gender Balance at managerial level; gender in the broader, contemporary sense

71. The session focused specifically on under-representation of women at managerial levels (P-4 and above), drawing on the general discussions from the previous sessions with a particular focus on the gender angle.

72. Participants emphasized that gender equality and parity are essential to the organization’s legitimacy, credibility and effectiveness.

73. The Focal Point for Gender Equality delved into the Gender Equality and Workplace Culture (GEWC) Strategy of the ICC, which is built on three pillars, one of which (Pillar III) focuses on gender parity and equal opportunities. The Focal Point highlighted the United Nations Temporary Special Measures for the Achievement of Gender Parity, drawing from the United Nations ST/AI/2020/5, which is one of the components of the GEWC Strategy being considered.

74. It was noted that the GEWC Strategy of the ICC is a comprehensive framework designed to ensure that gender equality principles are deeply integrated into every facet of the Court's operations. Pillar III, on gender parity and equal opportunities, was considered a cornerstone of this strategy and holds significant potential for the advancement of gender equality, containing the foundations that can guide the Court through the work ahead. Specifically, the strategy prioritizes promoting gender parity in all recruitment processes. This means seeking candidates from under-represented genders and ensuring that hiring practices are unbiased, diverse, and inclusive.

75. Moreover, identifying and nurturing female talent within the ICC is crucial. It is important to create a robust pipeline for women to ascend to leadership positions. The Focal Point for Gender Equality noted that some of the measures adopted at the UN, through the Temporary Special Measures, involved focused mentorship, training, and support programmes that facilitate career advancement. Such programmes at the ICC could emulate the successful initiatives adopted within the UN, i.e. the mentoring initiative. Awareness raising initiatives and messages are also key, to foster a shared sense of importance towards the topics of equality, diversity and inclusion and to showcase ownership by senior management.

76. Targeted recruitment of women in roles where they are significantly under-represented was also discussed. This was a proactive strategy adopted by the UN to remedy imbalances by actively seeking out qualified candidates from under-represented genders, increasing the representation of women in its workforce.

77. It was explained that temporary affirmative actions were also used by the UN to guarantee the recruitment of a minimum number of women for key positions. This ensured a baseline of gender representation in areas where women are notably under-represented. These can also be reached by creating pools of internal female candidates and fostering career development opportunities for women.

78. An adequate online system for gender data collection and visualization was developed by the HRS whose aim it to provide accurate data for evaluation of the current state of gender (and geographical representation) balance within the ICC. Building on this tool, further adjustments should be made to collect gender-sensitive information to implement informed decisions.

79. Visibility of gender was also crucial. It was proposed to regularly publish gender-disaggregated data as an accountability measure that ensures the organization remains transparent and accountable. This could also be extended to geographical representation.

80. It was also highlighted that the organization should continue to identify and address implicit biases within its culture and decision-making processes. Increasing awareness around these biases, as well as implementing strategies to mitigate them, will be key to levelling the playing field, to remove obstacles hindering gender parity.

81. Participants also flagged that the ICC should consider implementing consistent supportive policies that create an enabling environment for women to thrive at all levels, especially at managerial levels where challenges persist. This includes measures such as flexible working arrangements, parental leave, and childcare facilities. These are shown to be particularly effective for women in middle-management positions across other comparable organisations.

82. Gender-responsive budgeting was also highlighted as something the Court should explore and initial assessing steps will be given due consideration moving forward, in conjunction with availability of data and data collection processes.

83. The integration of gender-sensitive Key Performance Indicators (KPIs) is paramount for senior management and team managers to foster an inclusive, harmonious, and equal

work environment. Holding senior management and team managers accountable through these KPIs, would signal a commitment to dismantling gender biases, creating opportunities for all, and ensuring that their leadership is attuned to the diverse needs and perspectives of their workforce. Gender-sensitive KPIs not only act as a performance metric but also as a catalyst for transformative change.

84. It was highlighted that efforts to prevent, address, and eliminate sexual harassment should also continue across the ICC, with regular and mandatory training as a standard feature. The intersection of gender identity, race, nationality, and contractual modality should also be addressed, because it is often at this intersection that (unconscious) biases occur.

f. Cross-sectional issues: “GRGB within GRGB”, internal mobility, and diversity

85. The last session commenced with a presentation on Key Performance Indicators, both at the Registry and at the Court, for the 2023-2025 cycle.

86. It was emphasized that both Strategic Plans encompass a total of 6 KPIs designed to measure the annual performance of the GRGB. The results are annually reported to the ASP through the “Annual Court Report on KPIs,” presented within the Study Group on Governance, and the “Report on Activities and Programme Performance”, presented to the CBF.

87. Participants underscored the importance of grounding these KPIs in the Court’s long-term strategy, which envisions future objectives and addresses possible challenges. The Strategic plan should also be firmly rooted in a meaningful discussion and intricately linked to budgetary realities.

88. The last session then explored cross-sectional issues, including how geographical representation, gender balance, and the status of an applicant as an internal candidate are interrelated. This discussion was necessary to highlight the different aspects at stake, as well as to provide specific guidance to hiring managers, HRS, and the Principals when making final decisions. The discussion highlighted numerous complexities in this regard.

89. As previously mentioned, the paramount consideration in staff appointments, transfers, or promotions shall be the necessity of securing the highest standards of efficiency, competence, and integrity. GRGB is addressed in various legal texts of the Court, including the Rome Statute which stipulates that the Court “shall have regard” to GRGB in the employment of staff, while Staff Regulation 4.4. stipulates that the “fullest regard” shall be paid to internal candidates, namely staff already in the service of the Court.

90. Internal mobility was highlighted also in this session as one of the important elements that can be further improved on, building on the already existing mechanisms. The recent change in the Financial Regulations and Rules now allows also staff loans and internal mobility via Expression of Interests across different organs, expanding the options of mobility. Staff can also apply for STAs and maintain lien to their fixed-term appointment for a period of time.

91. Other intersectional issues were raised. Gender balance, geographical diversity, and inclusion were deemed indispensable and essential pillars of the Court’s international character. Participants noted that gender was a fluid concept that went beyond a simple binary notion between men and women, and that a wide array of other identities and realities, such as LGBTQ+ or disability, needed to be taken into account as well. All aspects of diversity should not only be protected, but actively supported and fostered in a multicultural workplace.

92. It was highlighted that at the moment, the Court is lacking an ethics function. Some participants noted that this function would be very useful when balancing different, competing factors, including in the context of recruitment, policies and GRGB values. The importance of Court’s values was also underlined in this regard as a crucial element that fosters greater diversity, respect, and professionalism within the Court. The project on determining Core Values of the Court was ongoing, and it would be important to incorporate the results and subsequent implementation of the Core Values project into the discussions on improving GRGB. A goal is to develop a culture intrinsic to the ICC, grounded in the Core

Values of the Court, and reflected in every part of the Court's work, from policies and strategies to KPIs, competencies and performance appraisals.

IV. Conclusion and main findings

93. The GRGB Workshop provided valuable and numerous insights, ideas and opportunities for addressing geographical representation and gender balance within the Court.

94. The in-depth analysis and active dialogue that the workshop allowed for brought forward the multifaceted nature of GRGB: various elements are at play, and have an influence on succeeding towards addressing GRGB. For the ICC to be successful in impacting positively, effectively and sustainably on GRGB, it will need to look into all these elements and identify concrete measures to implement, in a systemic and intentional way.

95. A number of important findings were raised during the Workshop. Some of the findings stem from a particular focused session, while others were raised across various sessions, which is why all the findings are listed below in a separate section. While some of the findings are immediately implementable, the majority of the findings require further consideration, including further guidance from the ASP and the examination of the applicable policy and legal frameworks, as well as the consideration of adequate capacities for their implementation. The former (immediately implementable) type of findings is particularly the case for the findings that would lead to what can be called "soft measures", such as for instance improving the drafting of vacancy announcements, while the latter type (requiring further consideration) is particularly the case of the findings that imply what could be referred to as "hard measures", such as for instance the introduction of a new recruitment programme for non- and under-represented States. Nonetheless, what all these findings have in common is that they seek to map out comprehensive and sustainable solutions for improving GRGB, as an important first step towards the new GRGB strategy of the Court.

96. A few of the findings also take into account the existing strategies or recommendations, in particular GEWC Strategy and the Study of the ICC Recruitment Processes. Such findings here aim to complement and further build upon the ongoing efforts outlined in these initiatives. The majority of findings, however, relate to novel ideas and suggestions that require further analysis and discussion.

97. Upon analysis of these findings, the Court has identified the following five areas, which are all integral to GRGB:

- 1) Data and accountability mechanisms
- 2) Recruitment process
- 3) Policies
- 4) Investments in diverse workforce and Court's capabilities
- 5) Review of the legal framework

1) *Data and accountability mechanisms*

- Data on GRGB should be segregated and the related analytics function strengthened in order to better understand the reasons for non- or under- representation for a particular State, and in order to allow the Court and other stakeholders to take adequate actions. Reliable systems able to collect relevant data for analysis are deemed necessary.
- Gender- and geographically disaggregated data should be regularly disseminated internally within the Court as an accountability measure that ensures the organization remains transparent and accountable.
- Hiring managers should be held accountable for recruitment decisions and their "hiring GRGB track record" should form part of their performance appraisal cycle.

2) *Recruitment process*

- GRGB consideration should be strengthened from the outset of the recruitment process, and at every stage of the process: from vacancy announcement, to outreach, sourcing, short-listing, testing, and up to appointment. This should be taken into account when finalizing the Administrative Instruction on Staff Selection.
- Vacancy announcements should be drafted with inclusive and gender-neutral language, as in line with the GEWC Strategy.
- The Court should consider further reinforcing HR outreach function, similar to the function present in the UN.
- The Court should consider introducing a point-system at the short-listing stage of a recruitment process whereby different factors, including geographical representation and gender balance, would be taken into account.
- When recruiting from roster, preference should be given to nationals of States Parties, and especially under- and non-represented States.
- The Study of the ICC Recruitment Processes on the GRGB Talent Pipeline should be reviewed and implemented where feasible – subject to the availability of resources.
- The Court should improve automatization of its recruitment process through modern, reliable and adequate systems, including potentially benefitting from Artificial Intelligence tools.

3) *Policies*

- The Gender Equality and Workplace Culture strategy should continue to be implemented.
- The Court should assess the applicability of the temporary special measures for achieving gender parity at managerial levels, such as those at the UN.
- The leadership programme and mentorship programme for women should continue and should be further developed.
- Additional measures for internal mobility should be explored, provided that they are consistent with GRGB measures.
- The Court should consider strengthening the role of HRS in recruitment process, including the authority by HRS to short-list additional candidates from non- and under-represented States and to veto the outcome of a recruitment process in case of procedural concerns, including those related to GRGB.
- The Court should consider diversity in the broader context when looking into GRGB, including linguistic diversity and multilingualism, the fluid concept of gender and a wide array of identities and realities, including LGBTQ+ and disability. All aspects of diversity should not only be protected but actively supported and fostered in the workplace and within a culture intrinsic to the ICC, grounded on a set of core values.
- The Court should consider (partially) waiving the bilingual requirement (English and French) for certain positions in case of external applicants who are nationals of non- and under-represented States Parties, under the condition of a commitment to an intensive language training by the recruited person upon assuming their duties.
- The Court should increase visibility and promote more actively diversity of its workforce, including through communication campaigns on social media and outreach efforts targeting specific countries or regions, as well as specific job profiles.

4) *Investments in diverse workforce and Court's capabilities*

- More contributions to the Trust Fund for the Development of Interns and Visiting Professionals should be encouraged in order to increase the number of IVPs from States that are non- and under-represented.
- The Court should encourage non- and under-represented States to join the JPO programme. The Court should consider establishing a Trust Fund for JPOs from developing regions similar to the one established at the United Nations. All new JPO agreements to be concluded with States Parties would include a provision whereby donor countries are encouraged to make a contribution to the Trust Fund with a view to funding JPOs from developing regions.
- The Court should explore introducing an ethics function to support its decision-making regarding strategies and policies, recruitment and GRGB efforts.
- The Court should consider creating a Diversity and Inclusion Focal Point position, and/or reinforcing diversity and inclusion functions within the Focal Point for Gender Equality role.

5) *Review of the legal framework*

- GRGB consideration should be strengthened for all contractual modalities, including STAs, IVPs, GS-staff and secondees, and clear guidelines should be adopted for that purpose.
- The Administrative Instruction on Short-term Appointments should be amended to include provisions on GRGB. The new version should also take into account the possibility of streamlining STAs as an important avenue for internal mobility, as well as the possibility to appoint on STA contracts from an existing roster for an established post.
- The Court should consider how to implement a freeze on considering and hiring nationals of States not party to the Rome Statute or setting a maximum quota for such nationals (*this would require further guidance from the ASP*).¹⁸
- The Court should explore introducing a dedicated programme for generic profile rosters for entry-level positions open exclusively to nationals from non- and under-represented countries, similar to the UN Young Professionals Programme. The programme should be tailor-made for the circumstances of the Court (*this would require further guidance from the ASP*).

V. Next steps

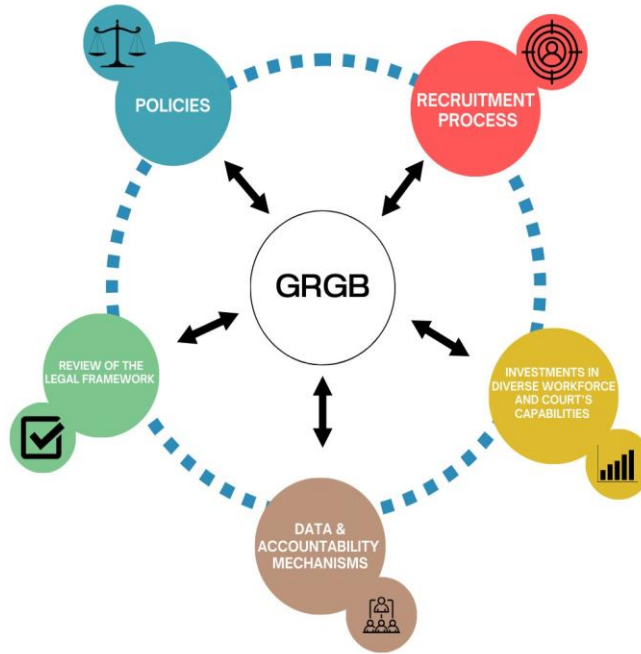
98. The findings of the Workshop, after internal consolidation, will be presented to the States Parties at a side-event during the upcoming 22nd ASP session in New York. The Court wishes to call on States Parties and other relevant stakeholders, including international organisations and civil society, to provide their views on the findings during the side-event, as well as after the side-event, in the form of written comments.

99. Based on the findings and the feedback received from States Parties and other stakeholders, the Court will develop a Strategic Toolkit of concrete and actionable measures, aimed at improving GRGB in a holistic and sustainable manner.

100. The Toolkit will serve as the practical guiding tool for the Court's actions towards GRGB. The work on the draft Toolkit is intended to be undertaken in Q1 2024, although some measures may require further work after this period. Some measures identified will also require further guidance and discussions with States Parties; these are clearly identified as such, and the implementation timeline for these may vary.

101. After the consultations with States Parties and further work carried out by the Court in translating the findings into the Strategic Toolkit, the Court intends to provide an update

¹⁸ See Footnote 14.



to the CBF for their spring 2024 session, for any further input and guidance from the CBF, particularly on matters that may have a budgetary impact.

102. In the final version of the Toolkit, the Court will identify, for each measure, the entity in charge of implementing the measure, a timeline for delivery, reporting mechanisms, and key performance indicators to measure progress, when applicable.
