

**Fourteenth session**

The Hague, 18-26 November 2015

Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court**I. Introduction**

1. The Rome Statute provides that the International Criminal Court (“the Court”) shall ensure the highest standards of efficiency, competency and integrity, and shall have regard to fair representation of women and men for all positions, representation of the principle legal systems of the world for legal positions, and equitable geographical representation for positions in the professional category. The selection procedure is determined by the criteria set forth in articles 44(2) and 36(8) of the Rome Statute and resolution ICC-ASP/1/Res.10 of the Assembly of States Parties (“the Assembly”).

2. As decided by the Assembly, the system of desirable ranges applied by the Court is based on the system of the United Nations. The ranges are calculated on the basis of a State’s financial contribution to the budget of the Court and of a State’s population size, both criteria in relation to the total membership of the Rome Statute.

3. At its twelfth session, the Assembly welcomed the 2013 Report of the Bureau on the equitable geographical representation and gender balance in the recruitment of staff of the Court¹ and “stressed the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members.”² At its thirteenth session, the Assembly “recommend[ed] that the Bureau continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the fourteenth session of the Assembly.”³

4. The present report is being submitted pursuant to the mandate granted by the Bureau of the Assembly to the New York Group on the issue of geographical representation and gender balance on 16 December 2013 and on 23 January 2015, and to the facilitator, Ms. Gina Guillén-Grillo (Costa Rica), upon her appointment by the Bureau on 17 March 2014 and on 12 March 2015.

5. Throughout 2014, the facilitator was in close dialogue with the Court on the issues, and kept the Assembly informed of the changes in representation and balance. Pursuant to the timeline of the resolution ICC-ASP/13/Res.5, at the third meeting of the New York

¹ Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/12/49).

² ICC-ASP/12/Res.8.

³ ICC-ASP/13/Res.5.

Working Group in 2015, the facilitator presented her work plan. Among other matters, the facilitation focuses on drawing attention to data on staff of the Court and providing regular updates in order to encourage understanding by the Assembly of the changes and fluctuations of staffing at the Court, as well as on promoting the application of competent individuals from under-represented regions and genders. In addition, the facilitator convened two informal consultations, on 16 June 2015 and on 3 September 2015, respectively.

6. The facilitator also held a number of bilateral meetings with interested delegations to address their concerns, as well as to provide specific information on statistics relevant to their respective States.

7. The Committee on Budget and Finance at its twenty-fifth session made a number of observations regarding geographical and gender representation and implementation by the ICC of the Committee's earlier recommendations in this area. The Committee noted that the Court's records showed modest results. It further noted that the majority of States were significantly under-represented and that those who come from the over-represented areas disproportionately filled the highest professional posts. The Committee also noted that based on the data on gender representation that the balance was tilted in favour of men, and that the gap persisted in terms of numbers and professional posts.

8. As the Committee on Budget and Finance had noted at its twenty-third session, that "ongoing major structural changes involving many established posts and GTA positions, such as the re-organization of the Registry and the implementation of the OTP's strategic plan, would afford the Court a unique opportunity to address the chronic imbalance in geographical representation,"⁴ the facilitator maintained close contact with the Court in order to monitor the progress on this issue, especially in light of the implications of the *ReVision* project.

9. Three delegations expressed concerns because this year's report has additional information than previous reports. The same distinguished delegation indicated concerns with the official figures provided by the Registry.

10. The working group adopted the draft provisions for inclusion in the omnibus resolution contained in the annex II of this report.

II. Statistics on staff of the Court

11. It must be recalled that information on geographical representation and gender balance of the Court's professional staff is included as an annex to report of the Committee on Budget and Finance at its first session each year.⁵ In addition, data has been made available to the Assembly, via the facilitator upon request.

12. As at 31 March 2015, the Court had counted with 312 professional posts (excluding elected officials and 37 language staff).

13. As at said date also, female staff comprised 48.1 per cent of the Court's professional staff, a decrease in 1.3 per cent from 2014, while male staff comprised 51.9 per cent.⁶

14. The data illustrates also that while female staff constitute more than 50% at the P-1 (68.4%) and P-2 (66%) levels, female staff are severely under-represented at the higher levels: only one of nine staff at the D-1 level is female, 10 of 28 at the P-5 level, 24 of 66 at the P-4 level, and 54 of 127 at the P-3 levels.⁷

15. Of 122 States Parties as at 31 March 2015, 75 nationalities were represented in the professional staff of the Court, of which 15 were nationalities were in balance with its target, 20 nationalities were under-represented, and 25 over-represented, while the

⁴ Report of the Committee on Budget and Finance on the work of its twenty-third session (ICC-ASP/13/15), para. 125.

⁵ Report of the Committee on Budget and Finance on the work of its twenty-fourth session (ICC-ASP/14/5), annex III.

⁶ *Ibid.*

⁷ *Ibid.*

remaining nationalities corresponded to States not Parties to the Rome Statute. 62 nationalities were not represented.

16. In terms of absolute distribution, as at said date 50 staff were nationals from the African region, 17 from the Asia-Pacific region, 22 from Eastern Europe, 25 from the Group of Latin American and Caribbean, and 198 from the Western and other States group. Considering the desirable criteria and targets per region, on the one hand, there is an over-representation of nationals from Western European and other States by 19.42% and of nationals from African States by 2.92%. On the other hand, Asia-Pacific States are under-represented by 12.98%, Latin American and Caribbean States are under-represented by 8.05%, and Eastern European States are under-represented by 1.32%.

17. The number of staff per post, per region, as at 31 March 2015, was as follows:

- (a) D-1: one from the African Region, two from GRULAC, and six from WEOG, with Asia-Pacific and Eastern European States not represented.
- (b) P-5: five from the African Region, one from the Asia-Pacific region, one from the Eastern European region, and 21 from WEOG, with an over-representation of African and WEOG nationals, and non-representation of GRULAC.
- (c) P-4: seven from the African region, four from the Asia-Pacific region, three from the Eastern European region, five from GRULAC, and 35 from WEOG, with Asia-Pacific, Eastern Europe and GRULAC being under-represented.
- (d) P-3: 21 from the African region, six from the Asia-Pacific region, six from the Eastern European region, 10 from GRULAC and 66 from WEOG, with Asia-Pacific, Eastern Europe and GRULAC under-represented.
- (e) P-2: 13 from the African region, six from the Asia-Pacific region, eight from the Eastern European region, six from GRULAC, and 60 from WEOG, with Asia-Pacific and GRULAC under-represented.
- (f) P-1: three from the African region, four from the Eastern European region, two from GRULAC, and 10 from WEOG, with Asia-Pacific not represented and GRULAC under-represented.

18. As at 31 March 2015, 58 posts were vacant, and 36 were under recruitment or with the recruitment process completed or advertised. The target recruitment for the period was 95

19. As the reorganization of the Registry⁸ - with its human resources dimension- has an incidental impact on the distribution of staff⁹, as suggested at the NYWG of 3 September 2015, the facilitator requested the Registry to provide the latest official information on said impact. The figures available as of 10 November 2015 are presented infra.

20. The re-structuring of the Registry¹⁰ affected 118 staff whose positions in the Registry were abolished,¹¹ of which 55 were in the professional category.¹² Of these 55 affected staff members, 25 staff, from 14 nationalities, opted for the enhanced agreed separation package: 5 from Africa, 1 from Asia-Pacific, 2 from Eastern Europe, 1 from GRULAC, and 16 from WEOG.

21. The remaining professional staff was considered as priority candidates for the new positions created as a result of the re-organization. As at 31 October 2015, the recruitment of all priority candidates was finalized. In total, 32 priority candidates (whether previously

⁸ At the twelfth session, the Assembly “[a]uthorize[d] the Registrar to reorganize and streamline the Registry’s organizational structure within the envelope of the approved programme budget for 2014 and the maximum number of established posts and approved positions,” and at its thirteenth session, the Assembly extended the authorization for an additional year.

⁹ As explained by Mr. Herman von Hebel, Registrar of the Court to the NYWG on 3 September, 2015.

¹⁰ The final structure was approved on 10 April 2015.

¹¹ As part of the ReVision process, 113 positions were re-assessed and an additional 5 positions were eliminated.

¹² The Assembly has not established desirable ranges for staff in the General Service category, thus such statistics are not considered for the purpose of geographical representation and gender balance.

at P-level or at GS-level) obtained professional level positions which have been created by the re-organization. Out of these 32 successful candidates, 11 are from Africa, 4 from Asia-Pacific, 3 from Eastern Europe, 1 from GRULAC, and 13 from WEOG.

22. In terms of geographical representation, between the pre-re-organization situation as at 30 September 2014 and the situation as at 31 October 2015, having taken into account all re-organization-related separations and recruitments, the variations in the numbers of Registry staff per regional group are as follows: Africa from 41 to 41, Asia-Pacific from 13 to 11, Eastern Europe from 17 to 15, GRULAC from 11 to 10, and WEOG from 122 to 104.¹³ (See also annex I).

23. As for gender balance, out of 55 affected staff members at the professional level, 36 staff members or 65.45% were male, with male staff members being more affected than female staff members at every professional level other than P1: (4 male and 1 female at P-5 level; 7 to 6 at P-4 level; 9 to 3 at P-3 level; 16 to 8 at P-2 level; and 0 to 1 at P-1 level). Out of the 25 staff members who took the enhanced agreed separation package, 19 were male and 6 were female. More male staff members than female staff members took the package at every level (3 to 1 at P-5; 4 to 3 at P-4; 3 to 1 at P-3; and 9 to 1 at P-2).

24. Of the 32 successful priority candidates (whether previously at P-level or at GS-level) that obtained professional level positions which have been created by the re-organization: 19 were male and 13 were female (0 male and 1 female at P-5; 5 male and 3 female at P-4; 4 male and 5 female at P-3; and 10 male and 4 female at P-2).

25. Out of 13 female priority candidates, 8 staff members or 61.53% obtained positions at one or two levels above their previous level, including three staff members who moved from P2 to P3, one from P-2 to P-4, and one from P-4 to P-5. All other 5 female staff members maintained the same-level positions, including two P-4 female staff members.

26. Out of 19 male priority candidates, 10 staff members or 52.63% obtained higher-level positions. Three male staff members moved up to P-3 level, one obtained a lower-level position, from P-3 to P-2. No male staff member moved from P-4, or from other levels, to P-5 as a result of the re-organization.

27. When to these movements separations of staff who took the packages between P-3 and P-5 posts are added, as detailed above, the female-male difference is plus 3 for female gender at P-5 level, minus 1 at P-4 level, and plus 3 at the P-3 level¹⁴.

28. The recruitment of external and internal non-priority candidates has meanwhile commenced for all unfilled positions resulting from the re-organization, which will be carried out through a staggered implementation of the new structure in 2016.

III. Consultations

29. On 16 June 2015, the facilitator convened consultations of the New York Working Group with the Court on the issue of geographical balance. Ms. Susan Seegers, Head of Human Resources of the Court, participated via video-link in this interactive discussion. Upon the invitation of the facilitator, the Registrar of the Court, on 3 September 2015, presented to the Working Group the dimensions of geographical representation and gender balance, also in the context of the re-organization of the Court.

30. The Court presented the recent statistics of staff and the measures taken in increasing geographical representation at the Court. As reported by the Court to the Assembly,¹⁵ these measures, contained in the draft administrative instruction on Staff Selection, which will replace the current Guidelines on Recruitment, include the mandatory constitution of panels under the criteria of geographical representation and gender balance, systematically providing the selection panel with the geographical background of applicants at the short listing stage, strengthening hiring managers' awareness and prioritization of

¹³ These numbers do not include the staffing changes in the Registry within the mentioned period outside of the re-organization (e.g. separation due to resignation or recruitments for non-re-organization related positions).

¹⁴ Plus 5 for female staff within P-3 – P-5 range.

¹⁵ Report of the Court on Human Resources, ICC-ASP/14/7, paras. 21-25.

geographical balance, and requesting hiring managers to provide justification in the event that a qualified candidate from a non-represented or an under-represented country is not shortlisted. The Court also informed that, although geographical representation is only strictly applicable to established posts, the new policy on recruitment (with the aforementioned provision with regard to short listing candidates from non- and under-represented States Parties) would to be applied to all fixed-term appointments, including GTA's irrespective of funding source. The Court also informed that the Registry reorganization process will indirectly impact gender balance and geographical representation, and that the recruitment process will offer an opportunity to improve both.

31. The Court pointed out that its main limitation to ensuring continued consideration of, first and foremost, the merit of candidates while obtaining balance in the recruitment process is found in the pool of applicants, with limited participation from applicants from underrepresented, and low level of successful applicants being short-listed.¹⁶

32. During the consultations, the means of disseminating vacancy announcements were also discussed. The Court indicated that these are posted on its website, in social media, and that lists are regularly provided to interested embassies. The Court admitted that distribution lists could benefit from an update, in order to impact under and non-represented States and regions. On 15 October 2015, the Court adopted a new online recruitment system which allows individuals to sign up for notifications when new vacancies are published. This measure would seek to contribute to sustained outreach on opportunities at the Court.

33. During the consultations, States Parties highlighted the role that the internship programme, the visiting professionals programme and the junior professionals officers (JPO) programme may have indirectly on geographical representation and gender balance and noted concern that the low level of participation of nationals from underrepresented regions in the internship and visiting professionals programme.

34. Indeed, the Court informed that of 331 interns participating the Court's programme from 2014 until 31 October 2015, 10 per cent were from Africa, 6.9 per cent were from Asia-Pacific, 10 per cent were from Eastern Europe, 6.6 per cent were from GRULAC, and 66.5 per cent are from WEOG. Also, that of 37 visiting professionals, 24.3 per cent were from Africa, 13.5 per cent were from Asia-Pacific, 2.7 per cent were from Eastern Europe, 8.1 per cent were from GRULAC, and 51.4 per cent are from WEOG.

35. Although data from these programmes is not considered as part of the calculations on geographical representation or gender balance of staff at the Court, in practice these programmes contribute to capacity-building of its participants and in generating a pool of qualified applicants for professional positions. In this respect, it is considered that participation of nationals from underrepresented regions, and of females in these programmes is fundamental to support the Court in meeting the desired targets.

36. With respect to the internship and visiting professional programmes, it is noted that the Court has no funds to provide stipends to participants at these programmes.¹⁷ Lack of funding has the unavoidable impact of attracting mainly participants who are in proximity to The Hague or have the means of external funding to cover their expenses while participating in the programme. In this respect it is noted that in its 2016 proposed programme budget, the Court has requested for the first time funds (amounting to €280,000) to cover the stipends of interns from developing countries.¹⁸

37. Concerning the junior professionals officers (JPO) programme,¹⁹ in May 2015, in its Human Resources report to the fourteenth session, the Court reported of its efforts to

¹⁶ *Ibid.*, paras. 26-31.

¹⁷ As of 30 October, is in the process of recruiting up to 10 visiting professionals from situation countries or countries under preliminary examination, which are funded by a grant from the European Commission. While this initiative is in the context of national capacity building rather than improving geographical representation, there may be positive impact on geographical representation since some of these States Parties are underrepresented

¹⁸ ICC-ASP/14/10, para. 362. It is however noted, that this funding line is part of the General Operating expenses, for which the Committee on Budget and Finance has requested a reduction of €1.3 millions. See, ICC-ASP/14/15, para. 69.

¹⁹ ICC-ASP/12/4.

operationalize the programme, which remains subject to the formal expression of interest of a potential or potentials donor States.²⁰ In this regard, it is noted that the Court has indicated that it would emphasize to potential donor States to consider the possibility of also funding JPOs from States Parties which are currently under-represented at the Court.²¹

38. The Assembly supports greater efforts being made by the Court with respect to increasing the gender and geographical diversity of participants in the internship and JPO programmes. However, the Assembly is of the view that these efforts are complementary to and do not replace the need for, the Court as a whole, and each organ, to pay greater attention to addressing geographical representation and gender balance within its recruitment of professional posts.

39. On gender balance, the Court informed that while gender balance is about 50/50, women are over-represented at the lower professional grades and under-represented at the higher grades. However, in the long-term, the Court is determined to adopt strategies to identify and support key performers who have potential to be the Court's future leaders, while ensuring gender balance in such initiatives.

IV. Conclusions

40. The variation of the geographical representation in comparison with data of the first semester of 2013 and of 2014 is not considerable and has remained somehow stable. This stability reveals the chronic nature of the imbalance representation in the Court from certain countries and regions, in particular from Asia-Pacific and Latin American and the Caribbean.

41. While the latest official figures from the Registry's re-organization show that re-organization-related separations and recruitments, has resulted in the increased representation of female staff at the P-5 to P-3, and that concerning geographical representation only the most over represented region was seriously impacted, the most relevant impact can derive from the recruitment process.

42. The re-organization of the Registry, which will entail the recruitment of a high number of positions which have remained vacant, provides an important opportunity to improve the current imbalance in geographical representation and gender distribution subject to the need and requirement, as stipulated in article 44 of the Rome Statute, to ensure the "highest standards of efficiency, competency and integrity" in the employment of staff. Efforts should thus be undertaken by the Court and by the Assembly, to ensure the visibility of the employment opportunities and the application of qualified candidates from under and non-represented countries and regions. The proactive role of the States Parties in question will be crucial to supporting the Court in this endeavor, inter alia, by helping identify a pool of qualified candidates from under- and non-represented countries .

V. Recommendations

A. To the Court

43. Efforts should be undertaken to adopt strategies to identify and support the career advancement within the Court of key female performers who have potential to advance to senior professional and higher levels.

44. Steps should be taken to bridge the gender gap by taking the necessary measures to identify, reach and recruit qualified women to fill senior positions.

45. A strategic mid-term and long term plan should be developed to improve the geographical representation of the Court to be presented to the Committee on Budget and Finance at its twenty-sixth.

²⁰ ICC-ASP/14/7, para. 132 and 133

²¹ Ibid para. 134

46. Outreach activities to ensure that candidates from developing countries from underrepresented and non-represented regions are targeted should be a priority for Human Resources. Among other activities:

- (a) Information about underrepresented regions or non-represented nationalities should be made readily available on the recruitment page of the Court.
- (b) Vacancy announcements, along with information about underrepresented regions and non-represented nationalities, should be provided by the Court to the Assembly for its dissemination to Permanent Missions to the United Nations in New York, to the national focal points and to Embassies in The Hague and Geneva, capitals and civil society organizations.
- (c) Vacancy announcements that are circulated via periodicals and publications should be included in periodicals and publications that have circulation in regions that are underrepresented or in not represented countries at the Court, including in domestic periodicals and publications of those States.

47. Efforts should be undertaken to promote the participation of nationals of developing countries from underrepresented regions or of non-represented developing States Parties in the internship, visiting professionals and JPO programmes at the Court, as participation from under-represented regions may increase the available pool of potential applicants to the Court's professional positions..

48. Information on geographical representation and gender balance of participants of internship, visiting professionals and JPO programmes should be made available to the Assembly, as this information would allow to assess the impact of those programmes on address the level of representation and balance of available pools of potential applicants for the Court

49. All personnel policies, procedures and hiring practices shall remain under review and improvement, and the Court shall continue to apply and strengthen its recruitment policies to foster the selection of qualified candidates from developing countries from non- and under-represented regions, in particular through the dissemination and full implementation of its Administrative Instruction on Staff Selection, which includes a provision granting qualified candidates from non-represented and under-represented States Parties priority for the purpose of short-listing.

50. In line with the efforts described by the Court in its Human Resources Report,²² continue gathering, monitoring, analysing and reporting data of female applicants and applicants from developing countries from underrepresented regions, in order to identify the challenges they face in successfully acquire positions at the Court.

B. To the Assembly and States Parties

51. Consider the importance of providing funding to cover stipends for participants from developing countries from underrepresented regions in the internship and visiting professional programmes.

52. Consultations amongst delegates from underrepresented or non-represented developing countries should be undertaken to develop targeted strategies to support the dissemination of vacancies of the Court.

53. All Embassies and Missions should ensure the dissemination of vacancies of the Court to its national institutions and organisations, as appropriate, including universities, professional associations and chambers and judicial institutions.

54. States of underrepresented regions may consider having a pool of qualified professionals from their country and should ensure they receive information on vacancies.

55. States Parties engaging with the Court with respect to JPO programmes should consider providing financing also for participants from developing countries from underrepresented regions.

²² ICC-ASP/14/7.

56. The Bureau should engage in consultations to identify partners that could promote capacity-building in underrepresented regions in order to contribute to the generation of pools of qualified applicants at the Court, and interested States Parties are encouraged to provide financial support to civil society and institutions undertaking such capacity-building.

57. States Parties are encouraged to use the Gender Balance and Geographical Representation facilitation as focal point to address any concerns in relation to staff representation and balance.

Annex I

Pre- and Post-reorganisation geographical distribution (per region) of Professional Staff in the Registry¹

Region	Pre-ReVision (as of 30 Sept 2014)	Affected Staff	Separation packages taken	Priority candidates	Successful priority candidates	Unsuccessful priority candidates	Total within the reorganisation (impact of +/- on professional positions)	Staff separated/ recruited in Registry between 30/09/14 and 31/10/15 outside the reorganisation	Current total (as at 31 October 2015)
Africa	36 Established Posts (EP) 5 General Temporary Assistance (GTA)	-10 EP -1 GTA	5	6 (+5 GS) ²	11	0	41 (0)	+5	46 (+5 compared to 30/09/14)
Asia-Pacific	10 EP 3 GTA	-4 EP -2 GTA	1	5	4	1	11 (-2)	0	11 (-2)
Eastern Europe	12 EP 5 GTA	-4 EP -1 GTA	2	3	3	0	15 (-2)	+2	17 (+0)
GRULAC	11	-2	1	1	1	0	10 (-1)	+1	11 (+0)
WEOG	104 EP 18 GTA	-24 EP -7 GTA	16	15	13	2	104 (-18)	+6	110 (-12)
Total	204	-55	25	30 (+5 GS)	32	3	181	+14	195

¹ Includes language staff.

² 5 General Service staff from the African group were successful in obtaining Professional-level positions.

Annex II

Draft provision for inclusion in the omnibus resolution

As provided in paras 72 of the 2014 Omnibus Resolution ICC-ASP/13/Res.5, and 53 of the 2015 Omnibus Resolution ICC-ASP/12/Res.8:

Takes note of the Court's report on Human Resources,¹ and welcomes the Court's continued efforts, in the recruitment of staff, to seek equitable geographical representation and gender balance and the highest standards of efficiency, competency and integrity, as well as to seek expertise on specific issues, including, but not limited to, trauma-related psycho-social needs and violence against women or children, strongly encourages further progress in this regard;

Urges the Registry to seize the opportunity of the outstanding and future recruitment processes to implement measures that would contribute to the efforts of meeting the desirable ranges of geographical representation and gender balance;

Stresses the importance of the dialogue between the Court and the Bureau with regard to ensuring equitable geographical representation and gender balance in the recruitment of staff members, and welcomes the report of the Bureau and its recommendations;²

Urges States Parties to undertake efforts to identify and generate pools of qualified potential applicants to the Court's professional positions from State Parties from underrepresented regions, including through the financing by the Assembly of the Court's internship and visiting professional, and by States of JPO programmes, and through the dissemination among relevant national institutions and organizations of the Court's vacancies;

Addition to the 2015 Omnibus Resolution, Annex on Mandates:

With regard to recruitment of staff,

Endorses the recommendations of the Committee on Budget and Finance in relation to geographical representation and gender balance contained in the report of its twenty-third, twenty-fourth and twenty-fifth sessions;

Requests the Court to submit a comprehensive report on human resources to the Assembly at its fifteenth session, which would include an update on the implementation of the recommendations on the topic, which would be made by the Committee on Budget and Finance in 2016;

Requests the Bureau to continue to engage with the Court to identify ways to improve equitable geographical representation and increase the recruitment and retention of women in higher-level professional posts, without prejudice to any future discussions on the suitability, or otherwise, of the current model, as well as to remain seized of the issue of geographical representation and gender balance, and to report thereon to the fifteenth session of the Assembly;

¹ ICC-ASP/14/7.

² ICC-ASP/14/39.