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### Report of the Bureau on the Study Group on Governance

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## I. Introduction

1. The Study Group on Governance (the “Study Group”) was established via a resolution<sup>1</sup> of the Assembly of the States Parties (the “Assembly”) in December 2010 “to conduct a 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...”; and “to facilitate this dialogue with a view to identifying issues where further action is required, in consultation with the Court, and formulating recommendations to the Assembly through the Bureau”. It was further decided that “the issues to be dealt with by the Study Group include, but are not limited to, matters pertaining to the strengthening of the institutional framework both within the Court and between the Court and the Assembly, as well as other relevant questions related to the operations of the Court”.

2. The twenty-second session of the Assembly invited 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 invited 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<sup>2</sup>.

3. On March 6, 2024, the Bureau appointed Ambassador Arnoldo Brenes Castro (Costa Rica) and Ambassador René Miko (Czech Republic) as Co-Chairs of the Study Group on Governance, and also appointed Ms. Mio Takanashi (Japan), Ms. Pauline De Decker (Belgium) and Mr. Cornelius Scholtz (South Africa). On 4 September 2024, the Bureau appointed Mr. Masahiro Kimura (Japan) as a focal point on the Study Group on Governance, following the conclusion of the term of Ms. Takanashi in The Hague.

4. The Study Group held 3 meetings, on 4 June, 17 July and October 16. The Co-Chairs and co-focal points held discussions with the President of the Assembly, the Chairperson of the Hague Working Group, States Parties, the Review Mechanism, the Chair of the Working Group on Amendments, the facilitator of the New York Working Group on the issue of equitable geographical representation and gender balance (GRGB), the Court focal points<sup>3</sup> and other representatives of the Court.

5. This report on the Study Group describes the activities of the Study Group in 2024 and contains recommendations regarding the continuation of its work.

## II. Consideration of issues

6. Informed by its mandate and the Comprehensive action plan for the assessment of the recommendations of the Group of Independent Experts, the program of work for the Study Group focused on the following issues: a) Human Resources (R92, R95, R99, R101, R103); b) Key Performance Indicators (R144-R147); c) Registry governance (R79 – R86); and d) Continued facilitation of a dialogue with the Court on clusters of recommendations allocated to the Court.

### A. Human Resources (R92, R95, R99, R101, R103)

7. On 4 June 2024, the Study Group held a meeting with the participation of the facilitator of the New York Working Group on the issue of equitable geographical representation and gender balance (GRGB) in the recruitment of staff of the Court, Mr. Marvin Ikondere (Uganda). The facilitator shared insights from the GRGB meeting, held on 29 May 2024 in New York.

<sup>1</sup> ICC-ASP/9/Res.2.

<sup>2</sup> ICC-ASP/22/Res.3, annex I, para 9.

<sup>3</sup> Mr. Hiram Abtahi, Chef de Cabinet of the Presidency, Mamadou-Racine Ly, Adviser to the Prosecutor and Ms. Antônia Pereira de Sousa, Registry, respectively.

8. Regarding the implementation of IER recommendations R92, R95, R99, R101, R103 the Registry shared the following information:

9. **Recommendations R92 a. and R101:** Regarding the Job Families Project, the Human Resources Section (HRS) continued its work with the UN Global Centre for Human Resources Services (“OneHR”) in successfully completing the mapping of all received job profiles into job networks and job families. Work continued in-house in creating a job profile database and a common repository to provide the necessary structure and a foundation for the next stages of the project which would continue over the next 2 years. In addition, work on an internal mobility framework had started, with the aim of instilling an agile workforce and providing more development opportunities for staff, coupled with a GRGB lens.

10. **Recommendation R92 b:** The HRS informed that all vacancy announcements of the Court were reviewed by hiring managers prior to their advertisement with a view to ensuring that all skills needed for the position were accurately reflected therein. Any such adjustment was always done within the scope of the work survey (job description) and reviewed for compliance by the HRS. In this regard, as part of the Court’s Gender and Workplace Culture Strategy and its continuous drive towards more inclusive recruitment practices, in 2023, the Language Services Section of the Court had crafted a preliminary proposal for guidelines aimed at fostering more inclusive language within the Court. This initiative was poised to generate widespread positive impacts on the Court’s work environment, promoting a culture of equality, which was also expected to be reflected in more inclusive vacancy announcements.

11. **Recommendation R95:** A draft policy on staff selection was being developed, and consideration was being given to special measures in recruitment and selection procedures with the aim of introducing measures to improve GRGB. Inter-organ consultation on the draft policy was planned for 2024. Additional information on different staffing modalities such as short-term appointments was also provided to the Study Group as part of the Responses to Question on Recruitment Practices.

12. **Recommendation R99:** Despite limited resources available for training, the HRS continued in 2024 the evaluation and adaptation of learning and development opportunities to further support the professional development of the Court’s staff. French language classes would continue to be available, as well as the Unconscious Bias training and Mentoring Programme. In addition, the HRS informed the meeting that the Court would launch an Anti-harassment training later in 2024. Collaboration with UNSSC was envisaged, also in 2024, to provide leadership development opportunities to all staff.

13. **Recommendation R103:** Since mid-2022, the Office of the Prosecutor (OTP) had continued to engage with States Parties on the provision of support through National Experts on secondment. Throughout 2022, 2023 and 2024, the OTP has concluded MOUs for the secondment of staff with 33 releasing entities. As of today, there are 54 seconded national experts contributing to the work of the Office. Seconded personnel have over time been integrated into 28 teams within the Office, of which 12 are Unified teams and 16 are teams with specific technical or thematic expertise. .

14. Personnel offered by States Parties, intergovernmental organizations or non-governmental organizations to assist with the work of any of the organs of the Court on a pro bono basis were engaged either as consultants or individual contractors. In the context of the implementation of the gratis personnel modality, the Registry Legal Office developed a template agreement and a related template undertaking, as provided for in the Guidelines for the Selection and Engagement of Gratis Personnel at the Court.

15. Following the Registry’s presentation, the Staff Union Council questioned the impact of the short-term - contracts (STA’s) on the improvement of equitable geographical representation and gender balance (GRGB). The Registry replied that there can be no direct impact of STA’s on GRGB as short-term appointments are not counted towards GRGB and they cannot be automatically converted into any other contract modality at the Court. At the end of their appointment, STA-holders would have to run the full recruitment process to get a fixed-term contract, be it a general temporary assistance (GTA) contract or an established position (EP). On a different note, a State Party took the floor to welcome the establishment of an anti-harassment training course and to note that, apart from the OTP, very limited use is made at the Court of seconded

personnel. Another State Party having seconded personnel at the Court underlined a big improvement in the onboarding and further handling of the secondees.

## **B. Key Performance Indicators (R144–R147)**

### **Presentation by the Nuremberg Principles Academy**

16. In the meeting of 17 July, the Study Group received a presentation from the International Nuremberg Principles Academy intended to inform the discussion on the Report of the Court on Key Performance Indicators (KPIs) for 2023. Representatives of the Academy presented their study *Benchmarks for International Criminal Justice – feasibility Study Undertaken by the International Nuremberg Principles Academy and Hague Institute for Innovation of Law*.<sup>4</sup> The goal of the study was to determine whether benchmarks for international criminal justice could be established and, if so, to assess their practicability.

17. The study concluded that developing and maintaining this monitoring system was feasible. The Academy proposed a budget of €6 million over three to four years, and running costs of €1.5 to €2 million per year. The OECD recommendation of the Council on Access to Justice and People-Centred Justice Systems was the establishment of a governance infrastructure to support people-centred justice systems based on data and evidence. This initiative aimed to strengthen openness, transparency, integrity, fairness, independence and accountability of justice institutions.

18. In answer to a query relating to the relationship between the Benchmarks Project and the Independent Experts Review (IER) Report, the Academy explained that the Benchmarks Project Report had been finalized in 2022, after the IER's work had been published, so it had been considered, with the Benchmarks Project focusing on the overall impact of the Court. The Academy also recalled that it had also conducted a study on the length of ICC proceedings. The Benchmarks Project aimed to inform reforms at the ICC by examining its internal functioning and external impacts on international criminal justice, including aiding victims. The Benchmarks Project also had a wider scope because it focused on international criminal justice as a whole.

19. Regarding recommendations R144-R146, all had been assessed positively and had been implemented, and the implementation of recommendation R147 was “ongoing”.

### **The Court's 2023 Report on Key Performance Indicators**

20. In the meeting of 16 October 2024, the Registry presented the Report of the Court on Key Performance Indicators (KPIs) for 2023 and informed on the progress of the implementation of the recommendation that was ongoing, and also provided an update on recommendations that had been already implemented.

21. Regarding R144-R146 the Registry reported to the Study Group that although the reporting on KPIs is still a work in progress, the Court's first report is a significant milestone for the organization. The KPIs used are comprehensive, transparent and measurable. The KPIs are directly linked to the Court's Strategic Plan for 2023-2025 and aimed at moving the organization towards a more result-driven management approach, based on yearly targets and benchmarks, underpinned by quantitative data and elucidated by qualitative narratives.

22. In response to a question from a State Party the Registry indicated that new KPIs may be considered in future in cases where broader assessments of specific areas are required.

23. Regarding R147 the Registry reported that benchmarking with other international organizations is difficult given that there are not many organizations that are comparable and that the results of this exercise may be superficial.

24. Finally, in response to a question from a State Party, the importance of integrating KPIs into strategic planning, budgeting and risk management was emphasized.

<sup>4</sup> Prof. Dr Christoph Safferling, Director, Dr Gurgun Petrossian, Senior Officer for International Criminal Law, and Dr Pablo Gavira Díaz, Project Officer presented the study's findings.

### **C. Registry governance (R79–R86)**

25. The Study Group had, in the past, assessed these recommendations and the Matrix dated 6 September 2024 indicated that they were all assessed positively, with the implementation of R79, R84 and R85 described as “ongoing”, while the other recommendations were described as “implemented”.

26. In the meeting of 16 October 2024, the Registry informed the Study Group on the progress of the implementation of the recommendations that were ongoing, and also provided an update on recommendations that had been already implemented.

27. In particular, regarding R79, which concerns the needs of the Victims and Witnesses Section (VWS) and its staffing structures, the Registry informed the Study Group that a draft report had been received from the entity tasked with the evaluation of this matter. The aim is to finalize the report by the end of 2024 with a set of recommendations to the Registrar.

28. Regarding R84, which relates to the question of the tenure of field office positions, the Registry informed the Study Group that the matter is being considered in the context of the tenure policy approved by the Review Mechanism for adoption by ASP23.

29. Regarding R85, which concerns the question of internal mobility of staff working in field offices, the Registry reported to the Study Group that opportunities are available for temporary lateral moves within the organization.

30. Regarding R80, the Registry introduced a mechanism to review activities in respect of specific situations to determine the operational needs for the different organs of the Court with the view to modulate the needs for that specific field office to deliver. Furthermore, going forward, the Registry has prioritized requesting GTA posts for field duty stations in light of inter alia the temporal nature of field offices, in order to integrate more flexibility into the functioning of field offices. In response to a question from a State Party, the Registry indicated that the use of National Professional Officers (NPOs) is considered to be a useful tool for field offices to adapt to the local reality. The Court’s Staff Union Council stated that established posts should remain to ensure opportunities for staff mobility.

31. Regarding R81, the Registry reported that reporting lines for staff in the field have been reorganized to provide for direct reporting to the relevant sections at headquarters, which in turn allows for greater flexibility and adaptability in resources distribution depending on the needs of different situations.

32. Regarding R82, the Registry reported that the Court is already using some field offices to support multiple situations.

33. Regarding R83, the Registry reported on progress in enabling field staff to engage effectively with local stakeholders.

34. Regarding R86, the Registry reported that staff working in field offices have access to similar opportunities for professional and personal development as staff working at the headquarters.

35. Finally, in response to a question from a State Party, the Registry informed the Study Group that four townhall meetings per year are convened to keep its staff informed of key developments, including progress in implementing these recommendations.

### **D. The continued facilitation of a dialogue with the Court on clusters of recommendations allocated to the Court.**

36. The IER report addressed certain areas relating to the “Efficiency of the judicial process and fair trial rights” (Chapter X of the IER report), in which all stages of the process were covered. In the report, the experts suggested (para 985) that some provisions of the Chambers Practice Manual, such as time-limits, might be better observed if they were incorporated into regulations.

37. Some States and stakeholders had, in the past, expressed concerns about the length of proceedings at the ICC. The Study Group was aware that the judges had started taking

steps to address this matter, and therefore the Chef de Cabinet of the ICC Presidency was invited to address the 16 October 2024 meeting of the Study Group on the steps that had already been taken by the judiciary, as well as any areas they have identified where future work could be focused.

38. The Chef de Cabinet of the ICC Presidency explained that the issue of expediting the criminal process follows a multi-track approach. Efforts have been undertaken by the judges both qualitatively (i.e. how to streamline the procedure) and quantitatively (i.e. setting deadlines) in the past years.

39. In terms of the qualitative approach, judges have successfully proposed amendments to the Rules of Procedure and Evidence on matters as varied as the judges' absence, be it temporary or permanent (rules 140bis and 140ter, respectively, of the Rules of Procedure and Evidence) or the "judicial notice of adjudicated facts" that has now been adopted into Rule 69bis of the Rules of Procedure and Evidence. These rules shall help not delaying processes. The judges have also worked on the notion of *alternate judge*. Further, the extensions of judges' mandate have also been examined carefully, such as a mandate extension that was ended in June 2024. Finally, during their recent retreat of 2024, judges adopted a set of regulations giving key directions on how the charges need to be presented by the Office of the Prosecutor. All these qualitative steps will help standardize the expectations and streamline the processes.

40. Quantitatively, judges have introduced into the chambers' practice manual several timelines for key judicial decisions, ranging from trial judgments on guilt/acquittal and sentences to interlocutory and final appeals. Although it has been enshrined into a non-binding document, the Chef de Cabinet stressed that the disposition is phrased in a strict manner and that recent cases have shown improvement in the expeditiousness of proceedings. He further cautioned about comparisons with other international courts and tribunals as the ICC is unique in dealing with multiple cases, each involving its own situation and needs (understanding the historical and political background of each situation country, varied interpretation and translation needs, etc.).

41. The Study Group will revert to this issue at a future meetings.

### III. The way forward

42. The Study Group on Governance will continue to provide oversight over the implementation of the recommendations which the Review Mechanism allocated to it, in close consultation with the Court. The Study Group will continue to invite States Parties, Observer States, the Court and the CICC to participate in its meetings. The Study Group will invite the Court focal points to update the Study Group thereon.

43. In particular, the Study Group will focus on the following issues:

- a) Consideration of IER recommendation R108, which the Assembly has assigned to it
- b) Length of proceedings
- c) Working culture (R14-R15, R16, R29, R87-89)
- d) Human resources (R34, R36-R37, R102-R104)
- e) Chambers governance (R189-R191, R 196, R200-R201, R207-R212, R219)
- f) OTP governance (R311-R319)

44. The Study Group remains available to consider any issues which the Assembly or the Court may wish to draw to its attention.

## IV. Recommendations

The Study Group through the Bureau submits the following recommendations for the consideration of the Assembly:

### A. For inclusion in the omnibus resolution

*The Assembly of States Parties,*

1. *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;
2. *Takes note* of the Bureau's report on the Study Group on Governance;<sup>5</sup>
3. Extends for another year the mandate of the Study Group, established in resolution ICCASP/9/Res.2 and extended in resolutions ICC-ASP/10/Res.5, ICC-ASP/11/Res.8, ICCASP/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, ICCASP/20/Res.5, ICC-ASP/21/Res.2 and ICC-ASP/22/Res.3;
4. Takes note of the final report of the Review Mechanism submitted pursuant to ICC-ASP/23/Res.6, including the Matrix on progress in the assessment of the IER recommendations of the Review Mechanism, and notes that the Study Group will continue to consider recommendations and those issues that fall within its mandate;

### B. For inclusion in the mandates annexed to the omnibus resolution

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;

(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;

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<sup>5</sup> ICC-ASP/23/9.