Resolution ICC-ASP/24/Res.2

Adopted at the 9th plenary meeting, on 5 December 2025, by consensus

ICC-ASP/24/Res.2

Resolution of the Assembly to implement recommendation R108 of the Group of Independent Experts

The Assembly of States Parties,

Recalling the 2020 Report of the Group of Independent Experts,[1] in particular Chapter III, section A,[2] which contains recommendation R108,[3]

Recalling further the assessment by the facilitation on the Review of the work and the operational mandate of the Independent Oversight Mechanism of recommendation R108 as "positive with modifications"[4] and its suggestion that further discussions on the topic could take place within the Study Group on Governance (SGG),[5]

Recalling the decision of The Hague Working Group to streamline the work of facilitations and to hold joint meetings between the Study Group on Governance and the facilitation on the Review of the work and the operational mandate of the Independent Oversight Mechanism on the implementation of recommendation R108,

Noting the report of the Bureau on the joint meetings of the Study Group on Governance and the Review of the work and the operational mandate of the Independent Oversight Mechanism, as annexed to the respective Bureau reports,[6]

Taking note with appreciation of the consultations undertaken by the Study Group on Governance and the Review of the work and the operational mandate of the Independent Oversight Mechanism on the comprehensive amendments to the regulatory framework of the Court and the Assembly required in order to ensure a coherent implementation of recommendation R108,

Acknowledging that further consultations may be required in order to update the regulatory framework of the Court and the Assembly in light of evolving practice,

Recalls the 3 November 2025 decision of the joint meetings of the Study Group on Governance and the Review of the work and the operational mandate of the Independent Oversight Mechanism to refer the approved draft amendments to rule 26, 27, 28, 29 and 30 of the Rules of Procedure and Evidence of the Court to the Working Group on Amendments,

Welcomes the decision of the Working Group on Amendments to submit the draft amendments of the Rules of Procedure and Evidence to the Assembly, for its consideration

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[1] ICC-ASP/16/19.
[2] Ethics framework.
[3] **R108.** Ad hoc Investigative Panels for Judges, the Prosecutor and the Deputy Prosecutor should be employed by the IOM in case of complaints against these elected officials. The IOM would establish such panels of three judges or prosecutors respectively from a roster list made up of current and former national and international judges/prosecutors. The roster would be agreed upon by the ASP Presidency, the Court Presidency and the Prosecutor, respectively, similar to the procedure indicated in Recommendation 113
[4] Matrix Progress in the assessment of the IER recommendations (ICC-ASP/23/14/Add.1): https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-23-14-Add.1-ENG.pdf
[5] Report of the Bureau on the Review of the work and the operational mandate of the Independent Oversight Mechanism (ICC-ASP/23/27), para. 13: https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-23-27-ENG.pdf
[6] ICC-ASP/24/23, annex II and ICC-ASP/24/30, annex II.

and *welcomes further* the Assembly's decision to adopt the amendments to rules 26, 27, 28, 29 and 30 of the Rules of Procedure and Evidence of the Court,[7]

1. *Decides* to adopt the Terms of Reference for *ad hoc* Panels set out in annex I to this resolution;

2. *Decides* to adopt the amendments to the Operational mandate of the Independent Oversight Mechanism set out in annex II to this resolution;

3. *Decides* to adopt the amendments to rules 81 and 82 of the Rules of Procedure of the Assembly of States Parties set out in annex III to this resolution;

4. *Urges* the Bureau, through the Hague Working Group, to continue discussions on the matter, as appropriate.

[7] See resolution ICC-ASP/24/Res….

Annex I

Terms of reference for the ad hoc panel

Insofar as the terms of reference do not provide for a specific circumstance, the provisions of the Rome Statute, Rules of Procedure and Evidence (RPE), applicable Administrative Issuances and Presidential Directives shall apply.

Mandate

1. The mandate of the ad hoc panel ("the panel") is to advise the competent decision-maker(s) as set out in Articles 46 and 47 of the Rome Statute, and Rules 29 and 30 RPE, in case of complaints against judges, the Prosecutor, the Deputy Prosecutors, Registrar and Deputy Registrar (hereinafter as "the elected officials"). The competent decision-maker(s) would then make the decision on the complaint.

2. The panel shall guarantee consistency in the application of the relevant rules and legally characterize whether the factual findings by the Independent Oversight Mechanism (IOM) or the external investigator establish serious misconduct or serious breach of duty (defined in Rule 24 RPE), misconduct of a less serious nature (defined in Rule 25 RPE), or no misconduct or breach of duty under either Rule 24 or Rule 25.

3. The panel shall conduct an analysis on the sufficiency of evidence presented by the IOM or the external investigator in light of applicable international administrative law.

4. The panel shall present the IOM report or external investigation report and any evidence to the investigated elected official ("one party to the investigation") and ensure that its due process rights are fully respected.

5. The complainant and, where relevant, the victim ("other party to the investigation") may interact with the panel as appropriate with full regard to due process rights of all parties to the investigation.

6. No party to the investigation shall be subject to intimidation or reprisals based on their participation in the process. If intimidation or reprisal occurs, a request for a separate investigation by the IOM can be made by any party to the investigation.

7. The mandate of the panel is of limited duration and concludes upon a decision on the complaint by the competent decision-maker(s).

Composition

8. The panel shall consist at all times of three independent members chosen from a roster, bearing in mind gender balance, equitable geographical representation, and the two working languages of the Court. The members of the panel shall work independently and shall not receive any instructions in the fulfilment of their tasks from the elected officials, States Parties, or any other parties. The members of the panel shall avoid any conflict of interest or being placed in a situation which might reasonably be perceived as giving rise to a conflict of interest or bias.

Selection process for membership on the roster

9. The selection of candidates for membership on the roster shall be conducted by the ASP Presidency. The membership in the selection of the candidates shall be delegated in case of conflict of interest.

10. a) The stages for the selection process shall chronologically proceed in the following order:

    (i) Long-listing;

    (ii) Short-listing;

    (iii) Interviews;

    (iv) Selection of candidates.

b) All criteria for each stage, the pertinent questions for interviews and the weights of each question vis-à-vis the total score must be established prior to each stage of the selection process and shall be objective, comparable and quantifiable.

c) A detailed outline of the process of each of the stages will be included in the final selection report, which will be shared with the States Parties through the Bureau.

Long-listing

11. The ASP Presidency shall request the facilitation by the Human Resources Section ("HRS") of the Court in its long-listing, which shall be done by criteria on the basis of eligibility requirements as further determined by the Bureau, following appropriate consultations with States Parties. The process shall be conducted in an appropriate and expeditious manner. Current and former national and international judges and prosecutors, deputy prosecutors and registrars as well as other experts, with relevant experience in administrative and misconduct tribunals, are eligible. Only nationals of States Parties to the Rome Statue are eligible, excluding former and current ICC elected officials.

Short-listing

12. a) The ASP Presidency shall request the facilitation of the HRS in its short-listing, which shall be done by criteria on the basis of suitability to the post of the member of the roster based on the candidate's submitted application. The criteria should be objective and related to all requirements as indicated in the call for applications. For assessing the suitability of candidates for the roster, the ASP Presidency may request advice from the IOM.

b) The purpose of short-listing is to limit the number of candidates to a maximum of 30 candidates. Where the number of long-listed candidates is 30 or less, all candidates shall be allowed to be interviewed.

Interviews

13. a) The ASP Presidency shall be facilitated by the representative of the HRS in conducting the interviews.

b) When assessing questions, in line with the principles of competency-based interviewing, due regard shall be given to those who provide answers relating to actual experience.

c) The questions will remain confidential and unbeknownst to any party or individual except for the ASP Presidency and/or representative of the HRS until the conclusion of all interviews.

Selection decision

14. The final selection for membership on the roster shall be made by the ASP Presidency based on an overall technical assessment, bearing in mind gender balance, equitable geographical representation, and the two working languages of the Court.

Notification and implementation of the decision

15. The HRS shall inform the selected candidates for a roster of the selection decision in writing within 14 calendar days after the decision is made by the ASP Presidency. They shall be further informed that they may be selected for the panel, subject to further selection procedure. Other candidates not placed on the roster shall be so informed by the HRS in writing within 14 calendar days after the selection decision is made. Applicants eliminated prior to the assessment exercises shall likewise be informed.

16. The HRS shall maintain the roster and review the availability of its members. The Secretariat of the ASP, facilitated by the HRS, shall report on the status of the roster to the Bureau every two years.

Selection of panel members

17. The ASP Presidency will promptly, no later than within 14 calendar days from receiving the IOM report or the external investigation report, select the members of the panel, bearing in mind gender balance, equitable geographical representation, and the two working languages of the Court. It is advisable that at least one member of the panel is an administrative judge with experience in public service law.

18. The members of the panel shall be appointed by the ASP Presidency in their personal capacity based on their relevant qualifications and experience. They shall serve on a pro bono basis.

19. The members of the roster who are considered to have a potential conflict of interest on grounds specified in Rule 34 RPE, or other reasons that prevent them from sitting in the panel, including having the same nationality as a party to the investigation, shall not be eligible for membership on the panel.

20. When submitting the report to the ASP Presidency, the IOM or external investigator may provide advice regarding potential conflict of interest that may prevent members of the roster from sitting on the panel.

21. The members of the roster shall not be eligible to sit on two panels consecutively, unless it is necessary due to special circumstances.

22. Upon their appointment, the member of the panel shall sign a document in which they commit to recuse themselves in the event of any conflict of interest.

23. The member of the panel is obliged to disclose any current or previous personal or professional relationship with any party to the investigation, or any other factor that may affect their independence and impartiality.

24. As soon as the panel is constituted, the ASP Presidency shall provide the panel with the IOM report or external investigation report, and the Chairperson shall inform the parties to the investigation of the panel's composition.

25. Where a conflict of interest or other reasons that prevent a selected member from sitting in the panel arise after the establishment of the panel, that member shall recuse themself and shall not participate in the process.

26. A request for disqualification of a panel member on their motion or by any of the parties to the investigation shall be made in writing within 3 working days of becoming aware of the grounds giving rise to a potential conflict of interest and shall state the reason for requesting such disqualification. The decision on such a request shall be made by the ASP Presidency with utmost urgency, no later than 7 calendar days after its receipt.

27. When there is a vacant seat on the panel, the ASP Presidency shall select a new panel member, in accordance with set forth procedure. The Chairperson shall inform the parties to the investigation without undue delay of any change in the composition of the panel. The parties shall have 2 working days to request disqualification of the proposed new member of the panel and to provide their reasons.

Working methods of the panel

Chairperson

28. The panel shall elect a Chairperson by majority vote.

29. If the Chairperson ceases to be able to carry out their functions or ceases to be a member of the panel, a new Chairperson shall be elected.

Rapporteur

30. a) The members of the panel may decide to appoint a Rapporteur from among themselves.

b) The Rapporteur may be responsible for, *inter alia*:

(ii) compiling information;

(iii) examining the factual basis of the case provided in the IOM report or external investigation report and presenting an assessment of legal characterization of the factual findings to the other panel members based on the discussions held;

(iv) advising the panel on sufficiency of evidence provided in the IOM report or external investigation report and a possible need to obtain additional evidentiary material; and

(v) drafting the final report.

Meetings

31. The panel shall meet as often as necessary or as requested by the Chairperson.

Communication

32. The panel shall convene remotely via technological means of communication as a rule. When needed, the panel shall convene in a hybrid format.

Confidentiality

33. The members of the panel shall ensure strict confidentiality of all communications and discussions during the process, including regarding testimonies of victims and witnesses.

34. Upon their appointment, each member of the panel shall sign a document in which they commit to ensure strict confidentiality.

Impartiality

35. The members of the panel shall work independently and shall not receive any instructions in the fulfilment of their tasks from the elected officials, States Parties, or any other parties.

36. The members of the panel shall avoid any conflict of interest or being placed in a situation which might reasonably be perceived as giving rise to a conflict of interest or bias.

Functions of the panel

37. The panel will begin its work upon receipt of the IOM report or external investigation report and shall endeavour to make the legal characterization on the basis of that report. When necessary, the panel may request the IOM or the external investigator to provide evidentiary material or to clarify any question. The report or evidentiary material respectively may include pseudonyms in order to safeguard the identities of witnesses.

38. The panel shall not duplicate the work of the IOM or external investigator or conduct its own fact-finding.

39. An officer from the IOM shall act as a liaison between the panel and the IOM or external investigator.

40. The Secretariat of the ASP shall provide the panel with administrative and technical assistance.

41. After evaluating the IOM report or the external investigation report and, when necessary, the underlying evidentiary material, the panel shall provide its legal characterization of the factual findings. It does not fall within the mandate of the panel to recommend removal or disciplinary actions.

Procedures to be applied by the panel

a) Consensus

42. Every effort shall be made to agree on the advice to the competent decision-maker(s) by consensus. If consensus cannot be reached, the advice shall be adopted by vote of a simple majority of the panel members.

b) *Voting rights*

43. Each member of the panel shall have one vote.

Final report of the panel

44. Once the panel has completed its work, it shall submit to the competent decision-maker(s) a final report with its advice, which would include necessary information and attach the IOM report or external investigation report, and underlying evidentiary material, if applicable.

45. The final report of the panel shall consist of:

(i) the charges and allegations of unsatisfactory conduct;

(ii) a statement of the proceedings;

(iii) findings indicating which of the charges, if any, appear to be supported by the evidence, including a synopsis of the evidence and the panel's evaluation thereof;

(iv) any aggravating or mitigating factors that might be relevant;

(v) conclusions on subparagraphs (i) to (iv);

(vi) advice from the panel to the competent decision-maker(s) as to the legal characterization whether the factual findings by the IOM or the external investigator establish serious misconduct or serious breach of duty, misconduct of a less serious nature, or no misconduct or breach of duty under the set forth legal framework;

(vii) confirmation of the non-binding nature of the advice; and

(viii) a record of the votes on the advice provided, including any dissenting or separate opinion.

46. The final report of the panel shall be submitted to the competent decision-maker(s) within 30 calendar days of receipt of the IOM report or external investigation report by the panel. The panel may, under exceptional circumstances, make a request to the ASP Presidency for an extension of a time-limit.

Periodic review of the Terms of Reference

47. The ASP shall review the Terms of Reference every three years, or as necessary, to ensure that they reflect best professional practices, remain relevant to the ICC's operating context, and continue to meet the ASP's needs. Any proposed amendments to the Terms of Reference shall be submitted to the ASP for approval.

Annex II

Revised Operational Mandate of the Independent Oversight Mechanism[8]

I. Mission of the IOM

1. The Independent Oversight Mechanism (hereinafter "IOM") is a subsidiary body of the Assembly of States Parties to the Rome Statute (hereinafter "the Assembly"), established in accordance with article 112, paragraph 4, of the Rome Statute, by Assembly resolution ICC-ASP/8/Res.1, as amended by **resolution ICC-ASP/19/Res.6 and** the present resolution.

2. As prescribed by article 112, paragraph 4 of the Rome Statute, the purpose of the IOM is to provide comprehensive oversight of the Court through the conduct of independent internal administrative investigations**, including those related to the due diligence procedure for candidates for elected positions with the International Criminal Court ("due diligence procedure")**, evaluations, and inspections, in order to enhance its economy and efficiency.

3. The IOM shall exercise complete operational independence in the fulfilment of its functions and will report to the Assembly as provided for in paragraph 15 of resolution ICC-ASP/8/Res.1.

4. The IOM shall have the authority to initiate on a reasonable basis, carry out and report on any action which it considers necessary to fulfil its responsibilities with regard to its functions without any hindrance or need for prior authorisation, except as set forth in the present resolution. The IOM shall not be prohibited from carrying out any action within the purview of its mandate. In the case of any inconsistency between this mandate and any provision of the Court's internal regulatory framework, the former shall prevail.

Oversight Activities

5. The authority of the IOM does not in any way impede the authority or independence granted by the Rome Statute to the Presidency, judges, Registrar, or Prosecutor. In particular, the IOM will fully respect judicial and prosecutorial independence and minimize any impact by the conduct of its activities on the effective functioning of the Court.

6. Should the IOM deem that actions are required to fulfil its mandate that may potentially affect judicial or prosecutorial independence, or affect ongoing Court proceedings or investigations, it shall first consult the Presidency or Prosecutor to determine a course of action which would both respect the judicial or prosecutorial independence and not unduly interfere with Court proceedings or prosecutorial activities, while allowing the IOM to provide the oversight required. Should there be no agreement in respect of such course of action, the Presidency or Prosecutor shall agree with the Head of the IOM on an independent third-party procedure to facilitate and mediate the disagreement. In addition, the IOM will alert the relevant Head of Organ about any planned evaluation, inspection, or investigation, unless it determines that it would be inappropriate to do so. Upon such consultation, the Presidency or Prosecutor may raise any concerns connected to judicial or prosecutorial independence which have not been identified by the IOM.

7. In matters concerning judicial and prosecutorial independence, the IOM and relevant Head of Organ shall proceed in good faith at all times with a view to ensuring accountability, in accordance with the Rome Statute and the Rules of Procedure and Evidence.

A. Investigation

Legal mandate

8. The IOM shall promptly receive all allegations of misconduct[91] against any staff

[8] The amendments for Due diligence are highlighted in **bold** and the amendments relating to IER recommendation R108 are underlined.

[9] For the purposes of this mandate, misconduct is used interchangeably with unsatisfactory conduct, defined in Chapter X of the Court Staff Rules as: "*Failure by a staff member to act in accordance with any official document of the Court governing rights and obligations of staff members, such as the Staff Regulations and Rules and the Financial Regulations and Rules, or any relevant resolutions and decisions of the Assembly of States Parties, or failure to observe the standards of conduct expected of an international civil servant, may amount to unsatisfactory*

member or consultant/contractor retained by the Court, and determine after an initial review those that should be further assessed by the IOM. These include the making of allegations against an elected official, staff, or consultant/contractor in bad faith.

9. In accordance with relevant provisions of the Rome Statute and of the Rules of Procedures and Evidence,[102] the IOM shall also be the only body authorized to receive and investigate complaints of misconduct and serious misconduct against any elected official. The outcome of any investigation under this paragraph should be reported in accordance with Rule 26*bis* and Rule 26*ter* of the Rules of Procedure and Evidence.

10. The IOM also has the discretionary authority to assess or investigate any allegations of misconduct, serious misconduct, or unsatisfactory conduct against any former elected official, staff member, or consultant/contractor, provided the elected official, staff member, or consultant/contractor was in the service of the Court at the time the alleged misconduct took place. This paragraph also covers allegations of misconduct with respect to obligations undertaken by elected officials, staff members, or consultants/contractors during their service and that extend after their term of service.

11. In case of actual, potential or perceived conflicts of interest, or due to insufficient IOM resources, the Head of IOM or the President of the Assembly may, if strictly necessary, retain an external investigator to conduct investigations into allegations of misconduct, serious misconduct, or unsatisfactory conduct against elected officials, staff members, or consultants/contractors. In performing investigative activities, the external investigator shall apply the Court's regulatory framework, recognised best practices, and adhere to the highest ethical standards. Upon completion of the investigation, as appropriate, the external investigator shall transmit a copy of the full investigation file, including the report and the supporting evidence, to the IOM for record-keeping.

12. The IOM will not investigate contractual disputes or human management issues, including work performance, conditions of employment or personnel-related grievances. The IOM will also not investigate offences under article 70 of the Rome Statute.

13. **In accordance with the Assembly resolution ICC-ASP/22/Res.3, the IOM has the authority to conduct the due diligence procedure for all candidates for the position of Judge, Prosecutor, Deputy Prosecutor, Registrar and Deputy Registrar of the Court, with the assistance of the Registry and the Secretariat of the Assembly as appropriate. The due diligence procedure is intended solely to assist States Parties and/or the authority in charge of the election process, as appropriate, to assess whether there might be relevant concerns regarding whether such candidates possess "high moral character" as required by the Rome Statute. This procedure is without prejudice to other efforts or mechanisms to assess the professional skills and competencies of such candidates.**

Investigation of unsatisfactory conduct and Due Diligence Procedures

Investigation of unsatisfactory conduct

14. Following the IOM's initial review under paragraphs 8 and 9, the IOM may decide to investigate the matter, in which case no further action should be taken by any other body within the Court until such time as the IOM has completed its investigation, unless after consultation the IOM has agreed that this would not affect the conduct of its investigation.

15. Should the IOM decide, further to an initial review under paragraphs 8 and 9, not to investigate a matter, it may refer the matter to the relevant Head of Organ or decision-maker if appropriate. Should the Head of Organ or decision-maker nevertheless decide to carry out an investigation, it should be conducted, whether by a staff designated by the Head of Organ or decision-maker, or an external investigator, in accordance with the Court's Regulatory framework with respect to the conduct of administrative investigations.

16. Should the IOM find, following a formal investigation that any allegation of unsatisfactory conduct under paragraph 8 above has been substantiated, it should present its

conduct within the meaning of staff regulation 10.2(a), leading to the institution of disciplinary proceedings and the imposition of disciplinary measures."

[10] Articles 46 and 47 of the Rome Statute, and Rules 24-26 of the Rules of Procedure and Evidence.

report to the relevant Head of Organ, along with its recommendation on whether to initiate disciplinary proceedings. The Head of Organ shall report back to the IOM on whether disciplinary proceedings were initiated, and if so, whether any disciplinary measure was imposed, and the nature of the measure. If no disciplinary proceedings were initiated or no disciplinary measure imposed, it should inform the IOM as to the reason for not doing so.

17. Should the IOM find, following a formal investigation that any allegation of serious misconduct or serious breach of duty, and misconduct of a less serious nature under paragraph 9 above has been substantiated, it should present its report to the Presidency of the Assembly, which shall promptly constitute an *Ad Hoc* panel. The panel shall legally characterize whether the factual findings by the IOM or the external investigator establish serious misconduct or serious breach of duty, misconduct of a less serious nature, or establish no misconduct or breach of duty, and shall transmit its advice to the competent decision- maker. When necessary, the panel may request the IOM or the external investigator to provide evidentiary material or to clarify any questions.

18. The relevant decision-maker shall report back to the IOM on whether disciplinary proceedings were initiated, and if so, whether any disciplinary measure was imposed, and the nature of the measure. If no disciplinary proceedings were initiated or no disciplinary measure imposed, it should inform the IOM as to the reason for not doing so.

19. Where an investigation reveals that criminal acts may have been committed by elected officials, staff members or consultants/contractors, the IOM or, where applicable, the external investigator may also refer the matter to the relevant Head of Organ or to the relevant decision-maker, and recommend that the matter be further referred to the relevant national authorities.

20. The IOM may also, including in cases of unsubstantiated allegations, make observations and recommendations to any Head of Organ, Division, or Section if investigation findings reveal weaknesses in adherence to administrative or operations policies, guidelines, procedures or practices, or if specific issues arising from the investigation require immediate corrective action to strengthen internal controls and prevent similar incidents from happening in the future.

Due Diligence Procedure

21. **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 and the Secretariat of the Assembly, as appropriate. This process shall include a review and analysis of open-source information and contacts with former and current employers and, where feasible, employees who may have worked with the candidates.**

22. **The Secretariat of the Assembly, or the authority in charge of the election process, as appropriate, shall provide the IOM with the nominations by States Parties or the list of names of candidates with all supporting documentation.**

23. **As soon as the IOM has received the nominations or list of names, the IOM shall contact the candidates and require them to complete a detailed questionnaire, and provide consent to contact former and current employers and employees, State authorities, or academic institutions, with an appropriate deadline for submission.**

24. **The IOM shall open a confidential channel for the receipt of allegations of misconduct against any of the candidates.**

25. **The IOM shall first review the allegations and consider whether they relate to misconduct. If they do not, the review of the allegations shall be discontinued. If the allegations relate 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.**

26. **When the allegations relate to misconduct, the IOM shall assess the credibility and the materiality of the allegations, determining the type of misconduct and its seriousness. The candidate shall be afforded a full and fair opportunity to respond to the allegation. The IOM shall also review any allegations of retaliation by a candidate.**

27. **At the conclusion of its review, the IOM shall submit a report to the Presidency of the Assembly for its consideration. The report shall include an assessment as to whether, on the basis of all available information, there is sufficient credible and material evidence to raise concerns regarding the candidate's high moral character. The report shall also provide a general overview of the procedure undertaken, as well as any insights on lessons learned for the future. 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. A summary of the reports on due diligence procedures shall also be included in the IOM's Annual Report, in accordance with paragraph 50.**

Confidentiality and consistent Regulatory framework

28. The confidentiality of sources of allegations should be strictly safeguarded, and any relevant identifiable information not included in any IOM report, unless disclosure is necessary to guarantee the rights of any elected official, staff member, or consultant/contractor**, or candidate subject to the due diligence procedure. Such disclosure should only occur after the consent of the source has been obtained.**

29. The IOM shall assist the Court in adapting the Court's internal regulatory framework for the review of allegations of misconduct **and the due diligence process**, consistent with this mandate.

B. Evaluation

30. An evaluation is a rigorous, impartial, systematic and independent assessment of an activity, project, programme, strategy, policy, topic, theme, sector, operational area or institutional performance. It analyses the level of achievement of both expected and unexpected results using criteria such as relevance, effectiveness, efficiency, impact and sustainability. In sum, evaluation assesses what works, what does not and why, highlighting both intended and unintended consequences concerning the subject evaluated.[113] **Evaluation is conducted by the IOM in line with the ICC Evaluation Policy.**

31. After consultation with the Heads of Organs, the IOM shall prepare an independent annual programme of evaluations to propose to the Assembly, taking into account the IOM's capacity in this respect. The Assembly or Bureau may also request the IOM to conduct evaluations other than those in the IOM annual programme of evaluations, providing also a rationale for such evaluations and a suitable budget and resources as required. The IOM will assess such requests on the basis of evaluability criteria to determine whether an evaluation can be carried out. If the result of an evaluability assessment is that the evaluation cannot be carried out, the IOM will consult with the requesting authority regarding alternative options.

32. Should part of or the entire annual programme of evaluations proposed by the IOM be rejected by the Bureau, without any other evaluation request made by the Assembly or the Bureau, the Heads of Organ will be encouraged to request the IOM to conduct an evaluation. Such request will also be reviewed by the IOM to determine its suitability, and an alternative proposed if necessary. In the absence of any evaluation request from the Assembly, the Bureau or the Heads of Organ, the IOM has the independent and discretionary power to initiate an evaluation on its own accord, after consultation with the relevant Head of Organ.

33. The IOM may, upon request of the Assembly, Bureau or any Head of Organ, provide quality assurance, coordination and secretariat support for any evaluation conducted by an external consultancy or by any high-level peer-review panel established by the Assembly, Bureau or Head of Organ, for the purposes of evaluating any aspect of the Court's operations.

34. The IOM may provide, upon request of a Head of Organ, technical support to the relevant Organ in establishing or reviewing an internal monitoring and evaluation system of any project, programme or initiative.

35. The IOM shall be the custodian of all evaluations, including those conducted under the purview of Heads of Organs. The Heads of Organ will report to the IOM all internal evaluations planned and completed by providing general information on these, such as the

[11] The definition of evaluation is adapted from the United Nations Evaluation Group's (UNEG) Norms and Standards for Evaluation (2016) **and the ICC Evaluation Policy.**

topic, scope, and timeline. Such internal evaluations are defined according to the evaluation principles of the UNEG Norms and Standards for Evaluation, and excludes reviews, performance indicators and audits, monitoring and other similar analyses not considered formal evaluations. The IOM shall have unrestrained access to all internal evaluation reports conducted by the Court.

36. Notwithstanding the confidentiality obligations attached to IOM work as found in this resolution, the IOM's annual programme of evaluations, all evaluation requests made by the Assembly or the Bureau, as well as evaluation executive summary reports will be made public. Where publication of any report regarding any evaluation would be inappropriate for reasons of confidentiality, or where it could place in jeopardy the safety and security of any individual, or run the risk of violating the due process rights of individuals, the report may be redacted or in exceptional cases withheld at the direction of the President of the Assembly or the Head of Organ, as appropriate.

37. The IOM will issue the final report for an evaluation requested by the Assembly or the Bureau to the President of the Assembly, who will then be responsible for any subsequent dissemination.

38. For evaluation requested by a Head of Organ pursuant to paragraph 32, the report will be submitted to the Head of Organ, who will be responsible for its dissemination. The IOM will also include a summary of any such evaluation in its Annual Report.

C. Inspection

39. The IOM may conduct unscheduled or *ad hoc* inspections of any premises or processes, as requested by the Bureau or a Head of Organ. Such inspections are defined as special, unscheduled, on-the-spot verifications made of an activity directed towards the resolution of problems which may or may not have been previously identified.[12]

40. All requests of the Bureau to the IOM to conduct inspections will be notified to the appropriate Head of Organ, and shall be preceded by a consultation with the appropriate Head of Organ. The concerned Head of Organ may appoint a representative of his/her office to witness the inspection.

41. Upon completion of an inspection requested by the Bureau, the IOM shall deliver the report to the President of the Assembly, who shall forward it to the Assembly or its Bureau, as appropriate. The Assembly or the Bureau is solely responsible for any subsequent distribution or publication.

42. In those cases where the IOM agrees to conduct an inspection following a request from a Head of Organ, it shall deliver its inspection report to the Head of Organ upon completion, who will be solely responsible for any subsequent distribution or publication. The IOM will report on any such inspection in its Annual Report.

II. Powers and Authority

43. The IOM shall have full, free and prompt access to all (electronic or otherwise) Court records files, documents, books or other materials, assets and premises, and shall have the right to obtain such information and explanations as they consider necessary to fulfil their responsibilities.

44. The IOM shall also have full and free access to all elected officials, staff, contractors, or any other personnel of the Court, and all such personnel shall have the duty to cooperate promptly with any IOM request, including requests for information, to be interviewed and/or to provide explanations. Failure to provide such cooperation, without reasonable excuse, may result in disciplinary action.

45. **In case of due diligence procedure, 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, under paragraph 23 above, and may recommend that the candidate not be considered further for election.**

[12] See JIU Glossary of Evaluation Terms (JIU/REP/78/5).

46. Any IOM request under paragraphs 43 and 44 above must be kept confidential and not shared with anyone, including any other elected official, staff or consultant/contractor, unless explicitly provided for in the Court's regulatory framework or expressly authorized by the IOM. Failure to maintain such confidentiality may result in disciplinary action.

47. Notwithstanding the provisions outlined in paragraphs 43 and 44 above, the right of access granted to the IOM shall be subject to confidentiality considerations necessary for the exercise of the Court's mandate under the Rome Statute, in particular in the context of criminal investigations, judicial proceedings, any pre-existing obligation of confidentiality to the originator of the information or document, the safety and security of witnesses, victims and third parties, and the protection of national security information of States Parties.

48. Any objection to comply with any IOM request under paragraphs 43 and 44 should be raised by the elected official, staff member, or consultant/contractor concerned at the earliest opportunity with the IOM, who will then consult with the appropriate Head of Organ. If the Head of Organ is of the view that the request would violate one of the confidentiality considerations of paragraph 47, the Head of Organ should formally notify the Head of the IOM accordingly. The IOM and Head of Organ shall make all reasonable efforts to allow the IOM access to material that will allow it to fulfil its functions, without jeopardizing the confidentiality considerations contained in paragraph 47, including by providing redacted information that could satisfy both the mandate of the IOM and the confidentiality of the information.

49. Despite their best efforts, should the Head of Organ and Head of the IOM not agree regarding whether the information is protected from disclosure under paragraph 47, or if the Head of the IOM considers that unrestricted access to the information is nevertheless necessary to fulfil the mandate of the IOM, the Head of Organ and Head of the IOM should agree on an independent third-party procedure to facilitate and mediate the disagreement, while ensuring that all confidentiality obligations under the Rome Statute are duly respected.

III. Reporting

50. The IOM shall provide an Annual Report on its operations to the Assembly. The Annual report shall provide information regarding investigations**, including any due diligence procedure as applicable**, evaluations and inspections carried out by the IOM, ensuring that it respects privacy rights of elected officials, staff members, and consultants/contractors. In particular, the Annual Report shall not contain the names or publicly identifiable information regarding any individual involved in any investigations.

51. Prior to its submission, the draft should be circulated to each Head of Organ, who may provide comments for the IOM's consideration. Any Head of Organ may also provide formal comments to the Annual Report which shall be annexed to the Annual Report and submitted with it to the Assembly.

52. The Annual Report (including any annexes) shall be a public document.

53. The IOM shall also provide an Interim Report to the Bureau of the Assembly, covering the six-month period following the previous Annual Report, and which shall include a summary of the IOM's operations for this period. The Interim Report shall be copied to the Heads of Organs and the Committee on Budget and Finance, and any further disclosure should be done only with the approval of the President of the Assembly.

54. Both the Interim Report and the Annual Report shall be presented at a Bureau meeting, and the Head of the IOM shall be available to provide further information, without disclosing information that is confidential and/or would be prejudicial to the rights of any elected official, staff member, or consultant/contractor, or would interfere with Court proceedings or investigations.

55. The IOM shall also provide *ad hoc* reports to the Bureau upon its request, or at the discretion of the Head of the IOM, who may do so after consultation with the President of the Assembly.

IV. Staff and Accountability

56. In carrying all its activities, the IOM will implement recognized best practices and

adhere to the highest ethical standards.

57. Except where explicitly provided in this resolution, the work of the IOM shall be confidential, and the IOM shall be responsible for safeguarding all confidential information provided to it. Unauthorized disclosure of any confidential information by staff members of the IOM shall constitute unsatisfactory conduct, for which appropriate disciplinary measures may be imposed.

58. Staff members of the IOM shall not be engaged in any non-IOM related operational duties for the Court, nor engage in any activity that might give an appearance of jeopardizing their independence, such as membership in any body that requires election or nomination.

59. The IOM exercises full operational independence from the Court, and accordingly reports directly to the President of the Assembly.

60. The Head of the IOM shall be selected by the Bureau of the Assembly. The evaluation of the work performance of the Head of the IOM shall be undertaken by the President of the Assembly. The Head of the IOM may be removed only for cause and by the decision of the Bureau of the Assembly.

61. Notwithstanding paragraph 59, the IOM is nevertheless bound by the regulatory framework of the Court. For administrative purposes, therefore, the Head of the IOM shall follow the Court processes for approvals related to Human Resources, Budget and Finance, and Procurement, including requiring the approval of the Registrar for any action in these areas. However, the Registrar shall not use its discretion to deny any IOM request, provided that the proper administrative processes have been followed. Any disagreement between the Registrar and the Head of the IOM in this respect shall be resolved by the President of the Assembly, whose decision shall be final.

62. All staff members of the IOM are considered staff of the Court. As such, and unless otherwise inconsistent with the present mandate, their appointment, conditions of employment and standard of conduct must be in accordance with the Staff and Financial Regulations and Rules and relevant administrative issuances of the Court. Therefore, as part of the Court, the staff members of the IOM shall enjoy the same rights, duties, privileges and immunities, benefits of all staff members. The Registry shall facilitate any administrative arrangements.

63. Any allegation of unsatisfactory conduct by any staff member of the IOM shall be promptly reported to the Head of the IOM, who upon consultation with the President of the Assembly, will decide on the proper course of action.

64. Any allegation of unsatisfactory conduct by the Head of the IOM shall be reported to the President of the Assembly, who shall decide on the proper course of action.

65. Any investigation into the conduct of any staff member of the IOM should be carried out in accordance with the standards applicable to investigations of any other staff member of the Court.

66. Any disciplinary measure imposed on a staff member of the IOM should be imposed by the Registrar in consultation with the Head of the IOM. Any disciplinary measure against the Head of the IOM shall be made by the Bureau of the Assembly upon recommendation by the Registrar. Any disciplinary measure against any staff member of the IOM should be taken or recommended only following the disciplinary process of the Court, including the due process rights of the staff member of the IOM in question.

Annex III

Amendments to the Rules of Procedure of the Assembly connected to an ad hoc panel (IER recommendation R108)

XVI. Disciplinary measures

Rule 81

Removal and suspension from office of a judge, the Prosecutor or a Deputy Prosecutor

1. The President of the Bureau of the Assembly of States Parties shall convene a meeting of the Bureau and circulate among its members the final report of the *ad hoc* panel together with the investigation report, and its underlying evidence, if applicable, upon receipt of advice of the *ad hoc* panel that the factual findings by the Independent Oversight Mechanism or the external investigator, as applicable, legally characterize as serious misconduct or serious breach of duty in the case of the Prosecutor. After having gathered, in accordance with the common provisions on procedural fairness under rule 27 of the Rules of Procedure and Evidence, the relevant information for the purpose of deciding on the complaint, the Bureau shall recommend to the Assembly whether to follow the advice of the *ad hoc* panel, including its reasoning for disagreement, if applicable.

2. The President of the Bureau of the Assembly of States Parties shall transmit to the next ordinary or special session of the Assembly the final report of the *ad hoc* panel together with the investigation report, and its underlying evidence, if applicable, and the relevant information for the purpose of making a decision as to the removal from office, upon receipt of:

(a) in the case of a judge, any recommendation adopted by the plenary of judges in accordance with rule 29, paragraph 1, of the Rules of Procedure and Evidence;

(b) in the case of a Deputy Prosecutor, any recommendation made by the Prosecutor in accordance with rule 29, paragraph 5, of the Rules of Procedure and Evidence;

(c) in the case of the Prosecutor, any recommendation adopted by the Bureau in accordance with paragraph 1 or rule 82, paragraph 2 (c).

3. After having received the relevant documentation in accordance with paragraph 2, the Assembly shall make a decision as to the removal from office of a judge, the Prosecutor or a Deputy Prosecutor pursuant to article 46, paragraph 2, of the Statute.

4. If the Assembly makes a decision against the removal from office of a judge, the Prosecutor or a Deputy Prosecutor, it shall refer the matter to the competent decision-maker(s) in accordance with rule 29, paragraph 6, of the Rules of Procedure and Evidence to impose a disciplinary measure consistent with the seriousness of the misconduct or breach of duty.

5. Where an allegation against the elected official concerned is of a sufficiently serious nature, the Bureau may suspend from duty at any stage pending a final decision in accordance with rule 28 of the Rules of Procedure and Evidence:

(a) a judge, when the plenary of judges has recommended removal from office and the President of the Bureau of the Assembly of States Parties was so informed under rule 29, paragraph 3, of the Rules of Procedure and Evidence;

(b) the Prosecutor or a Deputy Prosecutor.

6. The Bureau and the Assembly shall respect the confidentiality of all relevant materials in accordance with rule 26*ter* of the Rules of Procedure and Evidence.

Rule 82

Disciplinary measures

1. The President of the Bureau of the Assembly of States Parties shall convene a meeting of the Bureau and circulate among its members the final report of the *ad hoc* panel together with the investigation report and its underlying evidence, if applicable, upon receipt of:

(a) in the case of the Prosecutor, advice of the *ad hoc* panel that the factual findings by the Independent Oversight Mechanism or the external investigator, as applicable, legally characterize as misconduct of less serious nature or establish no misconduct or breach of duty;

(b) in the case of a Deputy Prosecutor, any recommendation made by the Prosecutor to impose a pecuniary sanction in accordance with rule 30, paragraph 4, of the Rules of Procedure and Evidence.

2. After having gathered, in accordance with the common provisions on procedural fairness under rule 27 of the Rules of Procedure and Evidence, the relevant information for the purpose of deciding on the complaint against the Prosecutor, the Bureau shall:

(a) adopt a decision to impose a disciplinary measure in accordance with rule 30, paragraph 3, of the Rules of Procedure and Evidence if it determines that misconduct of less serious nature defined under rule 25 of the Rules of Procedure and Evidence has occurred;

(b) adopt a decision to close the matter if it determines that no misconduct or breach of duty has occurred;

(c) adopt a decision to recommend removal from office to the Assembly if it determines that serious misconduct or serious breach of duty has occurred in disagreement with the advice of the *ad hoc* panel in accordance with rule 30, paragraph 5, of the Rules of Procedure and Evidence.

3. Upon referral of the matter by the Assembly in accordance with rule 81, paragraph 4, the Bureau shall adopt a decision to impose a disciplinary measure in accordance with, in the case of the Prosecutor, rule 30, paragraph 3, and, in the case of a Deputy Prosecutor, rule 30, paragraph 4, of the Rules of Procedure and Evidence.

4. Upon the recommendation of the Prosecutor, and after having gathered, in accordance with the common provisions on procedural fairness under rule 27 of the Rules of Procedure and Evidence, the relevant information for the purpose of deciding on the complaint against a Deputy Prosecutor, the Bureau shall adopt a decision to impose a pecuniary sanction in accordance with rule 30, paragraph 4, of the Rules of Procedure and Evidence.

5. The President of the Bureau of the Assembly of States Parties shall, in accordance with rule 26*ter*, paragraph 3, inform the Assembly of States Parties of the imposition of a disciplinary measure in the case of the Prosecutor or a Deputy Prosecutor, including the identity of the elected official concerned and nature of the misconduct found.

6. The Bureau shall respect the confidentiality of all materials received in accordance with rule 26*ter* of the Rules of Procedure and Evidence.