

ADVANCE VERSION**Report of the Review Mechanism on the overall progress of its work****I. Introduction**

1. The present report of the Review Mechanism (“Mechanism”) is submitted pursuant to paragraph 12 of resolution ICC-ASP/21/Res.4¹ paragraph 12 states as follows:

“11. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2023, and to submit a report on the review process to the Assembly well in advance of its twenty-second session on:

- a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;
- b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7 paragraphs 18 and 19; and
- c) Any other progress in the review process.”

II. Mandate of the Review Mechanism

2. The task of the Mechanism is set out in resolution ICC-ASP/20/Res.3:

“6. The Review Mechanism shall specifically continue to coordinate the assessment of the recommendations, and continue to serve as a platform for assessment of recommendations in conformity with the comprehensive action plan, as well as monitor further action and implementation, as appropriate, of the assessed recommendations;”

a) *The Review Mechanism as the platform for discussion*

3. The Mechanism recalls that, in allocating the IER recommendations in the Comprehensive Action Plan (CAP), it had decided to work through existing Assembly structures and to itself take up the assessment where there was no corresponding Assembly mandate.
4. The Chair of the Group of Independent Experts, Mr. Richard Goldstone, together with some of the IER Experts, participated in some of the meetings in their personal capacity, and provided the rationale underlying the recommendations of the IER Experts. States Parties and all participants welcomed their presence at the meetings.
5. As regards assessment of the IER recommendations, the Mechanism held one meeting as the platform for discussion, on 13 June 2023, and invited the Court and stakeholders to which it had allocated recommendations in the CAP to indicate their views on the assessment of the recommendations. The Court organs informed the meeting of the status of implementation of the recommendations in addition to the status of their assessment.
6. The 13 June 2023 discussions focused on the implementation of “Remaining recommendations to be assessed by the Court”, i.e. recommendations that were judiciary-led, according to the Comprehensive Action Plan. They fell under Chapter XVII of the IER’s 2020 report, “Victim participation”: recommendations RR 336, 337 and 339; and Chapter XVIII: “Victims’ reparations and Assistance”, i.e., RR

¹ <https://asp.icc-cpi.int/sites/asp/files/2022-12/ICC-ASP-21-Res4-ENG.pdf>

345, 348, 349 and 352. Recommendations R359 and R360, which fall under Section C, “The TFV and its Secretariat: Governance and functioning”, were led by the Registry.

7. With regard to the recommendations led by the Judiciary, the judges had completed their assessment thereof at their 2 June 2023 retreat. The Chef de Cabinet of the ICC Presidency indicated that R336, R337, R345 and R349 had been positively assessed with modifications and R348 and R352 had been positively assessed. With regard to the recommendations led by the Registry, the Registry focal point indicated that R339, R359 and R360 had been negatively assessed. With deference to the assessment by the judges and Court, the assessments were accepted in the meeting.

8. In this meeting the Review Mechanism concluded the assessment of all the recommendations which it had allocated to itself in the Comprehensive Action Plan.

b) Roundtables

9. The Mechanism also held two Roundtables, on 6 and 25 April 2023. The Court focal points participated, as well as some IER Experts.

10. The first roundtable for 2023 was held on 6 April, focusing on the implementation of the Independent Expert Review (IER) recommendations on “Relations with civil society” (R153 to R162, except R157 and R160) and “Communication” (R164 to R166). The roundtable discussions also included recommendations R163, R167 and R168, on “Communications Strategy” and “Outreach Strategy”.

11. During the discussions, the Court representatives underlined the importance of the recommendations related to working with civil society and resourcing to maintain the relationship. While it was easier to engage with local actors when the Court had an office on the ground, ways had been found to address this gap. The Court considered that a lack of adequate funding sometimes made it difficult to fully implement the recommendations, however. On R156 regarding the establishment of an OTP focal point for civil society organizations, the OTP noted that it was in the process of appointing a Special Assistant at the P-3 level to undertake this task. With respect to R163 on the need for a cross-organ, coordinated communications strategy, the Court indicated that such a strategy was still being developed. As regards R164 on outreach programmes and activities, the Court considered this recommendation implemented from the start of investigations but noted that there were no resources available in Registry for the preliminary examinations stage. On R165 regarding finding innovative ways of raising essential funding for outreach activities, the Court indicated that it planned to include this issue in the 2024 budget, and it was looking into creative ways to meet the spirit of the recommendation.

12. The Coalition for the International Criminal Court (CICC) and other NGO representatives actively participated in the roundtable. They underlined the need for meaningful engagement between civil society and the Court, undertaken in a timely manner. In addition, they emphasized that the Court should consult with civil society as policies and strategies were developed, so that they could be actively involved at an early stage. NGO representatives noted that, by referring to the role of civil society and human rights defenders in Court and Assembly statements and on social media, the Court and the Assembly could help keep civic space open and, in some cases, assist in protection strategies. Inclusivity and equity were considered essential to the relationship, as were translation and interpretation for ensuring meaningful participation by a wide variety of civil society actors. The ICC-NGO roundtable meetings, co-convened by the Court and the CICC, were considered an example of good practice as they provided an annual opportunity for information exchange and two-way dialogue between Coalition member organizations (particularly those working in situation countries) and Court officials. Some NGO representatives drew attention to challenges in the relationship, including inadequate outreach; language issues (particularly relating to the absence of materials in Arabic); absence of genuine field presence; one-sided engagement; and lack of cultural sensitivity. The issue of how to continue the discussion on ways to improve the relationship was raised. The Review Mechanism considered that it was indeed important to continue the discussion, as implementation of the recommendations was underway but not completed and in most cases the recommendations would require a continuous effort.

13. At the second roundtable on 25 April 2023, discussions focused on the implementation of IER recommendations R1-R13 (Unified governance), and IER recommendations R369-R370 (Secretariat of the ASP).

14. As regards the IER recommendations on Unified governance, recommendations R1 to R13,² these recommendations had previously been negatively assessed by the Court and it had indicated that the proposed three-layer governance model was not compatible with the Rome Statute. This incompatibility did not mean, however, that the practical issues raised in the recommendations could not be addressed. In its overall response to the IER recommendations,³ the Court had stressed the importance of implementing the practical aspects not in contradiction with the Rome Statute, while safeguarding the judicial and prosecutorial independence of the Court.

15. The Court focal points briefed the meeting on the practical aspects of the implementation of those recommendations. As regards R2, once the Court had finalized its revised Strategic Plans, it would reach out to other courts and tribunals in The Hague. On R3, the Court was having internal discussions and would also discuss with the Budget Management Oversight facilitator on the Court's oversight mechanisms. The Chair noted that, based on the Court's presentation, KPIs were key. It was important to keep track of timelines and the Review Mechanism would return to R2 and R3 at the appropriate time. On R4, the Court followed a uniform application of administrative processes etc. across the Court. It was working on a project on values for the whole Court, with the participation of all staff and the independent offices. As regards R5, the Court had, for the first time four Strategic Plans: Presidency, Office of the Prosecutor, Registry and Trust Fund for Victims. More could be done regarding the independent offices and the Court was moving in that direction.

16. R6 and R7 were linked. As regards R6, the OTP agreed with the IER that the one-Court principle should be observed, including by exploring synergies, avoiding duplication and addressing cross-cutting issues. The OTP was mindful of the need for ongoing consultations with the Registry. Both organs were coordinating to ensure greater efficiency, so while R6 had been negatively assessed, the organs saw the need for greater efficiency. As regards R7, the Registry was of the view that there was any overlap and had therefore assessed this recommendation negatively. R8 dealt with the three-layer governance model. The Court agreed there should be no veto in matters that affected other organs, a principle that was already observed.

17. As regards R9, the Registry was in the lead regarding Administrative Issuances (AI), was working effectively in this area, and had promulgated a number of complicated AIs. The Court was working on improvements in this area. On R10, the Registry stated that in the new Strategic Plan of the Registry, there was a KPI on the length of time it took to promulgate an AI, which would be used to demonstrate the Court's effectiveness on this. As regards the extended CoCo meetings envisaged by R11, the OTP and Registry had started implementation of this. The Court would continue and one or many entities would be invited to the meetings.

18. On the governance recommendations R1 to R11, the Review Mechanism shared the view expressed by the IER Experts, that they were "happy that the spirit of the recommendations was being taken into account by the Organs. This is what the IER had hoped for". It was pleased with the steps taken towards practical implementation of these recommendations so far.

19. As regards recommendations R369 and R370 on the Secretariat of the Assembly of States Parties,⁴ the first part of R369 had been assessed positively at the 3 June 2022 meeting of the Review Mechanism and was being implemented,⁵ while the second part of R369 and R370 had been assessed negatively.

20. As indicated in the "Matrix - Progress in the assessment of the IER recommendations",⁶ despite the negative assessment, States Parties wished to have more focused attention on issues concerning the

² Chapter I of the IER's 30 September 2020 report (ICC-ASP/19/16).

³ https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%2014April21.pdf

⁴ Chapter XIX of the IER's 30 September 2020 report, on "Oversight bodies".

⁵ R369 states, in part: An office and focal point should be appointed within the Registry to coordinate with the different services of the Court to provide all necessary support for the ASP.

⁶ https://asp.icc-cpi.int/sites/default/files/asp_docs/ICC-ASP-21-34-Rev.1-Add.1-ENG.pdf

Secretariat: “While the second part of the recommendation was assessed negatively, States Parties agreed that issues of governance, resources, effectiveness, streamlining of functions and geographical representation in the ASP Secretariat are to be considered”. This comment also applied to R370. The Director of the Secretariat presented information on measures being taken on the elements identified by States Parties.

21. At the roundtable, States Parties decided to bring to the attention of the Assembly President their request for the IOM to conduct an evaluation of the Secretariat, with a focus on the areas identified in the Matrix. On 28 April 2023, the Review Mechanism Ambassadors informed the President of the wish of States Parties that the IOM conduct an evaluation of the Secretariat on the areas identified. As a practice, the Review Mechanism does not take a position on substantive issues. However, it was supportive of further work on the areas identified by States Parties regarding these recommendations, given the overall objective of the IER process.

Reports of facilitations

22. The Mechanism takes note of the reports of the facilitations on the respective issues assigned to them as the platform for discussion, and of the status of the assessment of the recommendations by the actors to which they were allocated in the Comprehensive Action Plan.

(i) *Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process*⁷

23. The Mechanism has carefully considered the reports of the Assembly mandate holders contained in annex I, as well as the discussions held in the 13 April 2023 meeting of the Mechanism as the platform for discussion. In this regard, the Mechanism submits herewith the updated Matrix, titled “Progress in the assessment of the IER recommendations” (annex II). The Matrix provides an update of the overview of the progress in the assessment of and possible further action on the respective recommendations of the Independent Experts.

24. The Mechanism notes that the mandate holders have discussed the recommendations assigned to them as the platform for discussion, and that where appropriate the Court has briefed the respective facilitations on its assessment of the recommendations, indicating in that regard which recommendations it assessed positively or negatively and for which recommendations the assessment is still ongoing.

25. In the view of the Mechanism, the Matrix presents to States Parties and all stakeholders an overview of the status of the review process. To get the full picture, the Matrix should be read in conjunction with the CAP. The Matrix is a purely factual document and is based on the reports of the different facilitations and the Mechanism. The Mechanism sees the Matrix as a living document that will incorporate further progress on the assessment, and further action including implementation of those recommendations that are positively assessed.

(ii) *Other progress in the review process*

26. The Mechanism has always sought to observe the principles of transparency and inclusiveness throughout its mandate and, to this end has, at each stage of its work, consulted broadly with States Parties, the Assembly President and Vice-Presidents, the Court, in particular the Court focal points, as well as civil society and all relevant stakeholders. The meetings of the Mechanism as the platform for discussion benefited from interpretation into the working languages of the Court, which greatly assisted in ensuring inclusiveness in its work.

III. Next steps

27. The Mechanism intends to continue its work in the second semester of 2023 in line with the CAP and as mandated by the Assembly. The Mechanism will hold a roundtable on governance of the Secretariat of the Trust Fund for Victims early in the second semester, as this meeting, originally scheduled for the second half of June, had to be deferred. The Review Mechanism may hold additional roundtables to consider the

⁷ Ibid., para. 9 (a).

implementation of IER recommendations that have been positively assessed or positively assessed with modifications. A more detailed work plan will be presented for the second semester.

28. The Mechanism will, in conformity with its mandate, continue to monitor the overall progress of the review process both regarding assessment and further action and where appropriate, implementation. The Mechanism proposes to further keep track of implementation through a timeline that will be developed in the assessment process and reflected in the Matrix. The Mechanism will regularly brief States Parties and all stakeholders on its work through its briefings, reports, and through the Matrix.

29. Finally, the Review Mechanism will hold further discussions with States Parties and other stakeholders on the future of the Review Mechanism, as a follow-up to the Panel discussion at the twenty-first session of the Assembly titled “Review of the International Criminal Court and the Rome Statute system: Progress on the review process and next steps”.⁸ The Review Mechanism attaches high importance to the views of States Parties and all stakeholders on the future of the Review Mechanism and of the process of the review of the International Criminal Court and the Rome Statute system. The Review Mechanism invites them to submit their views on the future of the Review Mechanism, and will bear these views in mind when considering the next steps.

Acknowledgements

30. The State Party representatives (Co-Chairs) of the Review Mechanism firstly want to express deep gratitude to the *ad country* focal points, represented by Ms. Monica Mosammat Shahanara, Ms. Nawrid Sharmin, and Mr. Nasir Uddin (Bangladesh), Mr. Jaime Moscoso and Mr. José Juan Hernández (Chile), and Ms. Paulina Dudzik and Ms. Katarzyna Padlo-Pekala (Poland), for their supportive role and valuable inputs in the work of the Mechanism.

31. The members of the Mechanism would also like to express their gratitude to the three Court focal points, Mr. Hirad Abtahi, Chef de Cabinet of the Presidency, Mr. Mamadou-Racine-Ly, Advisor, Immediate Office of the Prosecutor, and Mr. Juan Escudero, Chief of Staff, Immediate Office of the Registrar, for the collaborative work and high spirit of engagement in the work of the Mechanism.

32. The members of the Mechanism would also like to express special appreciation to the independent experts, in particular the Chair of the IER, Mr. Richard Goldstone (South Africa), as well as Mr. Nicolas Guillou (France), Ms. Mónica Pinto (Argentina) and Mr. Mike Smith (Australia), Ms. Anna Bednarek (Poland), Mr. Iain Bonomy (U.K.), Mr. Mohamed Chande Othman (Tanzania), Mr. Hassan Jallow (The Gambia); and Ms. Cristina Schwanssee Romano (Brazil).

33. The Mechanism also acknowledges the support and advice of the President of the Assembly, Ms. Silvia Fernández de Gurmendi, and the Vice-Presidents, Ambassador Robert Rae (Canada) and Ambassador Kateřina Sequeňová (Czech Republic). The Mechanism is deeply indebted to the Assembly Secretariat, in particular Ms. Gaile Ramoutar and Mr. Aaron Matta, for consistent efficient and responsive assistance throughout the work of the Mechanism.

⁸ <https://www.youtube.com/watch?v=RF0ZM7AL0w0>

Annexes

Annex I

Reports of Assembly mandate holders on the issues assigned to them as the platform for discussion

- 1) Reports of the Assembly mandate holders ⁹**
 - a) Report of the Complementarity Facilitation.
 - b) Report of the Cooperation Facilitation.
 - c) Report of the Facilitation on the Review of the work and the Operational Mandate of the Independent Oversight Mechanism.
 - d) Report of the Budget Facilitation.
 - e) Report of the Budget Management Oversight Facilitation.

⁹ The assessment of recommendations by the Study Group on Governance as the Platform for discussion is pending.

Report of the focal points for complementarity pursuant to Review Resolution ICC-ASP/21/Res.4

1. On 31 January 2023, the Bureau reappointed Australia and Uganda as *ad country* focal points for the topic of complementarity (also considered an “Assembly Mandate”).
2. At its twentieth session the Assembly of States Parties (Assembly) requested the Bureau to remain seized of the topic of complementarity and continue dialogue with the Court.¹⁰ Separately, paragraph 12 of ICC Review Resolution ICC-ASP/21/Res.4 also requested “the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, [...] to brief the Assembly in writing on the overall progress of its work, before 30 June 2023 [...] on: a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process; b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7, paragraphs 18 and 19; and c) Any other progress in the review process;
3. In the Review Mechanism’s Comprehensive Action Plan,¹¹ the complementarity focal points were assigned as the “platform for assessment” of IER recommendations R226 – R267, with the Office of the Prosecutor (OTP) formally “allocated” all recommendations except for R247(ii) and R262 – R265 (which listed both the OTP *and* complementarity focal points).
4. In its Report to the Bureau last year,¹² the facilitation noted in para. 66 that all complementarity-related recommendations (R226 – R267) had been fully discussed within the context of the complementarity facilitation. In this sense, all recommendations allocated to the facilitation have been assessed and the assessment phase has been completed. In this context, it will be important to continue the implementation of the positively assessed recommendations.
5. In this connection, the facilitation held a meeting on 16 June 2023 where it received an update on implementation by the Office of the Prosecutor of all the IER recommendations allocated to the Office. These updates are reflected in the extracts in the Annex that can be incorporated by the Review Mechanism to the updated Matrix.
6. It would be greatly valued if the policy paper from the OTP on their approach to complementarity, positive complementarity, and relevant IER recommendations is published as soon as feasible. This will assist in informing States Parties about the implementation of the complementarity related IER recommendations.

¹⁰ ICC-ASP/20/Res.5, para.138.

¹¹ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive_Action_Plan-ENG.pdf.

¹² ICC-ASP/21/19.

Appendix

Table of recommendations – Complementarity facilitation

| Recommendation | Result assessment | Implementation date | Comments |
|----------------|-------------------|-------------------------|--|
| R226 | positive | implementation on-going | The OTP has made significant efforts to reduce the number of long-pending situations under preliminary examination (currently only two: Nigeria, and Venezuela II, and newly opened DRC II following the second DRC referral). The OTP continues to consider the function of the initial filtering stage (formerly known as ‘phase 1’) of preliminary examinations and the criteria it applies and while recognising the difference between gravity as a legal threshold respecting the opening of investigations, and gravity as a policy factor. |
| R227 | positive | implementation on-going | See comment on R226. |
| R228 | positive | implementation on-going | See comment on R226. |
| R229 | positive | implementation on-going | See comment on R226. |
| R230 | positive | implemented | Decision was made by the Prosecutor to prosecute a case if there is a reasonable prospect of conviction at the end of the trial. The OTP’s approach was fully reflected the existing criteria in the OTP’s Policy Paper on Case Selection and Prioritisation that are linked to case selection, notably, gravity and degree of responsibility of potential suspects, with criteria that are linked to case prioritisation, notably, strength and diversity of the evidence, as well as considerations of strategic and operational relevance. He added that a case-by-case analysis remains the general approach, rather than the application of an absolute rule and the OTP will continue its consideration for a better implementation of the policy. |
| R231 | positive | implemented | See comment on R230. |
| R232 | positive | implemented | See comment on R230. |
| R233 | positive | implementation on-going | See comment on R230. |
| R234 | positive | implementation on-going | See comment on R230. |
| R235 | positive | implementation on-going | See comment on R230. |
| R236 | positive | implementation on-going | See comment on R230. |
| R237 | positive | implementation on-going | See comment on R230. |
| R238 | positive | implementation on-going | See comment on R230. |
| R239 | positive | implemented | See comment on R230. |
| R240 | positive | implemented | See comment on R230. |
| R241 | positive | implemented | See comment on R230. |
| R242 | positive | implemented | See comment on R230. |

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| R243 | positive | implementation on-going | Implementation is ongoing through the new policy on situation completion adopted on 15 June 2021, with the introduction of the concept of completion of the investigation phase and completion of prosecution phase. The OTP is actively reviewing the implementation of the situation completion policy across all situations and gave the example of the first two situations that were implemented for the first time under a completion strategy – namely the announcement by the Prosecutor in December 2022 of the conclusion of the investigative phase of the situations in CAR and Georgia. He noted that the OTP will continue prioritize situations and cases systematically and objectively according to factors such as their relative gravity and prospect of success, as well as implementation of completion strategies, with the overall goal of reducing the total number of situations, thereby ensuring increased focus and resources. |
| R244 | positive | implementation on-going | See comment on R243. |
| R245 | positive | implementation on-going | See comment on R243. |
| R246 | positive | implementation on-going | See comment on R243. |
| R247 | positive | implementation on-going | See comment on R243. Regarding R247(ii), the facilitators determined that no active support was expressed towards the creation of a new mechanism and that the conclusion was therefore that the use of existing platforms should be promoted and encouraged. |
| R248 | positive | implementation on-going | See comment on R243. |
| R249 | positive | implementation on-going | See comment on R243. |
| R250 | positive | implementation on-going | See comment on R243. |
| R251 | positive | implementation on-going | The unified teams within the Pillars, as part of the new structure of the OTP, takes into consideration the recommendations raised in this regard as it achieved the main objective to ensure an embedded staff organisation. In addition, the harmonisation of working methods and products is well ongoing with the new structure. |
| R252 | positive | implementation on-going | See comment on R251. |
| R253 | positive | implementation on-going | See comment on R251. |
| R254 | positive | implementation on-going | OTP is considering options and suggestions on how a reasonable duration of PE could be part of the general plan at the opening of each PE, since the Office also has to consider how best to give complementarity and the Court’s own mandate effect. The Preliminary Examinations Section has been considering options and |

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| | | | suggestions on how a reasonable duration could be part of the general plan at the opening of each preliminary examination, considering how best to give complementarity and the Court's own mandate effect. |
| R255 | positive | implementation on-going | See Comments on R254. |
| R256 | positive | implementation on-going | See Comments on R254. |
| R257 | positive | implementation on-going | See Comments on R254. |
| R258 | positive | implementation on-going | See Comments on R254. |
| R259 | positive | implementation on-going | See Comments on R254. |
| R260 | positive | implementation on-going | See Comments on R254. |
| R261 | positive | implementation on-going | See Comments on R254. |
| R262 | positive | implementation on-going | The OTP wishes to establish itself as a central operational partner for national authorities in their efforts to investigate and prosecute Rome Statute crimes and other serious crimes under national law. As an initial step, the OTP will establish a permanent function within its structure to effectively map ongoing domestic proceedings relating to core international crimes. In parallel, the OTP will seek to establish a forum or platform for the sharing of information and expertise between the OTP and national authorities, including with a view to identifying areas in which the OTP may be able to provide support to ongoing investigations and prosecutions. This network will enhance harmonization and cohesion of the work, operational standards, and protocols of the OTP. The OTP will also increase its participation in relevant Joint Investigation Teams, as is the case with the national authorities of seven countries in relation to Ukraine under the auspices of Eurojust, as well as its work with the Joint Team with a number of national authorities under the auspices of Europol aimed at supporting the investigating of crimes against migrants and refugees in Libya. Technology will allow the OTP to expedite the collection and processing of greater volumes of information. The OTP will also strive to develop and implement tailored complementarity programmes in situations in which the OTP has closed preliminary examinations or announced the closure of the investigative stage, as well as at other stages of its work. The secondment of personnel by the Court's States Parties to the OTP offers an additional and significant opportunity to exchange knowledge and expertise and to assist in refining operating practices. |
| R263 | positive | implementation on-going | See comments on R262. |

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| R264 | positive | implementation on-going | See comments on R262. |
| R265 | positive | implementation on-going | See comments on R262. |
| R266 | positive | implementation on-going | The Office will continue to look for ways to best strike a balance between the need for communication and updates, with the duties of confidentiality and due discretion that guide its work. |
| R267 | positive | implementation on-going | See comment on R266. Apart from the availability of resources, the Prosecutor has committed to engaging in a more structured approach to increasing and improving dialogue and communication with affected stakeholders across all situations. Unified teams have to provide in their report an overview of the engagement with civil society. |

Report of the cooperation facilitation pursuant to Review resolution ICC-ASP/21/Res.4

7. On 31 January 2023, The Bureau reappointed Ambassador François Alabrune (France) and Ambassador Momar Guèye (Senegal) as co-facilitators for Cooperation.
8. The resolution on Cooperation, adopted by the Assembly on 9 December 2022, requested the Bureau to maintain a facilitation of the Assembly for cooperation to consult with States Parties, the Court, and non-governmental organizations as well as other interested States and relevant organizations in order to further strengthen cooperation with the Court.¹³
9. Separately, paragraph 12 of ICC Review Resolution ICC-ASP/21/Res.4 also requested “the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, [...] to brief the Assembly in writing on the overall progress of its work, before 30 June 2023 [...] on: a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process; b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7, paragraphs 18 and 19; and c) Any other progress in the review process;
10. In the Review Mechanism’s Comprehensive Action Plan,¹⁴ the cooperation facilitation was assigned as the “platform for assessment” of IER recommendations R149 – R153, R268 – R304 with the Office of the Prosecutor (OTP) formally “allocated” all recommendations except for R284 which was allocated to the Assembly, and R289 which allocated both to the Assembly and the Court.
11. In paragraph 43 of its Report to the Bureau last year,¹⁵ the facilitation “recommended to continue the assessment and the implementation of the recommendations of the Report of the Independent Expert Review”. The facilitation had only one recommendation remaining, namely R280, which was assessed during the facilitation’s meeting held on 5 May 2023. At that meeting, the Office of the Prosecutor also updated the facilitation on the implementation of other recommendations. The facilitation held another meeting on 28 June 2023 where the update by the OTP on the implementation of recommendations was concluded. These updates are reflected in the extracts in the Annex that can be incorporated by the Review Mechanism to the updated Matrix.
12. All cooperation-related recommendations (R149 – R153, R268 – R304) have now been fully assessed within the context of the cooperation facilitation. In this sense, the assessment phase has been completed. In this context, it will be important to continue the follow-up on the implementation of the positively assessed recommendations.

¹³ ICC-ASP/21/Res.4.

¹⁴ [https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive Action Plan-ENG.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf).

¹⁵ ICC-ASP/21/35.

Appendix

Table of recommendations – Cooperation facilitation

| Recommendation | Result assessment | Implementation | Comments |
|----------------|-------------------|-------------------------|--|
| R149 | negative | | The Court is not in a position to support it, as the ICC already has a Court-wide channel of communication to the UN in the form of the New York Liaison Office. The Court agrees with the overall idea but the recommendation is not applicable as such due to concerns with the independence of the OTP, neutrality of the Registrar or confidentiality safeguards. |
| R150 | positive | implementation on-going | In 2022 a working group within the Court has been created to analyse a series of other activities that the New York Office could carry out in order to strengthen its role. The Head of the New York Liaison Office provided an update on the responses to the questionnaires on R150 and R151 at the second cooperation meeting held on 28 June 2023. The responses were compiled into a report that will be submitted to the facilitation once approved by the Court Principals. |
| R151 | positive | implementation on-going | See comment on R150. |
| R152 | positive | implemented | Two concrete examples such as the initiative to organise an annual retreat between the OTP and the office of the High Commissioner for Human Rights, as well as the reinforcement of the relations between the OTP and the African Union. |
| R153 | positive | implemented | See comment on R152. |
| R268 | positive | implementation on-going | Operations Manual is currently being revised. The working group set up to develop the operations manual has almost completed its work and the consolidated version of the manual was presented to the Prosecutor and the Deputy Prosecutors on 12 April. This new fully updated version will guide and unite staff under the new process management model which will be accompanied by a training program with dedicated focal points to facilitate compliance and other timely updates. In addition to careful and consistent business planning, the implementation of integrated plans (situation, investigation, cooperation, outreach, and complementarity) and the introduction of a case management system will ensure that Unified Team Leaders access to all elements of the investigation and to facilitate prompt and efficient review and supervision by the assistant prosecutors and the prosecutor's work teams. |
| R269 | positive | implementation on-going | Reorganization of the OTP since the publication of the report of the independent |

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| | | | experts. OTP is currently working on a revised version of the operations manual in order to better capture the main lessons learned and continue standardizing practices. The new strategic plan would provide further information on the Office's new direction with regard to investigations. Changes in the focus, speed and control of investigations have already been implemented under the new strategy in place and each situation is managed by the Deputy Prosecutors. See comment on R268. |
| R270 | positive | implementation on-going | See comment on R268 and R269. |
| R271 | positive | implementation on-going | See comment on R268 and R269. |
| R272 | positive | implemented | The OTP points out that it remains flexible in its approach because it believes that not all partnerships need to be translated into agreements and arrangements. Innovations made by the Prosecutor through a process of preliminary contacts and ongoing consultations with the countries concerned to ensure that requests for assistance are formulated correctly and with sufficient precision to achieve the desired objectives and avoid delays. Added to this is the creation of a technological platform for the analysis of mass data as well as the rotation model of the survey teams which ensure a permanent and/or continuous presence in the field. While commitment is ongoing, implementation of these recommendations is in place. |
| R273 | positive | implemented | Positively assessed for implementation but within certain practical constraints. The OTP continues to explore and promote standard practices and procedures, where possible. See comment on R272. |
| R274 | positive | implemented | Positively assessed for implementation but within certain practical constraints. The OTP has encountered some difficulties with the number of different laws and legal requirements in the different States Parties and added that it was challenging to have a one-size fits all approach. See comment on R272. |
| R275 | positive | implemented | On-going commitment. See comment on R272. |
| R276 | positive | implemented | Already partially implemented. See comment on R272. |
| R277 | positive | implemented | OTP notes that its implementation would require time and resources. |
| R278 | positive | implemented | States Parties called for careful handling of its implementation. See comment on R272. |
| R279 | positive | implemented | Already practised by OTP. See comment on R272. |
| R280 | positive | implemented | The new weekly report template for unified teams includes a section on engagement with operational contacts and that the international cooperation advisers facilitate these contacts, thus allowing investigators to focus fully on their duties. This approach would be reinforced |

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| | | | by a greater presence in the field, with the opening of offices in the field. Engaging with informal contacts before requests are made was beneficial to help shape the request for it to comply with national procedures. It was noted that while informal exchanges are useful, cooperation cannot be provided without a formal request of assistance and that such requests must be as precise as possible. It was also suggested to include embassy representatives in informal exchanges in order to ensure follow-up and maintain continuity. |
| R281 | positive | implemented | Already implemented by the OTP. The database is now accessible to Unified Teams whose creation has also enabled flexible and efficient use of resources within teams and even across pillars. |
| R282 | positive | implemented | See comment on R282. |
| R283 | positive | implementation on-going | A new financial investigation unit was established under Pillar B but serving for both pillars. Resources requested in the regular budget for the establishment of the new Financial Investigations Unit were not approved by the Assembly and the staff who were made available to serve in this unit unfortunately left at the end of their secondment which was not renewed by their country. However, there is good coordination between the OTP and the Registry in this regard. |
| R284 | positive | implementation on-going | Not yet implemented - caution on duplication of ASP structures. Initial contacts had been established on both sides of the Atlantic (between the legal advisers representing the facilitators on cooperation and the focal points on non-cooperation in New York) on this subject. One of the first preliminary conclusions that we were able to draw was that before considering the creation of additional ASP structures, it seemed appropriate to take stock of what had already been done to tackle the issue of arrests and the non-execution of arrest warrants and possibly initiate joint work on this topic. |
| R285 | positive | implementation on-going | OTP is making efforts to increase the involvement of the Suspects-At-Large Tracking Team (SALTT) with national law enforcement agencies. The OTP would continue to work with informal cooperation networks and strengthen coordination mechanisms. The capacity building of the team responsible for locating suspects known as SALT has enabled it to switch to proactive mode and weekly coordination with the Registry. |
| R286 | positive | implementation on-going | OTP had concluded its revision of the Suspects at Large Tracking Team (SALTT) within the Integrated Services Division (ISD), noting that it would be changed from a reactive mode to a proactive mode of operations with greater |

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| | | | coordination with the Unified Teams and the Registry, particularly in terms of prioritization. The Prosecutor has appointed an analyst to the team. The impact of these measures will be reflected in the 2023 budget. See comment on R285. |
| R287 | positive | implemented | Coordination between OTP and the Registry is well established and functional. A questionnaire, which had been developed in relation to the digital platform on cooperation platform launched in 2020, was updated and circulated by the facilitators on 19 April. States Parties are encouraged to designate a national focal point on matters related to financial investigations and asset recovery to support the Court with such technical exchanges. |
| R288 | positive | implemented | See comment on R285. |
| R289 | positive | implementation on-going | Initial contacts had been established on both sides of the Atlantic (between the legal advisers representing the facilitators on cooperation and the focal points on non-cooperation in New York) on this subject. One of the first preliminary conclusions that we were able to draw was that before considering the creation of additional ASP structures, it seemed appropriate to take stock of what had already been done to tackle the issue of arrests and the non-execution of arrest warrants and possibly initiate joint work on this topic. |
| R290 | positive | implementation on-going | Not yet implemented. Implementation would depend on the budgetary decisions made by the ASP. A strategy on tracking and apprehension methods, incorporating increased use of technology and intelligence-based actions, is being produced to strengthen the Court's ability to track and apprehend suspects. This strategy will set clear priorities and action plans for arrests based on the identified targets for arrests. In addition, a monitoring and arrest dashboard will be established to allow regular evaluation of the effectiveness of the measures taken. Exchanges take place on a regular weekly basis at the technical level between the experts of the OTP and representatives of the Registry, to develop strategies for further implementation by management. It is regrettable that this recommendation, although positively assessed, has not yet been implemented, and the OTP made a call to the ASP to address this. |
| R291 | positive | implemented | The new technological tools put in place integrate this aspect into their component and the lessons learned from the pandemic have been reflected in the new operations manual. |
| R292 | positive | implemented | See comment on R291. |
| R293 | positive | implemented | The forensic Rotation model is ongoing and the Office is working on the establishment of field offices in various situations. For the operationalization of the five field offices (Ukraine, Libya, Darfur, Cox Bazar and |

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| | | | Venezuela), the OTP had implemented a three-pronged approach to move from a centred model headquarters to a more field-focused model including: (1) multi-skill new and vacant posts upon recruitment, (2) use the national expert system, and (3) a phased transition plan consisting in transferring existing and occupied positions to the field while fully respecting the rights of staff. |
| R294 | positive | implemented | See comment on R293. |
| R295 | positive | implemented | Caution with regard to the local recruitment of staff potentially involved in investigations. See comment on R293. |
| R296 | positive | implemented | See comment on R293. |
| R297 | positive | implemented | See comment on R293. |
| R298 | positive | implemented | See comment on R293. |
| R299 | positive | implementation on-going | The OTP had embarked on an ambitious technological modernization, that would make it possible to work more efficiently with more connected systems with better information management. As a result, productivity would increase through the reduction of time and effort spent on tasks with the use of automation and artificial intelligence. |
| R300 | positive | implementation on-going | See comment on R299. |
| R301 | positive | implementation on-going | See comment on R299. |
| R302 | positive | implementation on-going | See comment on R299. |
| R303 | positive | implementation on-going | See comment on R299. |
| R304 | positive | implementation on-going | See comment on R299. |

Report of the facilitation on the review the work and the operational mandate of the Independent Oversight Mechanism pursuant to Review resolution ICC-ASP/21/Res.4

13. On 31 January 2023, the Bureau of the Assembly appointed H.E. Ms. Beti Jacheva (North Macedonia) as the new facilitator to review the work and the operational mandate of the Independent Oversight Mechanism.
14. In Resolution ICC-ASP/20/Res.5 the Assembly of States Parties: “requests the Bureau to remain seized of the review of the work and the operational mandate of the Independent Oversight Mechanism, with a view to considering also recommendations of the Independent Expert Review in this regard, and to report thereon to the Assembly at its twenty-first session”.
15. Separately, paragraph 12 of ICC Review Resolution ICC-ASP/21/Res.4 also requested “the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, [...] to brief the Assembly in writing on the overall progress of its work, before 30 June 2023 [...] on: a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process; b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7, paragraphs 18 and 19; and c) Any other progress in the review process;
16. In the Review Mechanism’s Comprehensive Action Plan,¹⁶ the IOM review facilitation was assigned as the “platform for assessment” of IER recommendations R106 – R131 with recommendations allocated to the Court with the involvement of the IOM but consulting with the ASP before any change of policy.
17. In the recommendations of its Report to the Bureau last year,¹⁷ the facilitation indicated that “in light of the departure of the facilitator, it was not possible to complete the considerations of the remaining recommendations R122-R125 and R131. It was noted that R129 and R130 were already assessed positively in 2021, and R126-R128 were scheduled for discussion on the first half of 2023. The assessment of the remaining recommendations would therefore be undertaken in 2023”.
18. The facilitation held three meetings on 28 March, 18 April, and 22 May 2023 to continue the assessment of the remaining recommendations. Given the very complex nature of these group of recommendations more time will be needed to complete the assessment during the second half of 2023. It would be preferable to have a common position from all elected officials to complete this assessment.

¹⁶ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive_Action_Plan-ENG.pdf.

¹⁷ ICC-ASP/21/25, para. 1.

Report of the budget facilitator on Independent Expert Review recommendations

1. This report on the progress of the consideration of budget-related Independent Expert Review (IER) recommendations is submitted to the Review Mechanism by the facilitator on the budget, H.E. Ksenija Milenković (Serbia), pursuant to resolution ICC-ASP/21/Res.4, paragraph 12, by which the Assembly requested the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to brief the Assembly in writing on the overall progress of its work before 30 June 2023.

2. The budget facilitation continued the consideration of the remaining budget-related IER recommendations in 2023, further to discussions held in 2021 and 2022. Meetings were convened for this purpose on 25 May and 26 June 2023. The status of the consideration of the relevant recommendations as at 26 June 2023 is contained in the annex.

Appendix

Matrix

Progress in the assessment of the IER recommendations

| Recommendation | Result of assessment | Implementation date | Comments |
|----------------|-------------------------------------|---------------------|--|
| R139 | partly positive, partly negative | implemented | While the intention of the recommendation was in general seen as positive, States Parties reached the following understandings: <ul style="list-style-type: none"> - the Committee on Budget and Finance is responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications, while final decision-making on budgetary matters rests with the Assembly, of which the Committee on Budget and Finance is a subsidiary body; - reaching consensus on the budget ahead of the Assembly session or at an early stage during the session is a shared goal of all involved, however it is not always feasible in the circumstances; and - it remains for each State Party to determine the appropriate specialized representative for Assembly sessions, including on budgetary matters. |
| R140 | pending | - | Discussions are ongoing. |
| R141 | pending | - | Discussions are ongoing. |

Report of the Budget Management Oversight facilitation pursuant to paragraph 12 of the resolution ICC-ASP/21/Res.4

A. Introduction

1. This report to the Review Mechanism on the progress of the assessment, and where appropriate, implementation of the relevant Independent Expert Recommendations (IER) is submitted pursuant to resolution ICC-ASP/21/Res.4, paragraph 12, which reads: “Requests the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2023, and [...].”

2. The comprehensive action plan for the assessment of the recommendations of the group of independent experts, including requirements for possible further action, which was proposed by the Review Mechanism on 30 June 2021 and adopted by the Bureau on 28 July 2021, has allocated the three IER recommendations to the Budget management oversight facilitation (BMO). In 2022, the BMO facilitation considered the allocated recommendations on the basis of discussions held in 2021 and this led to the finalization of the assessment of all the allocated recommendations as reflected in a report dated 27 June 2022 submitted to the Bureau of the Assembly, pursuant to resolution ICC-ASP/20/Res.3.

3. However, one recommendation (R364), which was initially allocated to the IOM facilitation, remained to be discussed in the context of the BMO facilitation. This was suggested during the IOM facilitation and reflected in the matrix, which latest version was conveyed to States Parties on 17 February 2023. In this context, the Court was also requested to submit a document, in coordination with the Director of the OIA and the Head of the IOM, indicating developments made with regards to the effectiveness and authority of these two bodies. The Court submitted its document on 21 June 2023 and was conveyed to States Parties by the Secretariat on the same date.

B. Consideration of IER recommendations

4. The BMO facilitation considered recommendation R364 during its second meeting, held on 22 June 2023, as indicated in the annex.

5. Further meetings of the facilitation are planned before the twenty-second session of the Assembly of States Parties starts, to agree on an assessment of the recommendation R364.

Appendix

Matrix

Progress in the assessment of the IER recommendations

| Recommendation | Result of assessment (plus date) | Implementation date | Comments |
|----------------|----------------------------------|------------------------|---|
| R364 | Positive | Implementation ongoing | <p>In 2022, it was discussed under the IOM facilitation which requested the Court in coordination with the Director of the OIA and the Head of the IOM, to submit a document regarding R364, indicating developments made with regards to the effectiveness and authority of these bodies.</p> <p>During the second meeting of the BMO facilitation, held on 22 June 2023, discussions on R364 began but given the short time available for meaningful discussions to take place, it was considered that discussions should continue. Therefore, discussions are ongoing.</p> |

Annex II

Matrix

Progress in the assessment of the IER recommendations

Submitted pursuant to resolution ICC-ASP/21/Res.4, para. 12
