

Oral report on the activities of the Bureau, presented by the President of the Assembly at the 1st plenary meeting of the twentieth session of the Assembly, on 6 December 2021

1. As the President of the Assembly, I have the honor to report to the Assembly of States Parties on the activities carried out by its Bureau since 13 February 2021.

A. Meetings and mandates

2. Since 13 February the Bureau has held nine meetings to assist the Assembly in the discharge of its responsibilities under the Rome Statute.

3. In light of the circumstances caused by the COVID-19 pandemic, the meetings of the Bureau have been held virtually and via the Zoom platform, which allowed to provide interpretation services in three official languages of the Assembly – English, French and Spanish. The working groups of the Bureau, facilitations and focal points, as well as the Review Mechanism also met virtually and held their meetings via WebEx or Zoom platforms depending on the needs and requests of the respective groups, occasionally in the mode of joint meetings between different bodies. I am grateful to them for their efforts to ensure the continuity of the work of the Assembly despite the existing restrictions.

4. Pursuant to the mandates given to the Bureau by the nineteenth session of the Assembly, the Bureau assigned mandates to its working groups and appointed, on the basis of recommendations of the working groups, the facilitators and focal points for 2021.¹ The Bureau deeply appreciates their work during 2021, as they have successfully carried out the mandates of the Assembly.

5. I wish to express my sincere appreciation for the work carried out by the two Vice-Presidents of the Assembly, Ambassador Bob Rae (Canada) and Ambassador Kateřina Sequensová (Czech Republic), in support of the work of the Bureau and as the Coordinators of the New York Working Group and The Hague Working Group.

¹ Annex.

B. Independent Oversight Mechanism

6. In accordance with the mandate of the Assembly, the Independent Oversight Mechanism (IOM) submitted the “Annual report of the Head of the Independent Oversight Mechanism to the Assembly”.² The IOM provided invaluable assistance to the design and implementation of the due diligence process approved by the Bureau for the selection of candidates for the positions of two Deputy Prosecutors.

7. Discussions of the recommendations of the Independent Expert Review related to the IOM started in 2021 and will continue in 2022.³ Upon a suggestion of the IOM, on 24 November 2021, the Bureau requested the IOM to conduct an evaluation on the theme “Evaluation of the workplace culture in the Judicial Divisions”, to be finalized in the first semester of 2022.

C. Working methods

8. Pursuant to the “Understanding on the participation of Observer States in meetings of the Assembly”, which was adopted by a Bureau decision of 18 October 2017, the Bureau took note, at its ninth meeting held on 24 November 2021, of a list of meetings of the Assembly and its subsidiary bodies with general membership which had been held in private in 2021.

9. In close coordination with the Secretariat, I provided, in March, the tentative schedule of the Bureau meetings, which have been held in principle the first Wednesday of each month, at a time which has allowed for participation of Hague and New York based Bureau members.

D. Arrears

10. While most States Parties paid their contributions in a timely manner, the amount of outstanding contributions increased this year. This generated an extremely serious liquidity crisis in the last trimester that threatened the capacity of the Court to fulfill its financial obligations.

11. The Bureau has considered the issue of the requests for the waiver of the loss of voting rights, which some States Parties may request in relation to article 112, paragraph 8. Bearing in mind the exceptional COVID-19 circumstances, the Bureau agreed to recommend the Assembly

² ICC-ASP/19/26.

³ ICC-ASP/19/24.

to grant the waiver of requests received in 2021. However, in light of the serious and recurring liquidity crisis caused by outstanding contributions, it was also agreed that the current practice in relation to such waivers could change in 2022, should such circumstances improve.

E. Secretariat of the Assembly

12. Throughout the year, the Secretariat of the Assembly of States Parties has continued to carry out its mandate in assisting the Assembly and its subsidiary bodies both in The Hague and New York, in accordance with resolution ICC-ASP/2/Res.3.

13. The Assembly, through its Bureau assisted by the Secretariat, has engaged in dialogue with the Court on an increasing number of issues, some of them very complex, which has led to a greater appreciation of the respective responsibilities.

14. The Secretariat continued to support the collection of information on the promotion of universality and the full implementation of the Rome Statute. As of 26 November, the Secretariat had received three responses to the questionnaire concerning the Plan of action for achieving universality and full implementation of the Rome Statute.⁴

15. Further to the year-long assessment of the Secretariat which the Bureau conducted in 2018, the Secretariat has continued to implement the measures foreseen in the respective Bureau report.⁵

16. Pursuant to paragraph 10 of resolution ICC-ASP/19/Res.7 concerning the review of the Court and the Rome Statute system, the Secretariat has steadfastly assisted the work of the Review Mechanism throughout 2021. This has represented a considerable increase in the number and complexity of meetings, given that they have been held virtually. I am grateful also to the Registry for assisting the Secretariat by providing interpretation services in two languages for the meetings of the Review Mechanism as the platform for discussion, and some translation assistance of relevant documentation, despite the fact that such services were not budgeted for.

17. The virtual format of the meetings continued to pose challenges for the Secretariat of the Assembly including, inter alia, scheduling meetings across multiple time zones, additional testing

⁴ See at: https://asp.icc-cpi.int/en_menus/asp/sessions/plan%20of%20action/Pages/2019-Plan-of-Action.aspx

⁵ ICC.ASP/17/39.

of numerous platforms required prior to meetings, and finding solutions for the provision of interpretation, where necessary. The Secretariat continued to use the Zoom platform to provide English, French and Spanish remote simultaneous interpretation for the virtual meetings of the Bureau and English and French interpretation for some meetings of The Hague Working Group, with the Language Services Section of the Registry providing the interpretation teams.

F. Lessons learnt on the election of the Prosecutor

18. At its first meeting on 18 February, the Bureau agreed to engage in a lessons learnt exercise with respect to the Prosecutor election process pursuant to paragraph 78 of Assembly resolution ICC-ASP/19/Res.6, which “*call[ed]* upon the Bureau, through transparent and inclusive consultations with States Parties and civil society, and with the feedback of the Committee on the Election of the Prosecutor and the Panel of Experts on the implementation of their mandate, within existing resources, to examine ways to continue strengthening the process by which the Prosecutor is elected”. In this connection, the Bureau requested and received reports from the former Presidency of the Assembly, the Committee on the Election of the Prosecutor, and the Panel of Experts. On 2 November, the Bureau adopted a proposal on the mandate, principles, products and deadlines of the lessons learnt process, as well as the appointment of two State representatives as the facilitators. I have spoken to the facilitators, who have indicated that they are reviewing the background material and would start their preparations and consultations in the first trimester of 2022. I propose to invite them to report to the Bureau on their activities as soon as feasible also in the first trimester.

G. Election of the Deputy Prosecutor

19. During the 2020 process to elect the Prosecutor, reference was made to the need for having in place a mechanism to assess the high moral character of the candidates required by the Statute. The Bureau considered this matter at several of its meetings and on 6 July adopted a joint proposal with the Prosecutor on a due diligence process for the candidates for Deputy Prosecutor.

20. The process was implemented as foreseen and on 18 November the IOM submitted to the Presidency a report concluding that there was no evidence of misconduct that warranted informing the Assembly as to the risks that any candidate may not be of high moral character as required by

the Statute. The Presidency accepted the conclusions of the IOM and therefore considered that no further actions was required. On 24 November the Bureau took note of an oral report of the Presidency thereon.

21. The Bureau will subsequently consider whether this experience could be applicable to other future elections.

22. In order to allow States and civil society to familiarize themselves with the candidates to the positions the Presidency of the Assembly organized on 15 November a virtual roundtable with two segments, one for each of the two lists of three candidates submitted by the Prosecutor (Lists A and B).

23. Bearing in mind that the Assembly would for the very first time be electing two Deputy Prosecutors at the same session of the Assembly, the Bureau had a discussion on the modalities for the election. Divergent views were expressed by Bureau members regarding the interpretation of article 42 (4) of the Rome Statute, in particular whether one list of six candidates or two separate lists of three candidates should be on the ballot(s).

24. In this connection, the Presidency submitted a proposal to the Bureau which was agreed to on 2 December whereby the Bureau would recommend to the Assembly that:

- a) The election of the two Deputy Prosecutors take place on the basis of list A and list B, as submitted by the Prosecutor to the Assembly (ICC-ASP/20/34)
- b) The election of the two Deputy Prosecutors be done successively, so as to ensure equitable geographical representation of regions and legal systems. The order of the election between the two lists would be determined by drawing lots at the Assembly on the day of the election.

25. Furthermore, the Presidency submitted another proposal which the Bureau agreed to on 5 December whereby the recommendation above is understood to apply solely for the purpose of the fourth election of Deputy Prosecutors and should neither be considered as a precedent for future elections nor construed as acceptance by States Parties of the interpretation of article 42, paragraph 4, of the Rome Statute that resulted in the presentation of two distinct lists. In light of the divergence of views regarding the interpretation of said provisions, the Bureau considers that this

matter requires further consideration and discussions among States Parties at the earliest opportunity in 2022.

H. Overview of the President's activities

26. Since the start of my Presidency in February this year, I have used every opportunity to highlight the importance of the Court as a central piece of the global system of justice. I have stressed that for the Court to discharge its crucial mandate in light of contemporary challenges, it is necessary to take actions in three areas, namely to review the entire Rome Statute system with a view to improving and strengthening its functioning, increase cooperation and support and enhance universality of the Rome Statute system.

27. To this effect I have engaged with the diplomatic community in The Hague and New York and participated in numerous events as key note speaker and panelist. Throughout the year, I actively reached out to civil society organizations, in order to bring their perspectives to the work of the Assembly and the Court.

28. On 2 April 2021 I issued a press statement expressing my deep appreciation for the decision by the Government of the United States to revoke the sanctions and visa restrictions against the Court. I have also made statements on several occasions to welcome this new era of cooperation.

29. In September 2021, I visited New York, where I delivered remarks at the Annual meeting of the Informal Ministerial Network for the International Criminal Court, and met with representatives of States Parties, high officials of the United Nations, and representatives of civil society organizations to foster understanding and cooperation for the Court's activities and seek to enhance universality and political support.

30. I have also specifically discussed the importance of countering the instances of non-cooperation. In this regard, I have indicated, in the context of discussions of the Review Mechanism that it would be important to address in 2022 the recommendations of the independent experts on external political measures against the Court.

31. I have engaged on several occasions with the Board of Directors of the Trust Fund for Victims (TFV), which I consider a crucial component of the Rome Statute system. The important work of the TFV, through concrete programs and projects, not only seeks to provide effective remedy to victims who have suffered harm for the crimes committed. It also helps to bring the proceedings closer to them and to increase the knowledge by affected communities of the Court's mandate. I have emphasized on multiple occasions the importance of supporting the TFV and wish to express my appreciation to States that provide financial contributions to their activities.

ANNEX

List of facilitators and focal points of Bureau working groups

New York Working Group

Facilitators

Arrears

H.E. Mr. Rodrigo A. Carazo (Costa Rica)

Geographical representation and gender balance in the recruitment of staff of the Court

Mr. Taeun Choi (Republic of Korea)

Omnibus resolution

Mr. Vincent Olivier Rittener (Switzerland)

Review of the procedure for the nomination and election of judges

Mr. Luke Roughton (New Zealand)

Ad country focal points

Non-cooperation

Argentina⁶

Côte d'Ivoire

Croatia

Ireland

Timor-Leste

⁶ "16. In order to assist the President in his or her good offices, the Bureau would appoint four, or, if so requested by the President of the Assembly, five focal points from among States Parties, on the basis of equitable geographic representation." Assembly procedures relating to non-cooperation, annex, section D, 2 (a) Regional focal points for cooperation, as amended by resolution ICC-ASP/11/Res.8, annex I.

Focal point of the Bureau

Scheduling of Assembly sessions

Ms. Maitê de Souza Schmitz (Brazil)

Subsidiary body of the Assembly

Working Group on Amendments

H.E. Mr. Juan Sandoval Mendiola

H.E. Mr. Juan Gómez Robledo Verduzco

The Hague Working Group

Facilitators

Budget

H.E. Ms. Frances-Galatia Lanitou Williams (Cyprus)

Sub-topic of the budget facilitation: Premises

Ms. Marija Stajić Radivojša (Serbia)

Budget management oversight

H.E. Mr. William Roelants de Stappers (Belgium)

Cooperation

H.E. Mr. Luis Vassy (France)

H.E. Mr. Momar Gueye (Senegal)

Legal aid

H.E. Ms. Carmen María Gallardo (El Salvador)

Review of the work and operational mandate of the Independent Oversight Mechanism

H.E. Ms. Päivi Kaukoranta (Finland)

Ad country focal points

Complementarity

Australia

Uganda

Plan of action for achieving universality and full implementation of the Rome Statute

Netherlands

Republic of Korea

Subsidiary body of the Assembly

Study Group on Governance

Co-chairpersons

H.E. Ms. Laura Dupuy (Uruguay)

H.E. Mr. Heinz Walker-Nederkoorn (Switzerland)

Co-focal points

Mr. Jan Christoph Nemitz (Germany)

Ms. Edith K. Ngungu (Kenya)

Ms. Francis Natalie Chávez (Peru)
