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Report to the Bureau on the Review of the procedure for the nomination and election of judges

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I. Background

1. In resolution ICC-ASP/23/Res.1, the Assembly of States Parties (“Assembly”) mandated the Bureau “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” and requested the Bureau “to report to the Assembly at its twenty-fourth 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 “to update the Assembly, at its twenty-fourth session, on the progress of the review of the procedure for the nomination and election of judges”.

2. On 25 February 2025, the Bureau appointed Ms. Kaisa Mannik (Estonia) as facilitator for the implementation of the mandate. The work of the facilitator is related to the mandate of the facilitation on the Independent Oversight Mechanism (IOM) in relation to amendments to its Operational Mandate necessary to implement the due diligence procedure in the future,¹ and the Advisory Committee on the Nomination of Judges (ACN). The facilitation on the Independent Oversight Mechanism examined “possible amendments to other mandates and procedures which may be necessary in order to implement the due diligence procedure for elected officials”. Additionally, the Advisory Committee on the Nomination of Judges worked on the development of “Guiding principles on national-level procedures for nominations of candidates for judges of the International Criminal Court”.²

II. Work programme

3. The facilitator carried out consultations with interested States Parties relating to the nomination procedure of candidates for election as judges of the Court.

4. The facilitator engaged with the Advisory Committee on the Nomination of Judges regarding the mandate of the Assembly to the Committee to prepare Guidelines for the national-level nomination procedures. The facilitator took note of the comments made by the ACN on the submissions by States Parties on their national-level nomination procedures,³ in which they noted that a limited number of States Parties had responded.

5. As regards its mandate on the preparation of Guidelines, the ACN had decided that it would carry out this mandate in consultation with States Parties. The ACN decided to circulate the draft guidelines which it would prepare, for the comments of States Parties.⁴ The ACN conveyed to the facilitator the difficulties of holding the discussions by virtual means only.

6. The facilitator briefed the New York Working Group on 1 April, 8 September and 21 October 2025 and provided information on her engagement with the ACN, drawing attention to the extended deadline for States Parties’ comments to the draft Guidelines and calling on all States Parties to engage, if they determined it to be necessary. The facilitator took note of the comments made by the ACN on receiving a limited number of responses to the draft Guidelines. This could be related to the fact that ACN did not propose any new rules but aimed at providing real guidelines to help States Parties apply rules set out in the Rome Statute,⁵ with focus on the process of nomination.

7. Based on the discussions with the ACN Chair and some delegations, once the Guidelines have been adopted, it would be important to ensure their effective promotion and dissemination among States Parties.

¹ ICC-ASP/22/Res.3, para. 81: https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-22-Res3-ENG.pdf

² ICC-ASP/23/Res.1, annex II.

³ <https://asp.icc-cpi.int/ACN/National-Procedures>

⁴ See Report of the ACN (ICC-ASP/24/21)

⁵ Article 36, paragraph 4 (a) (i) and (ii).

III. Conclusions and recommendations

Conclusions

8. The review of the nomination and election procedure for judges is ongoing, and effective promotion and dissemination of the finalized Guidelines will be essential for successful implementation.

Annex I

Draft text for the omnibus resolution

1. The following paragraphs of the 2024 omnibus resolution (ICC-ASP/23/Res.1), located in the section on elections, are to be amended as follows:

2. Paragraph 6 of annex I (Mandates) of the **2025 omnibus resolution** shall read as follows:

6. With regard to elections,

a) *Welcomes* the Guidelines on national-level nomination procedures which the Advisory Committee on Nominations of Judges prepared pursuant to resolution ICC-ASP/23/Res.1;⁶

b) *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;

c) *requests* the Bureau to report to the Assembly at its twenty **fifth** 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

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