



BACKGROUNDER

Assembly of States Parties 19

The Hague / New York, 14-23 December 2020

**COALITION
FOR THE INTERNATIONAL
CRIMINAL COURT**



The COALITION FOR THE INTERNATIONAL CRIMINAL COURT includes 2,500 non-governmental organizations around the world working in partnership to strengthen international cooperation with the International Criminal Court; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity, and genocide.

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The Coalition Secretariat takes all care to ensure accuracy. Corrections and additions are always welcome. For more information about the Coalition, please visit: www.coalitionfortheicc.org

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1. Introduction

This paper serves to provide informal background information for delegations from States Parties, observer states, international and regional organizations, and civil society attending the 19th session of the Assembly of States Parties to the Rome Statute (ASP) taking place in a hybrid in-person and virtual format from 14 to 16 December 2020 in The Hague, Netherlands, and from 17 to 23 December 2020 in New York, USA.

Since 1995, the Coalition for the International Criminal Court has led the civil society effort that successfully campaigned for the adoption of the Rome Statute in 1998 and the creation of the world's first permanent international criminal court to hold perpetrators of genocide, war crimes, and crimes against humanity to account. The International Criminal Court (ICC) was established just four years later in 2002.

The Coalition has since facilitated unprecedented access and participation by civil society from around the world to the ASP and other discussions surrounding the ICC and the Rome Statute system. At the 2nd ASP session in 2003, the Coalition was recognized by States Parties for its "*coordinating and facilitating role*"¹.

As in previous years, civil society participating at the 19th ASP session will coordinate its activities through the Coalition for the international Criminal Court.

The annual ASP session is a pivotal forum for the Coalition and its members to engage with States Parties and other actors and reflect upon their respective positive contributions to the Rome Statute process in the twelve months prior to the session, and to look ahead on how to further strengthen and protect the international justice system in the year to come.

Numerous side-events (co-)organized by the Coalition or by member organizations took place virtually ahead of the 19th session, providing a platform for enhanced dialogue among the participating NGOs on the one hand, and between participating NGOs, the Court, states, and international organizations on the other.

At the conclusion of each working day of the annual session, the Coalition will publish an informal daily summary on the Coalition's #GlobalJustice News Center at <http://www.coalitionfortheicc.org/ASP-2020>.

2. Call for the Highest Political Commitment to the International Criminal Court and the Rome Statute System

The International Criminal Court and the Rome Statute system (RSS) have faced unprecedented threats and challenges. Attacks against the ICC undermine the global rule of law and weaken the Rome Statute system and its support across the globe.

Following the issuance of Executive Order 13928 in June 2020, the U.S. government in September 2020 imposed sanctions on ICC officials over possible investigations of alleged Rome Statute crimes committed in Afghanistan, a move widely criticized by the Court, ICC States Parties, several Coalition members and others.

Against this backdrop, the 19th ASP session represents a unique opportunity for States and other stakeholders to show their support and commitment to strengthen the ICC and the RSS, and to protect it from efforts which aim at undermining their critical roles in the fight against impunity for atrocities.

¹ Recognition of the coordinating and facilitating role of the NGO Coalition for the International Criminal Court (ICC-ASP/2/Res.8), https://asp.icc-cpi.int/iccdocs/aspx_docs/Resolutions/ICC-ASP-ASP2-Res-08-ENG.pdf.

The Coalition called on States Parties at the 19th session to make supportive statements reflecting on the challenges and threats facing the ICC and the Rome Statute system today and committing, to ensure these are overcome– throughout the General Debate, plenary sessions, if any, side-events, and in other discussions. Specifically, high-level officials representing all of the regions and major legal systems of the States Parties to the Rome Statute should affirm:

- Unconditional **commitment** to the ICC as the cornerstone of the fight against impunity and a critical element of a rules-based international order;
- Commitment to work together as States Parties to **oppose efforts to undermine the court's work** and independence and in particular strongly condemn and counter measures made against the ICC, its officials, and those cooperating with the Court;
- The need to safeguard the **integrity of the Rome Statute**, and its cornerstone principles;
- The opportunity provided by the **ongoing review process of the ICC** to bring together states, court officials, experts and civil society in a joint effort to strengthen the work of the Court, and ensure it can exercise its mandate over the coming years to its full potential;
- The commitment to uphold and defend the ICC's **judicial and prosecutorial independence**;
- Commitment to ensure a proactive, fair, informed, and transparent **election process for the next ICC Prosecutor**, as well as the commitment to elect the most highly qualified candidates to the 2020 **judicial elections**;
- Commitment to **robust cooperation**, including through enhanced efforts to execute arrest warrants, the conclusion of **voluntary cooperation agreements** with the ICC, and ratification of the **Agreement on Privileges and Immunities of the ICC (APIC)**;
- Commitment to promote and achieve the **universality of the Rome Statute**, as well as for its **full and effective implementation** into domestic jurisdictions;
- Commitment to upholding **complementarity** obligations and to building the capacities of national legal systems;
- Governments' **financial commitment** to the ICC to enable it to effectively execute the mandate they have given it, without political or arbitrary, limitations to its annual budget;
- The **centrality of victims – including their meaningful participation** in the Rome Statute system **and the right to reparations**;
- The crucial role of civil society organizations and **human rights defenders** fighting to bring justice to victims around the world and working with the Court, and commitment to support, defend and protect human rights defenders and their work

- Commitment to recognizing the Rome Statute system of justice as key in advancing accountability at the international and national level for **sexual and gender-based violence and violence against children** as grave crimes, including as war crimes, crimes against humanity, and genocide;
- Full support for **outreach and public information**, and their crucial importance for raising the Court's profile, creating environments conducive for the ICC's work, and managing expectations;
- The Rome Statute system's integral role in **conflict prevention and sustainable peacebuilding**; in implementing SDG Goal 16; and in advancing the indispensable role of women in international peace and justice processes.

3. The Assembly of States Parties

The Assembly of States Parties to the Rome Statute (ASP) serves as the management oversight and legislative body of the ICC. The ASP comprises all States Parties to the ICC's founding treaty, the Rome Statute (RS).

It is important to note that while the ASP performs management oversight and legislative functions for the ICC, it is strictly forbidden from interfering with the judicial or prosecutorial independence of the Court.

ASP Bureau and Presidency

The ASP has an executive committee – the ASP Bureau – that consists of a president, two vice- presidents, and (usually) 18 States Parties, elected by the Assembly taking into account equitable geographical distribution and adequate representation of the principal legal systems of the world. The ASP President and Vice-Presidents, as well as the Bureau members, are each elected for three-year terms.

The Bureau helps the ASP implement its various mandates and meets regularly throughout the year in New York and in The Hague. The Bureau has two working groups: New York Working Group (NYWG) and The Hague Working Group (HWG) each presided over by one of the ASP Vice-Presidents.

The ASP President, Vice-Presidents, and 18 members of the Bureau were elected by the Assembly by consensus during the 16th ASP session, and assumed their functions immediately following the conclusion of the session on 15 December 2017. The term of the current Bureau, including the ASP President, ends with this session, which will see the election of a new ASP President and new Bureau members.

The current President of the ASP is H.E. O-Gon Kwon of the Republic of Korea, who is supported by Vice-Presidents H.E. Ambassador Michal Mlynár of Slovakia (based in New York) and H.E. Ambassador Jens-Otto Horslund of Denmark (based in The Hague).

The current Bureau members are:

Argentina	Australia	Austria
Bangladesh*	Colombia	Côte d'Ivoire
Denmark	Ecuador	Estonia
France	The Gambia	Ghana
Mexico	Netherlands	Republic of Korea

Senegal	Serbia	Slovakia
Slovenia	State of Palestine*	Uganda

* Bangladesh and the State of Palestine acted as members of the Bureau for the 19th ASP session, based on a seat-sharing arrangement agreed to by Bangladesh, Japan, and the State of Palestine, candidates to the 2017 Bureau elections.

ASP Secretariat

The ASP has a permanent Secretariat (ASP Secretariat), which is located in The Hague and directed by Mr. Renan Villacis. The ASP Secretariat provides administrative and technical, as well as independent and substantive assistance to the ASP, the Bureau, and their various subsidiary bodies.

States Parties

The ASP is composed of the 123 states that have ratified or acceded to the Rome Statute. While each State Party receives one vote in the decision-making process of the ASP (RS Article 112(7)), both the Rome Statute and the ASP Bureau encourage states to reach prior consensus on matters that require a vote; only when this is impossible is resort to an actual vote undertaken.

Observers

States that signed the Statute but have not ratified it or signed the Final Act of the Rome Conference, as well as regional and international organizations, civil society, and the media may participate in Assembly meetings with 'observer' status. Participation in the ASP sessions provides these groups with an opportunity to interact with the Rome Statute system of international justice. These observer states that are not party to the Statute may, for example, make statements during the General Debate or in other plenary discussions, or provide updates on progress towards ratification and/or implementation of the Rome Statute, the Agreement on Privileges and Immunities of the Court (APIC), or the conclusion of voluntary cooperation agreements with the Court. Observer states are not permitted to vote or take part in decision-making of the Assembly.

Sessions of the Assembly of States Parties

The ASP meets collectively in what is known as a 'session' at least once a year, in either New York or The Hague. The 19th ASP session will take place in a hybrid in-person and virtual format from 14 to 16 December 2020 in The Hague and from 17 to 23 December 2020 in New York.

States Parties use the annual ASP sessions to discuss and decide upon important issues related to the non-judicial functioning of the ICC and the Rome Statute system as a whole. Such issues may involve core obligations of States Parties in relation to cooperation and complementarity, as well as vital institutional matters like the annual ICC budget and the efficiency of Court proceedings.

In addition to taking decisions at each annual session, the ASP tasks the Bureau with facilitating discussions during the following year on a number of issues that will be significant to the activities of the ICC and ASP. These topics are then assigned to either The Hague or New York Working Groups, and (co-) facilitators or (co-) focal points from States Parties are appointed to lead specific discussions.

At every annual session, the ASP tasks subsidiary bodies, like the Committee on Budget and Finance, as well as organs of the Court and sometimes independent external actors, with reporting back on relevant issues the following year, with a view to informing the decision-making process. These reports, and more information about the ASP, are available on the official ASP website at <https://asp.icc-cpi.int>.

The 19th session of the ASP

While the outcomes of each annual ASP session represent the specific issues discussed in any given year, they usually fall under recurring general themes. As a consequence of limits on intersessional work due to the global pandemic, the 19th session of the Assembly will focus on only few issues, including: the election of a number of key positions in the Rome Statute System in an almost complete turnover of leadership, including six Judges, the ICC Prosecutor, the ASP President and Bureau Members, six members of the Committee on Budget and Finance (CBF), and one member of the Board of Directors of the Trust Fund for Victims (TFV); a follow up to the Independent Experts' Report issued on 30 September 2020 with the aim of devising the next steps; and budget discussions.

A number of side events, organized by civil society, are taking place ahead of the ASP from 8 to 11 December (<https://www.coalitionfortheicc.org/asp19-side-events-ngovoices>). Topics on the Assembly's agenda, as well as other issues related to the work and broader impact of the ICC, are being discussed during these virtual events. State-sponsored side-events are listed in the ASP Journal, which provides a daily agenda and overview of the plenary sessions and other events taking place during the 19th ASP session.

The ASP Journal is available on the ASP website (https://asp.icc-cpi.int/en_menus/asp/sessions/documentation/19th%20session/Pages/default.aspx) and is regularly updated throughout the annual session.

4. Opening Session – The Hague

The 19th ASP session opens on Monday 14th of December 2020 with a plenary session dedicated to preliminary (and administrative) tasks. The Assembly begins by formally adopting the agenda of the 19th ASP session, the appointment of the Credentials Committee and the report of the Credentials Committee and the organization of work.

After appealing to states in arrears to satisfy their outstanding financial contribution requirements, the Assembly will hear reports on the activities of the Court and the Board of Directors of the Trust Fund for Victims, and on the activities of the Bureau.

5. The General Debate

The General Debate is scheduled to take place during the first afternoon of the ASP session, on 14th December 2020, with a combination of in-person and recorded statements. The General Debate provides an opportunity for participants to address issues related to their work and the wider Rome Statute system of international justice.

States Parties, non-States Parties, regional and international organizations, and civil society can reiterate their support for the Court and its progress thus far, as well as identify those areas in which the ICC can continue to improve its performance and operations, with an aim to fulfilling its critical mandate.

The General Debate also serves as an opportunity to inform ASP participants of steps taken to ratify or accede to the Rome Statute, as well as to update on progress made regarding domestic implementation of the Statute and

ratification of the Agreement on Privileges and Immunities of the Court (APIC). In the same vein, delegations may use the General Debate to highlight specific efforts undertaken to improve cooperation with the Court.

The Coalition has long encouraged states to take full advantage of this opportunity to express support for an end to impunity through the Rome Statute system, in addition to their taking formal positions with respect to a variety of issues up for discussion.

In 2020, the General Debate will take place in the afternoon of Monday 14 December with a mix of in-person and recorded statements. Participants can also contribute to the General Debate by making advance written submissions for publication on the ASP website.

Civil society also takes part in the General Debate, with approximately 10 individual non-governmental organizations, including the Coalition for the ICC, delivering statements. The points raised by civil society during the General Debate often inform the decision-making process of States Parties throughout the remainder of the ASP session.

For civil society, the General Debate also serves as a forum to raise concerns that are not prominently featured – or not featured at all – in the ASP program. Civil society can thus raise awareness about not only its own contributions in these areas, but also its ability to assist or collaborate in such areas with interested States Parties, the Court and other stakeholders.

6. Elections

At the 19th session of the Assembly of State Parties (ASP) in December 2020, States will elect a number of key positions in the Rome Statute System in an almost complete turnover of leadership, including six Judges, the ICC Prosecutor, the ASP president and Bureau Members for the 20th to 22nd ASP sessions, six members of the Committee on Budget and Finance (CBF), and one member of the Board of Directors of the Trust Fund for Victims (TFV).

The Coalition monitors all ICC and ASP elections to ensure that they are fair, transparent, and lead to the election of the most qualified candidates. The Coalition itself does not endorse or oppose individual candidates, but advocates for the integrity of the nomination and election processes. The Coalition strongly opposes reciprocal political agreements (“vote-trading”) in ICC and ASP elections.

Further information on ICC and ASP election processes can be found on the Coalition for the ICC website at <https://www.coalitionfortheicc.org/explore/icc-elections-2020>.

An overview of **CICC members' advocacy documents related to the judicial and electoral processes** can be found at the following link:
https://www.coalitionfortheicc.org/sites/default/files/cicc_documents/Civil%20Society%20advocacy%20on%20ICC%20Elections.pdf

Election of six new ICC Judges

During the New York segment of the 19th ASP session, States Parties will elect six new judges out of the 18 that compose the ICC bench. The election follows the Court’s regular judicial elections process, which replaces a third of the 18 judges every three years. The new judges will serve a nine-year term expected to begin in March 2021.

ASP Procedures related to nomination and election of judges

Judicial candidates can be put forward by States Parties along with states that have started the process of ratification of the Rome Statute of the ICC.

In assessing the individual candidacies, the ASP is assisted by an Advisory Committee on the Nomination of Judges (ACN), created in 2011 to facilitate the nomination and election of the most highly qualified candidates. The ACN mandate was revised and strengthened at the 18th session of the ASP in 2019 with the [Resolution on the review of the procedure for the nomination and election of judges](#).²

The ACN produces an assessment of the candidates, based on a wide variety of information submitted by the nominating states, the candidates themselves, and civil society. This election, the ACN advised the Assembly on whether a candidate is Highly qualified; Qualified; Only Formally qualified; or Non-qualified for the position. Starting from the current electoral round, the ACN has also asked judicial candidates to complete [a questionnaire and a joint declaration](#)³ to further examine their qualifications. The ACN questionnaire complement the efforts made by civil society and the Coalition for the ICC, that traditionally submit questionnaires to ICC judicial candidates (See below section for more information).

The ACN recommendations are published in a report in the weeks leading up to the elections. The [report](#) of the Advisory Committee was released on 30 September 2020.⁴

Public Roundtables for judicial candidates:

For the first time, the Assembly of States Parties organized public hearings, or roundtables, for judicial candidates, co-moderated by States Parties and civil society. Ms Mariana Pena of the open Society Justice Initiative (OSJI) and Mr. Allan Ngari of the Institute for Security Studies (ISS) co-moderated the hearings on behalf of civil society.

The Public Roundtables took place from 3-6 November 2020. [In the past, the public roundtables for judicial candidates were organized as a part of the Coalition for the ICC campaign](#) on judicial elections.

The videos of the judicial roundtables are available on the ASP website at https://asp.icc-cpi.int/en_menus/asp/elections/judges/2020/Pages/Roundtables.aspx.

The Minimum Voting Requirements (MVRs)

To ensure a fully representative bench, the election process accounts for the composition of the outgoing judges. The newly elected judges will fill the vacancies of the six outgoing judges, who will complete their own nine-year terms on 10 March 2021. The outgoing judges are:

- Judge Chile Eboe-Osuji (Nigeria) (ICC President)
- Judge Robert Fremr (Czech Republic) (ICC First Vice President)
- Judge Howard Morrison (United Kingdom)
- Judge Olga Herrera-Carbuca (Dominican Republic)
- Judge Geoffrey Henderson (Trinidad and Tobago)
- Judge Raul Cano Pangalangan (Philippines)

² Resolution ICC-ASP/18/Res.4, https://asp.icc-cpi.int/iccdocs/asp_docs/ASP18/ICC-ASP-18-Res4-ENG.pdf

³ Questionnaires and declarations submitted by candidates pursuant to ICC-ASP/18/Res.4, annex II.B (a) and (d), https://asp.icc-cpi.int/en_menus/asp/elections/judges/2020/Pages/Questionnaire-Declaration.aspx

⁴ Report of the Advisory committee on Nominations of Judges on the work of its seventh session https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-11-ENG.pdf

The Rome Statute outlines several considerations for a fully representative bench, including minimum criteria for geographic representation, gender balance, and representation of the principal legal systems of the world, in addition to the expertise on specific and relevant legal issues. Another consideration in identifying judges are **List A**, which refers to nominees with criminal law expertise and experience, and **List B**, which refers to nominees with relevant international law expertise and experience.

These factors are taken into account through **minimum voting requirements (MVR)**, which look at the criteria of the judges remaining on the bench.

Gender and geographic MVRs only apply during the first four rounds of voting, whereas MVRs for Lists A and B apply throughout the voting rounds until all vacancies have been filled.

The following MVRs are in place in 2020⁵:

- One candidate from List A;
- One candidate from List B;
- One candidate from the Group of Eastern European States;
- Two candidates from the Group of Latin American and Caribbean States;
- One female candidate.

Voting occurs during the ASP session by secret ballot. To be elected, candidates must receive a two-thirds majority of the States Parties present and voting.

The following candidates are nominated for the 2020 ICC judicial elections:⁶

List A

- Ms. ALEXIS-WINDSOR (Trinidad and Tobago)(F) ***
- Mr. BELLO (Nigeria)(M) *
- Mr. CHAGDAA (Mongolia)(M) *
- Ms. COSIC DEDOVIC (Bosnia and Herzegovina)(F) ***
- Ms. KORNER (UK)(F) ***
- Ms. MASSART (Belgium)(F) ***
- Mr. MILANDOU (Republic of the Congo)(M) *
- Ms. SAMBA (Sierra Leone)(F) ***
- Ms. SIFUENTES (Brazil)(F) **
- Mr. SOCK (Gambia)(M)*
- Mr. TSILONIS (Greece)(M) ***

List B

- Mr. BARRETO GONZALES (Colombia)(M) *
- Mr. BEN MAHFOUDH (Tunisia)(M) ***
- Ms. FLORES LIERA (Mexico)(F) ***
- Mr. KAM (Burkina Faso)(M) **
- Mr. LORDKIPANIDZE (Georgia)(M) **
- Ms. PERALTA DISTEFANO (Uruguay)(F)***

⁵ The MVRs for the 2020 elections included originally one candidate from the Group of Asia-Pacific States. The requirement has been discontinued after the withdrawal of the candidate from Bangladesh, which left only one competing candidate for the regional group – Mongolia.

⁶ At the closure of the nomination period, on 14 May 2020, 22 candidates were nominated. Bangladesh and the Dominican Republic presented notice of withdrawal of their candidates in August 2020. Senegal presented notice of withdrawal of its candidate in November 2020.



- Mr. SALVADOR CRESPO (Ecuador)(M) *
- Mr. UGALDE GODINEZ (Costa Rica)(M) ***

***Candidate deemed "highly qualified" by the Advisory Committee on Nomination of Judges.

** Candidate deemed "qualified" by the Advisory Committee on Nomination of Judges.

* Candidates deemed "only formally qualified" by the Advisory Committee on Nomination of Judges

Coalition for the ICC campaign on ICC judicial elections 2020

Civil Society questionnaire

As part of their effort to monitor ICC Elections, civil society organizations in cooperation with the Coalition for the ICC Secretariat asked judicial candidates to complete questionnaires regarding their vision, background, qualifications, experience and views on international justice and the ICC.

The questionnaire responses have been circulated among all States Parties and made publicly available on the Coalition's website on <http://www.coalitionfortheicc.org/judicial-candidates-questionnaires-2020>

CICC communications around Judicial Elections

Communications play a vital role in increasing the understanding of the ICC and the Rome Statute system. The Coalition for the International Criminal Court works to raise awareness on ICC and ASP Processes, including Elections. In order to increase the awareness about the process to elect ICC judges, the Coalition has produced a [factsheet](#) on the ICC judicial election process,⁷ and a video in which the Judicial Elections process is explained, on <http://www.coalitionfortheicc.org/icc-judicial-elections-2020>

Election of the ICC Prosecutor

The ICC Prosecutor is elected for a nine-year term by the Assembly of States Parties and cannot be reelected. Ms. Fatou Bensouda took office on 15 June 2012 as the second ICC Prosecutor, after being elected by consensus during the 10th session of the Assembly of States Parties in December 2011. Her term will run until 15 June 2021.

Article 42 of the Rome Statute stipulates the minimum requirements in order to be elected ICC Prosecutor: to be a person of high moral character, who has competency and experience in prosecutions and trials of criminal cases, and fluency in English or French.

The election of the next Prosecutor of the ICC by the Assembly of States Parties will be a significant decision that impacts almost every aspect of the International Criminal Court (ICC) and the Rome Statute system more broadly.

Election process - the Committee on the Election of the Prosecutor (CEP)

In order to facilitate an effective election process, the Bureau of the ASP established a Committee on the Election of the Prosecutor, composed of five members, one per regional group, and assisted by a panel of five independent experts, one per regional group.

The Terms of References (TORs) of the CEP aimed at prioritizing merit, fairness, and transparency at all stages of the election process, drawing on the lessons learned from the last election process in 2011.

Civil society played a key role in advocating for this process.

Both the Committee members and the experts were nominated by the Bureau in June 2019.

⁷ CICC Factsheet on ICC Judicial Elections,
https://www.coalitionfortheicc.org/sites/default/files/cicc_documents/CICC%20memo%202020%20ICC%20Judicial%20Elections.pdf

Committee Members:

- Ambassador Marcin Czepelak (Poland)
- Mr. Lamin Faati (Gambia)
- Ambassador Andreas Mavroyiannis (Cyprus)
- Ambassador Sabine Nölke (Canada) (Chair)
- Ambassador Mario Oyarzábal (Argentina)

The Panel of Experts:

- Mr. Francisco Cox Vial (Chile)
- Ms. Aurélia Devos (France)
- Mr. Charles Jalloh (Sierra Leone)
- Mr. Motoo Noguchi (Japan)
- Ms. Anna Richterová (Czech Republic)

The CEP published a [vacancy announcement](#) in August 2019 and received applications from individual candidates. At that early stage, nominations endorsed by States Parties and other groups were not encouraged.

After considering the applications received and with the support of the Panel of Experts, on 30 June 2020, the CEP submitted its final [report](#) containing a shortlist of 4 candidates for consideration of the Assembly:⁸

- Mr. Morris A. Anyah (Nigeria)
- Mr. Fergal Gaynor (Ireland)
- Ms. Susan Okalany (Uganda)
- Mr. Richard Roy (Canada)

In an effort to identify a consensus candidate, the ASP Presidency led a consultation process following the release of the shortlist, which included public hearings for candidates co-moderated by States Parties and civil society.⁹ Ms Amal Nassar of the International Federation for Human Rights (FIDH) and Mr. George Kegoro of the Kenyan Human Rights Commission, co-moderated the hearings on behalf of civil society.

During the consultation process, CICC members and other civil society organizations called for further vetting of the prosecutorial candidates and issued several calls to States Parties to avoid political considerations in the identification of the next ICC Prosecutor.

As a consequence of the deadlock in the consultations to identify consensus, the ASP Bureau approved on 13 November 2020 an ASP Presidency proposal on the way forward in the election process, which enlarged the list of shortlisted candidates to the remaining individuals who were originally interviewed by the CEP, provided they were still willing to be considered. The Bureau mandated the CEP to release the candidates' CV and motivation letters, as well as an [appraisal of the candidates](#).

Following the Bureau decision, the list of potential candidates has been extended to include 9 candidates:

- Brigitte Raynaud (France)
- Carlos Castresana Fernández (Spain)

⁸ Report of the Committee on the Election of the Prosecutor, ICC-ASP/19/INF.2, https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-INF2-ENG-CEP.pdf

⁹ Public hearings for Prosecutor candidates on 29 & 30 July 2020 available at the following links:
https://www.dropbox.com/s/vr4oj6dpigwhryu/Prosecutor_Candidate_Hearing_session_one_FLOOR.mp4?dl=0 ;
https://www.dropbox.com/s/8pkctmzet1h7dl/Prosecutor_Candidate_Hearing_session_TWO_FLOOR.mp4?dl=0

- Fergal Gaynor (Ireland)
- Francesco Lo Voi (Italy)
- Karim A. A. Khan (United Kingdom of Great Britain and Northern Ireland)
- Morris A. Anyah (Nigeria)
- Richard Roy (Canada)
- Robert Petit (Canada)
- Susan Okalany (Uganda)

On 9 and 10 December 2020, all candidates took part in a new round of public hearings co-moderated by States Parties and civil society¹⁰. Ms. Melinda Reed, Acting Convenor of the Coalition for the ICC, co-moderated the final hearing with ASP President Judge Kwon.

Further consultations will follow the public hearings. According to the modalities indicated by the ASP Presidency, a first round of consultations based on specific questions to be posed to States Parties will conclude before the start of the resumed ASP session in New York on 17 December 2020. The timeline to reach consensus might include the possibility of a resumed ASP Session in January or February to elect the Prosecutor.

States strive to elect the Prosecutor by consensus, but in the absence of consensus, elections occur by secret ballot by an absolute majority of States Parties.

Role of civil society

The search for a new Prosecutor comes at a critical point for the ICC.

It is essential that the next Prosecutor is not only highly-qualified, but has professional excellence in handling complex criminal cases, institutional management experience and the ability to act independently and impartially.

Therefore, the Coalition and its members continued to robustly call on State Parties to nominate and elect the most highly-qualified and independent candidates to key positions in the Rome Statute system through fair, transparent, and merit-based nomination and election processes.¹¹

Prosecutorial Candidates' Questionnaires

Ahead of the 2020 elections, civil society organizations in cooperation with the Coalition for the ICC Secretariat asked prosecutorial candidates to complete questionnaires regarding their vision, background, qualifications, experience and views on international justice and the ICC.

The questionnaires have been published on the Coalition's website on <http://www.coalitionfortheicc.org/prosecutorial-candidates-questionnaires-2020>

Election of ASP President and Bureau members for the 20th to 22nd ASP sessions

The current Bureau members assumed their function at the sixteenth session of the Assembly, in 2017. At its 19th session in December 2020, the ASP will elect new members of the Bureau for the 20th to 22nd ASP Sessions.

¹⁰ Public Hearings for Prosecutor candidates on 9 & 10 December 2020 available at the following link, https://asp.icc-cpi.int/en_menus/asp/elections/prosecutor/Pages/Prosecutor2020.aspx

¹¹ CICC members resources on Elections are available on the CICC website: <https://www.coalitionfortheicc.org/cicc-members-resources-elections>

In early 2020, the ASP President requested all regional groups to consult in order to identify the States that would form the next Bureau, as well as to identify two candidates for election as Vice-Presidents, taking into account the principle of regional rotation.

The process to identify the future Bureau members is initially conducted by regional focal points who carry out consultations within their respective groups: the Czech Republic, Finland, Gabon, Japan, and Trinidad and Tobago. The geographical regions within the 123 States Parties will identify Bureau members from within their groups to be appointed by consensus at the start of the ASP session.

On 26 November 2020, the Bureau recommended that the Assembly elects Ms. Silvia Fernández de Gurmendi (Argentina) as its president.

Election of six members of the Committee on Budget and Finance

At the upcoming ASP session, states will hold an election to fill six soon-to-be vacant seats on the Committee on Budget and Finance (CBF),¹² which consists of 12 members, nominated and selected by the ASP based on equitable geographic representation.

The CBF is a technical expert body tasked with budgetary and financial review and monitoring of the resources of the International Criminal Court.

The recommendations of the CBF are a key tool relied on by states to inform their decisions on the Court's annual budget. These decisions in turn affect the activities of the Court, including in terms of the investigations and cases it can pursue. The ASP resolution establishing the CBF (Resolution ICC- ASP/1/Res.4) provides that the CBF members "shall be experts of recognized standing and experience in financial matters at the international level from States Parties."

Pursuant to resolution ICC- ASP/1/Res.5, the Bureau decided that the nomination period for the Committee on Budget and Finance elections would run from 8 June to 30 August 2020, with the elections scheduled to take place during the 19th Session of the ASP.

After the closure of the nomination period, six candidates have been nominated to become members of the CBF:

- Mr. DRUML, Werner (Austria)
- Ms. HARIMOTO, Yukiko (Japan)
- Mr. GHARAIBEH, Fawzi (Jordan)
- Ms. SÁNCHEZ IZQUIERDO, Mónica (Ecuador)
- Ms. SHAVA, Margaret Wambui Ngugi (Kenya)
- Ms. SOPKOVÁ, Elena (Slovakia)

In November 2020, the Bureau recommended, pursuant to resolution ICC-ASP/1/Res.5, that the Assembly elect the six candidates by consensus.

As the number of candidates equals the number of vacant seats, the election will be “clean slate”. The Coalition has consistently encouraged States Parties to avoid clean slate elections, and to ensure that all elections are competitive, open, and fair, as this would allow for fresh insight and expertise to be utilized for the good of the entire Rome Statute system

¹² 1 seat from the Group of African States; 2 seats from the group of Asia-Pacific States; 1 seat from the Group of Eastern European States; 1 seat from the Group of Latin American and Caribbean States; and 1 seat from the Group of Western European and other States.

Election of one member of the Board of Directors of the TTVF

The Board governs the Secretariat of the Trust Fund for Victims and is in charge of establishing and directing the Fund's activities and projects and the allocation of resources.

The Board has five members, who are elected for a three-year term and serve in an individual capacity on a pro bono basis. Members of the Board may be re-elected once.

To fill the vacancy that arose upon the passing of Mr. Felipe Michelini, Chair of the Board of Directors of the Trust Fund for Victims, on 19 April 2020, the ASP Bureau decided to elect a new member, mindful of "the need for the full membership of the Board of Directors to enable it to continue to carry out its very important work."

The Bureau set the nomination period to run between 1 and 30 June 2020. Since Mr. Michelini (Uruguay) held the seat allocated to the Latin American and Caribbean group, only States Parties of this regional group were able to nominate candidates.

At its 5th meeting on 9 July 2020, the ASP Bureau elected **Ms. Minerva Josefina Tavárez Mirabal** (Dominican Republic) to complete the term of her predecessor, until 4 December 2021.

7. The Review of the International Criminal Court

Motivated by calls by States, Court officials, civil society and other key stakeholders for a review of the functioning of the ICC, discussions started in 2019 on steps to strengthen the performance of the ICC.

States Parties initiated discussions on a draft Terms of Reference for the ICC Independent Expert Review. They developed a "Matrix" working paper outlining some of the challenges they considered currently face the Court, and suggested actions that could be taken by the court or the ASP and its subsidiary bodies in order to strengthen the Court.

Coalition members called for a truly independent expert review that (i) is composed of highly qualified and independent experts; (ii) provides sufficient safeguards for the selected individuals to fulfill their mandate independently, without undue influence from the States, the Court or other stakeholders; and (iii) allows experts to review the issues they consider relevant, according to their competence and expertise.

During the 18th session of the Assembly of States Parties (ASP18) in December 2019, States Parties established a formal process of review of the ICC and the Rome Statute system.

In the resolution that established this process of review, the Assembly mandated a Group of Independent Experts to assess the work of the ICC and make concrete recommendations to the ASP and the Court for their consideration, working under three 'clusters': Governance, Judiciary and Prosecution and investigation.

The following experts were appointed by the Assembly in 2019:

Governance

- Mr. Nicolas Guillou (France)
- Ms. Mónica Pinto (Argentina)
- Mr. Mike Smith (Australia)

Judiciary

- Ms. Anna Bednarek (Poland)
- Mr. Iain Bonomy (United Kingdom of Great Britain and Northern Ireland)
- Mr. Mohamed Chande Othman (United Republic of Tanzania)

Prosecution and Investigation

- Mr. Richard Goldstone (South Africa)
- Mr. Hassan Jallow (The Gambia)
- Ms. Cristina Schwansee Romano (Brazil)

The following timeline was established for the process.

- **January 2020:** Preparation and organization of work.
- **Feb-Mar 2020:** Consultations with States Parties, Court officials, and civil society.
- **Apr-Aug 2020:** Analyzing information gathered and drafting reports.
- **June-July 2020:** Interim report or briefing to States Parties
- **Sep 2020:** Submission of final report to the Bureau and Assembly of States Parties.

On 30 September 2020, the Independent Experts released their report containing over 380 recommendations for the Assembly and the Court. States have discussed the assessment and implementation of the recommendations of the independent experts and drafted a resolution to be further discussed and adopted at the Assembly. CICC members and other civil society organizations have stressed the importance of ensuring processes are in place to assess the experts' recommendations and ensure appropriate follow-up, guided by genuine dialogue, scrupulous respect for the court's judicial and prosecutorial independence, and transparency and inclusion.

Negotiations on the text of a standalone resolution began in November in the framework of the joint Hague and New York Working Groups, with the participation of all states parties, the court and civil society. These discussions highlighted several divergent views on some critical issues such as the model and composition of the mechanism the Assembly would establish to follow up to the IER report; the specific mandate of such mechanism, as well as its interaction with the court; and the role of the independent experts in these next steps.

In the same resolution that established the review process in 2019, the ASP noted that some issues identified in the Matrix must be addressed by the Assembly, or the Assembly and the Court, together with other relevant stakeholders. The ASP requested the Bureau to address some of those issues as a matter of priority in 2020 (through its working groups and facilitations): (i) Strengthening cooperation, (ii) Non-cooperation, (iii) Complementarity and the relationship between national jurisdictions and the Court, and (iv) Equitable geographical representation and gender balance.

8. Supporting the ICC and its proponents against external interference & political threats

As the Court carried out its mandate, the institution and supporters of accountability have increasingly come under attack.

On 20 January 2020, only a month after the ICC Prosecutor announced that there is a reasonable basis to proceed with an investigation into the situation in Palestine, the Israeli Prime Minister Benjamin Netanyahu called for sanctions against the ICC and its personnel.

On [11 June 2020](#), US President Donald Trump issued an **Executive Order** that authorizes asset freezes and entry bans against ICC officials, their family members and others who assist ICC investigations who may be designated pursuant to the Order at a later stage.

On 2 September 2020, the administration announced that the United States had designated for sanctions the ICC Prosecutor, Ms. Fatou Bensouda, and the head of the Office of the Prosecutor's Jurisdiction, Complementarity, and Cooperation Division, Mr. Phakiso Mochochoko.

The unprecedented actions taken by the US administration prompted strong reactions from both civil society and States Parties to the ICC. On 11 June, the day the Executive Order was issued, [ASP President Judge O-Gon Kwon released a statement](#) expressing deep concern for the measures taken by the US administration. On 23 June, a [group of 67 ICC States Parties joined in a statement](#) that reaffirms the “unwavering support for the court as an independent and impartial judicial institution”. In a statement in September 2020 following the ICC annual report to the UN General Assembly, 72 States Parties confirmed once again their support.

States should commit to working together to oppose any and all efforts to undermine the Court’s work and independence, and in particular, threats made against the ICC, its officials, and those cooperating with it.

States Parties to the Rome Statute, as well as civil society, should stand together to call on the U.S. government to reverse its ICC sanctions policy. States should continue to support civil society engaged in international justice efforts, including by ensuring their protection as defenders of human rights and their access to debates and discussions focused on strengthening the Rome Statute system and bringing justice to victims the world over.

Reaffirming support for the above points would be in alignment with the principles enshrined in the introductory paragraphs of the annual overall policy resolution on “*Strengthening the International Criminal Court and the Assembly of States Parties*,” (the ‘*Omnibus resolution*’) which the Assembly has renewed and adopted for several years, as well as operative paragraph 1 of the resolution, first adopted in 2018 and renewed in 2019.

9. Cooperation

Cooperation is an absolutely vital part of the international justice system set up by the Rome Statute. Cooperation must be multi-faceted to enable the effective execution of various ICC functions collectively geared at bringing those most responsible for core international crimes to justice. With no enforcement mechanism of its own, the ICC is largely dependent on the cooperation it receives from states, the United Nations, regional and other international organizations, and other relevant actors.

Part IX of the Rome Statute lays out the various ways in which states shall cooperate with the ICC. Without this support, international justice simply cannot work, which is why the Coalition closely monitors developments and initiatives of the Bureau and the ICC alike in areas of cooperation throughout the year leading up to the annual ASP session.

In 2007, the Assembly had adopted 66 Recommendations on cooperation¹³, an extensive list of key challenges and priorities for cooperation. In the years since, the ASP has narrowed¹⁴ the list to seven priority recommendations as most relevant to the Court’s current cooperation demands.

Those seven priorities are:

¹³ ICC-ASP/6/Res.2, Resolution on Strengthening the International Criminal Court and the Assembly of States Parties, Annex II Recommendations on Cooperation, Adopted at the 7th plenary meeting, on 14 December 2007, by consensus;

¹⁴ Recommendations on States’ Cooperation with the International Criminal Court (ICC): Experiences and Priorities (ICC-ASP/14/26/Rev.1, annex II), https://asp.icc-cpi.int/iccdocs/asp_docs/ASP14/ICC-ASP-14-26-Rev1-Anx2-ENG.pdf.

- a) Enacting the legal mechanisms set in the Rome Statute and setting up effective procedures and structures regarding cooperation and judicial assistance
- b) Cooperation in support of preliminary examinations, investigations, prosecutions and judicial proceedings (including with the Defence)
- c) Arrest and surrender
- d) Identification, seizing and freezing of assets
- e) Cooperation Agreements
- f) Diplomatic and public support in national, bilateral, regional and international settings
- g) Inter-State cooperation in the context of the Rome Statute system

Cooperation Facilitation in 2020

Over the course of 2020, discussions in The Hague Working Group on cooperation were facilitated by Ambassador Momar Guèye (Senegal), and Ambassador Luis Vassy (France).

In 2020, the facilitation held a total of four meetings to discuss issues related to cooperation, including two informal consultations with civil society on how to strengthen the cooperation with the ICC. On 5 October 2020, the co-facilitators convened a meeting on strengthening cooperation with the ICC to discuss specific issues of cooperation and non-cooperation, including the relationship between the ICC and the United Nations. A meeting of the facilitation was held in November 2020 to present the draft report and discuss and reflect on areas of future work.

Shared Platform on Cooperation

In 2019, the facilitation on cooperation announced its efforts to create a secure and shared platform on the ASP website to facilitate the exchange of information between States and to increase the capacity to cooperate with the Court. During 2020, the co-facilitators for Cooperation worked with the Court and the ASP Secretariat to further develop the shared platform. At the cooperation facilitation meeting held on 19 November 2020, the platform was presented to the States Parties and other stakeholders with the aim of collecting reactions and suggestions

Identification, Seizing and Freezing of Assets

On 20 October 2017, a conference was organized in Paris on “The International Criminal Court and International Cooperation: The Challenges of Asset Recovery”, which resulted in the adoption of the Paris Declaration, representing a useful starting point for further improvements concerning cooperation in the recovery of assets. The OTP and the Registry held several bilateral meetings with States Parties for the purpose of facilitating timely access to information and identifying national focal points to ensure preservation of relevant information.

Among the efforts of the Court to explain its specific mandate to States, a technical seminar on cooperation with respect to financial investigation and recovery of assets, held on 25 January 2019, was instrumental for a) encouraging exchanges between States that have received requests for assistance from the Court in this field; b) discussing the specific challenges with regards to the cooperation with the ICC; and c) identifying ways to ensure the diffusion of relevant knowledge to the focal point level as well as to all the practitioners in the country.

In February 2020 the Co-facilitators developed a questionnaire for States Parties to collect information on their procedures to respond to the Court's requests for cooperation in general. The questionnaire also requested information on financial investigations and on the identification, freezing and seizure of property and financial assets. The co-facilitators received responses from 25 States¹⁵.

¹⁵ Report of the Bureau on Cooperation, https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-33-ENG-Bureau-cooperation-08dec20-1730.pdf

Arrest and Surrender

The ICC relies entirely on national law enforcement systems to implement its orders, including arrests warrants, and there is an absolute urgency for ICC arrest warrants to be executed as promptly as possible. Without arrests, ICC cases cannot proceed and the Court's purpose to deliver timely justice is defeated. The execution of arrest warrants requires strong political will and diplomatic pressure, which States Parties should look to exert during the 19th ASP session. Short of executing these warrants, states should commit to avoiding non-essential contact with persons who are subject to ICC arrest warrants.

At its 13th session in 2014, the Assembly had taken note of a report on arrest strategies submitted by the Rapporteur, and had invited the Bureau to continue discussions on the topic with a view to submitting a consolidated draft Action Plan on arrest strategies for consideration by the Assembly. At its 14th and 15th sessions in 2015 and 2016 respectively, the Assembly had taken note of the *Report on the draft Action Plan on Arrest Strategies* and had mandated the Bureau to continue consideration of the report's recommendations with a view to its adoption.

Despite the impossibility to advance significantly the work in relation to this, the co-facilitators suggested that the issue remains in the agenda of the facilitation discussions.

"Voluntary" Cooperation Agreements

The Court routinely calls upon States Parties to supplement their explicit Rome Statute obligations with forms of voluntary cooperation, which prove crucial to the ICC's functioning as a fair and effective legal institution that gives effect not only to the rights of victims and witnesses, but also to those of the accused. Such voluntary cooperation can take the form of bilateral framework agreements on topics such as witness relocation, interim and final release, and enforcement of sentences.

With framework agreements, states agree to engage with the Court to develop cooperative arrangements amenable to the requirements of both parties—before any specific ICC request for cooperation arrives. Such agreements reduce burdens on not only the Court's activities, but also on its budget. The Court has also noted the value of Memoranda of Understanding between the ICC and international organizations, such as the UNODC, with respect to capacity-building to facilitate the envisioned forms of cooperation.

The Court has prepared model framework agreements to facilitate States Parties' capacities to accommodate ICC requests, when necessary, in relation to witness relocation and protection, hosting released persons (defendants), and enforcing ICC sentences. In 2017, the ICC Registry published an updated handbook outlining the framework agreements currently available and clarifying misconceptions about any obligations they may create for States Parties: [https://www.icc-cpi.int/news/seminarBooks/Cooperation Agreements Eng.pdf](https://www.icc-cpi.int/news/seminarBooks/Cooperation%20Agreements%20Eng.pdf).

In 2020, the co-facilitators engaged in informal consultations with States that are considering signing an agreement with the Court.

As of November 2020, the following cooperation agreements have been concluded:

- 11 enforcement of sentence agreements, with Argentina, Austria, Belgium, Denmark, Finland, Georgia, Mali, Norway, Serbia, Sweden and the United Kingdom of Great Britain and Northern Ireland;
- 24 witness relocation agreements;
- 2 interim release agreements, with Argentina and Belgium; and,
- 1 agreement on hosting persons in the event of final release, with Argentina.

10. Non-cooperation

The lack of cooperation from states is one of the great challenges the Court faces in its work. In an effort to address this challenge, on 7 February 2019, the ASP Bureau appointed five New York-based non-cooperation focal points, one for each regional group, in accordance with the Assembly procedures on non-cooperation: Colombia, Croatia, Liechtenstein, the Republic of Korea, and Senegal.

The non-cooperation focal points actively engage with relevant stakeholders, including civil society, on issues related to non-cooperation, such as travel by persons subject to an ICC arrest warrant, as well as diplomatic actions taken by States Parties with respect to such travel. In 2016, the focal points developed a *Toolkit for the implementation of the informal dimension of the Assembly procedures relating to non-cooperation* as a resource for States Parties to utilize when responding to potential instances of non-cooperation. In 2018, the facilitation focused on updating the tool-kit, which was formalized at the 17th Session.¹⁶ In 2019, the work of the Focal Points consisted mainly of raising awareness by States of the tool-kit, and the important considerations within it.

Non-cooperation in the Darfur, Sudan investigation

Over the past several years, the situation in Darfur, Sudan has been particularly characterized by instances of non-cooperation. ICC judges have made several findings of non-cooperation in the case against former Sudanese President Omar Al-Bashir, in each instance related to the his non-arrest when an opportunity may have arisen.

Discussions and activities on non-cooperation in 2019 revolved around failures to execute the ICC's 2009/2010 ICC arrest warrants against Al-Bashir. Following a judicial finding on 11 December 2017 that the Hashemite Kingdom of Jordan had failed to comply with its obligations under the Statute by not executing the Court's request for the arrest of Al-Bashir and his surrender to the Court while he was on Jordanian territory in March of the same year, the Chamber decided to refer the matter of Jordan's non-compliance to the ASP and to the UNSC.

On 12 March 2018, Jordan appealed this decision. The ICC Appeals Chamber invited observations from international organizations, States Parties, and professors of international law on the legal arguments raised by Jordan. Nearly one year later, on 6 May 2019, the Appeals Chamber unanimously confirmed the Pre-Trial Chamber's finding that Jordan had failed to comply with its obligations under the Statute by not executing the Court's request for the arrest of Al-Bashir and his surrender to the Court while he was on Jordanian territory on 29 March 2017. By majority, however, the Appeals Chamber reversed the Pre-Trial Chamber's decision to refer the matter of Jordan's non-compliance to the ASP and UNSC, noting the particular circumstances of the case and that the Pre-Trial Chamber erred when it found that Jordan did not seek consultations with the Court.

11. Efficiency and Effectiveness of Proceedings

Lengthy courtroom proceedings have long dogged international criminal tribunals, and the ICC is no exception. A measure of “feet finding” could be expected for the Court’s first trials—but with growing demands on international justice, increased allegations of offences against the administration of justice, and restrictive policies on funding international institutions, significantly improving the efficiency of proceedings has emerged as an urgent priority for the ICC.

¹⁶ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP17/ICC-ASP-17-31-ENG.pdf#page=14.

Any efficiency-minded efforts must simultaneously maintain the effectiveness of proceedings as the ICC looks to ensure timely justice for victims, uphold international standards for the accused, and bolster confidence in the Rome Statute system.

In the Study Group on Governance (SGG) - an ASP Bureau working group hosted throughout the year in The Hague that seeks to enable a structured dialogue between the Court and States Parties - states have as their key focus the strengthening of the institutional framework of the Rome Statute system. This focus includes not only the Court's independent initiatives with respect to improving the efficiency and effectiveness of its judicial activities, but also initiatives with similar aims but within the competence of States Parties. For its part, the Coalition has for years pressed for comprehensive, institution-wide reviews of the ICC's judicial processes (*See above chapter 7 on the Review of the ICC*).

The Coalition believes civil society to be uniquely placed to promote dialogue between all the stakeholders in the aim of ensuring a more efficient and effective Court. Among others, the Coalition has advocated for the reform of unsustainable appeals practices as well as consideration for victims' rights when discussing efficient practices. The Coalition supports initiatives that coordinate efforts between States Parties, Court officials, civil society, and *ad hoc* and special tribunals' experts.

In 2020, the SGG was co-chaired by Amb. María Teresa Infante Caffi (Chile), and Amb. Heinz Walker-Nederkoorn (Switzerland).

The SGG held four regular meetings in 2020, during which they considered the following issues:

- Election of Registrar
- Performance indicators
- Procedure for amending Rules of Procedure and Evidence
- Management of transitions in the judiciary

Election of the Registrar

The SGG held a meeting to consider the procedure for election of the ICC Registrar, recognizing that the "Election of Registrar" is one of the issues that the Matrix of the Review process intended for consideration of the judiciary, the Bureau and the SGG under the heading "Governance, management and leadership". Presentations by the ASP and ICC Presidency provided to States Parties an overview of the process and lessons learned from previous elections.

Performance Indicators

The exercise of developing performance indicators is part of an ongoing ICC effort, at the request of the ASP in 2014, to "intensify its efforts to develop qualitative and quantitative indicators that would allow the Court to demonstrate better its achievements and needs, as well as allowing States Parties to assess the Court's performance in a more strategic manner."

So far, the Court has issued four reports on performance indicators: in 2015, 2016, 2017, and 2019. The 2019 Report "included retroactively the data for 2018 in order to provide a continuous, long-term picture". The 2020 Report has been revised in light of the strategic plans for the Court, the OTP, and the Registry that were issued in 2019.

In these reports, the Court identified four objectives of the Court's performance to focus on as part of the exercise:

- expeditious, fair, and transparent ICC proceedings at every stage;
- effective ICC leadership and management;

- adequate security for ICC work, including protection for those at risk from involvement with the Court; and,
- victims' access to the Court.

On 17 July 2019, the ICC presented its Court-wide Strategic Plan 2019-2021. The Strategic Plan outlines the ICC strategic goals in relation to (i) judicial and prosecutorial performance; (ii) cooperation and complementarity; and (iii) organizational performance. In an effort to streamline the strategic planning of the Organs of the Court, the Office of the Prosecutor and - for the first time - the Registry have developed their respective strategic plans for the period 2019-2021. The 2020 Court Report on performance indicators measures the performance data in relation to the goals identified by those strategic plans.

Procedure for amending Rules of Procedure and Evidence

The SGG discussed the procedure for amendment of the RPE, considering the procedure for amendments to the Rules proposed by the Judges is set out in the "Roadmap on reviewing the criminal procedures of the International Criminal Court".

The SGG focused in particular on two areas: 1) the process of the Roadmap within the Court, the action States Parties took on the outcome of that process, and the coordination of the Study Group with the WGA; and 2) the principle of consensus.

The SGG Co-Chairs suggested an exercise that would look at a pilot case of a rule previously not adopted by the Assembly as a practical way to test the system, with the proposal to look at rule 140bis, Temporary absence of a Judge. States Parties expressed reservations and the need to proceed with extra caution with the exercise, and the ensuing discussions focused on the threshold of consensus for adoption and the relationship between SGG and WGA.

The SCC Chairs, WGA Chairs, and ASP Working Group Coordinators clarified certain aspects of the relationship between working groups in relation to the amendment of the RPE, and suggested a potential amendment to the principle of consensus that would be mixed with the two-thirds majority rule.

Also mindful of the Independent Experts' recommendations, the SGG Co-Chairs suggested to keep this issue on the agenda of the SGG for next year.

Management of transitions in the judiciary

The SGG considered the issue of the management of transitions in the judiciary, recalling that the Matrix assigned the issue to the consideration of the SGG and WGA.

On 3-4 October 2019, ICC judges held a retreat to discuss the efficiency and functioning of the judiciary and subsequently issued a report on "Managing of transitions in the judiciary", dated 30 January 2020. During the SGG discussions, the ICC Presidency clarified which provisions of the Rome Statute affect the transitions in the judiciary, and the practices that Presidency has adopted in order to address the management of transitions.

The SGG Co-Chairs suggested to keep this issue on the agenda of the SGG for next year.

12. Victims' participation and reparations

Victims of grave crimes are at the very center of the Rome Statute, and the main reason the ICC exists

The creation of a system of retributive and restorative justice that recognizes victims as its ultimate beneficiaries is largely due to the tireless efforts of civil society organizations at the Rome Conference in 1998. Victims can—through a Court or self-appointed legal representative—present their views and concerns during proceedings before the ICC.

The Rome Statute also established victims' rights to seek and receive reparations. Reparations are not limited to monetary compensation and can come in many forms. Reparations are decided by the Court's judges and administered by the Trust Fund for Victims (TFV).

The Trust Fund for Victims operates under the guidance of the TFV Board of Directors (TFV Board), whose decisions are implemented by the TFV Secretariat. The TFV has a two-fold mandate: (i) to implement Court-Ordered reparations (reparations mandate) and (ii) to provide physical, psychological, and material support to victims and their families (assistance mandate). Both mandates require voluntary contributions for adequate financing.

In July 2020, the TFV adopted a Strategic Plan for 2020/2021 that aims at achieving two strategic goals, impact and performance.

Reparations & Assistance mandates

The Trust Fund's reparations mandate is related to specific judicial proceedings and convictions before the Court that result in a conviction. Resources are collected through fines or forfeiture and awards for reparations and complemented with "other resources of the Trust Fund" if the TFV Board so determines. Assistance programs are not related to specific convictions.

Three cases before the Court are currently in the reparations implementation phase: *Al Mahdi* in Mali, *Lubanga* and *Katanga* in the Democratic Republic of Congo and *Ntaganda* case also in the DRC, following Mr. Bosco Ntaganda's conviction in July 2019. In partnership with the Court, the Trust Fund's task is now to ensure that the design of awards for reparations are responsive to the specific harms suffered by victims in each case as found by the respective Trial Chambers, and that, through their efficient and timely implementation, the promise of reparations can become a concrete and meaningful reality for victims, setting them on a path to healing and positive reintegration within their families and communities.

Assistance programs continue in Uganda, and the Fund has concluded the selection processes of partner organizations for the implementation of assistance programs in the Central African Republic (CAR), Côte d'Ivoire (CIV), and in the Democratic of the Congo (DRC). The TFV has also completed the assessment of harm-based needs for possible assistance programs in Georgia, Kenya, and Mali.

13. Universality of the Rome Statute

Worldwide ratification of the Rome Statute is necessary to achieve an international criminal justice system that eradicates the existence of any safe havens for individuals who commit the worst crimes known to humankind. The ICC is actively striving towards ending impunity by holding the perpetrators of the gravest international crimes accountable.

For the ICC to be truly successful, universal membership is an integral component. By joining the ICC, states can give the Court a global reach, thereby increasing victims' access to justice. Through membership, states can also

work to improve the efficiency and effectiveness of international justice; put forward candidates for election as ICC and ASP officials; and propose amendments to core ICC texts.

Equally important is the full and effective implementation of the complementarity and cooperation provisions of the Rome Statute in national legal frameworks. This enables states to have the necessary legal framework through which to pursue investigations and prosecutions of Rome Statute crimes at the national level. It also allows for more effective support and cooperation with the Court, particularly in areas such as execution of arrest warrants and surrender, and in permitting investigation and the collection of evidence in the territory of states where Rome Statute crimes are alleged to have been committed.

Implementation of the Rome Statute also enables a modernization of national legal systems as many of its provisions are progressive and forward-looking, for example on victims' participation and on sexual and gender-based violence.

At its fifth session in 2006, the Assembly of States Parties adopted the "*Plan of action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court*." The Plan of Action calls upon States Parties to proactively make use of the political, financial, and technical means at their disposal to promote the universality and full implementation of the Rome Statute, through bilateral, regional, and multilateral relationships. It also calls on the Secretariat of the ASP to support States in their efforts to promote universality and full implementation of the Statute by acting as a focal point for information exchange. The Plan also calls on States to annually provide the Secretariat of the ASP with information about actions they have undertaken to promote the ratification and full implementation of the Rome Statute.

Throughout 2020, efforts to promote universality and full implementation of the Rome Statute have been undertaken by the Court; by the President of the Assembly and the Secretariat; by the ad country focal points Netherlands and Korea; and by International Organizations.

The Court Principals have continued to call for the universal ratification of the Rome Statute of the ICC in formal meetings and other public statements, the Court has continued its public information activities, and the Registry has provided technical assistance on national legislative projects.

The ASP President, Mr. O-Gon Kwon, encouraged States to become parties to the Rome Statute and the APIC, and underlined the importance of national implementing legislation.

The focal points focused mainly on the coordination of the efforts of different stakeholders towards the promotion of universality and the implementation of the Rome Statute.

Part of the work of the Coalition for the ICC in 2020 included the promotion of activities related to the advancement of the universal ratification and implementation of the Rome Statute.

In September 2020, the CICC and some of its member organizations active in Ukraine [sent a letter](#) to Members of the Parliament of Ukraine, calling for the full alignment of Ukraine legislation with international criminal law and international humanitarian law. On 17 September 2020, Draft Law 2689 "On amendments to certain legislative acts on the Enforcement of International Criminal and Humanitarian Law" was approved in first reading with 271 votes in favor.

In the Americas region, the CICC and its member organizations active in Peru participated in meetings with the Peruvian Ministry of Justice to provide input on a draft bill to implement the Rome Statute in February 2020. The

CICC additionally organized two online workshops with Venezuelan civil society organizations, in May-June and October-November, to discuss a range of issues on international justice and the Preliminary Examination, including future prospects for implementation.

Recommendations on promoting universality in 2021 will be included in the *omnibus* resolution for adoption at ASP19.

Rome Statute recent withdrawals and accessions

ICC entered into force in the Republic of Kiribati, which became the 123rd ICC State Party. This follows Kiribati's deposit of the instrument of accession to the Rome Statute on 26 November 2019 by Kiribati's Permanent Representative to the United Nations (UN), H.E. Mr. Teburoro Tito.

The CICC [welcomed](#) Kiribati's accession to the Rome Statute as a key step forward towards universality of the Rome Statute, and further representation of Pacific states within the ASP.

14. Complementarity

Under the principle of complementarity, States Parties have a duty to investigate and prosecute all Rome Statute crimes that occur within their respective jurisdictions and should thus assume the primary role in the enforcement of the Rome Statute at the national level. In the event that a State Party is unable or unwilling to hold perpetrators of international crimes to account, the ICC will decide whether to investigate and prosecute—and thereby fill the impunity gap.

The ICC recognizes that a lack of either capacity or political will may be responsible for a failure to genuinely investigate and prosecute international crimes in national courts. Even then, the ICC only assumes responsibility for the prosecution of those most responsible, leaving national jurisdictions an important role to play in addressing additional, including lower level, offenders. Stronger domestic jurisdictions will contribute to the fight against impunity. As such, during the 16th ASP session in 2017, States Parties decided that in 2018 they would “*continue the dialogue with the Court and other stakeholders on complementarity, including on complementarity related capacity-building activities by the international community to assist national jurisdictions, on possible situation-specific completion strategies of the Court and the role of partnerships with national authorities and other actors in this regard, and also including to assist on issues such as witness protection and sexual and gender-based crimes*”.

On 24 January 2020, the Bureau re-appointed Australia and Romania as *ad country* co-focal points on complementarity to facilitate the discussions in The Hague, New York, and elsewhere.

Discussions on complementarity in 2020

While the principle of complementarity, as enshrined in the Rome Statute, deals with the ICC's role as a Court-of-last-resort after national jurisdictions prove unable or unwilling to investigate and prosecute core international crimes, “positive complementarity” more specifically refers to domestic capacity-building in regards to such investigations and prosecutions.

Consultations between States Parties, the Court, civil society, and other actors regarding complementarity have highlighted differences in their understanding of what complementarity means in practice for the Court, the ASP, and national systems – considering mandate limitations as well as challenges with funding, coordination, and political will.

The *ad country* co-focal points noted that the ASP's role in this regard is to continue to develop its efforts in facilitating the exchange of information between the Court, States Parties and other stakeholders aimed at strengthening domestic jurisdictions.

In 2020, a limited number of meetings on the issue of complementarity were held with relevant stakeholders, including States, all organs of the Court as well as with representatives of civil society and international organizations, as a consequence of the global pandemic.

Discussions carried out in the context of the Hague Working Group facilitation on complementarity in 2020 focused on complementarity and the relationship between national jurisdictions and the Court. A stock-taking exercise 10 years after the Kampala Review Conference was suggested, but some states also stressed the need to coordinate with the IER recommendations.

On 5 November 2020, together with Women's Initiatives for Gender Justice and other civil society organizations, the Complementarity facilitation organized a discussion on how to support the Court in achieving accountability for sexual and gender-based crimes.

15. The Court's 2021 Budget

To fund most of the Court's activities and Major Programs, States Parties to the Rome Statute must each pay a yearly contribution that is proportionate to their gross national incomes.

The ICC Registrar coordinates the drafting of the Court's overall budget request during the year leading up to the autumn session of the ASP's Committee on Budget and Finance (CBF), which then makes recommendations on the proposed budget for the ASP to consider during its annual session.

During 2020, States Parties considered budgetary matters within the ASP Bureau's Working Group on the Budget, facilitated by Ambassador Marlène Bonnici (Malta). A sub-facilitation on Budget Management and Oversight led by Ambassador Annika Markovic (Sweden) continued, as did discussions on the ICC premises under Ms. Marija Stajic-Radivojsa (Serbia).

While the Coalition does not take a position on the specific amount of resources to allocate to the ICC in any given year, it urges States to treat the CBF review and recommendations as the bare minimum approach in their 2021 budget discussions during ASP19.

States Parties should oppose arbitrarily limiting the Court's 2021 budget, which would undermine the ability of the ICC to deliver fair, effective, and efficient justice. A lack of resources is a severe impediment to the optimal functioning of the Court.

2021 Court Budget Proposal

The ASP will consider the following figures at their annual session this year:

Proposed 2021 ICC budget: €144.92 million

[A decrease of €0.7 million (0.5%) against the total approved budget for 2020]

Host State loan 2019 interest and installments: €3.59 million

Total ICC budget request: €148.5 million

The figures are reflected in the ICC 2021 Proposed Program Budget (PPB). For 2021, the ICC is requesting a budget that remains at a comparable level to the one approved by the ASP for 2020 during its 18th session in 2019.¹⁷

The Court noted that there were budget increases on specific items due to (i) recent adjustments to the United Nations Common System (“UNCS”);¹⁸ (ii) the need to implement capital replacements for the maintenance of the Court’s premises; (iii) requirements for judicial activities in relation to two trial proceedings and one new case at the pre-trial stage, which were not budgeted for in 2020. They further noted that they compensated for those increases through Court-wide measures to reduce costs, ensure organizational resilience and enhance the flexibility and scalability of the Court’s structures and operations.

The level of the Court’s proposed budget for 2021 reflects a commitment from the Court to demonstrate sensitivity to the economic pressures faced by the States Parties and the international community due to the Covid19 pandemic, balanced with the need for the Court to continue to conduct essential operations and discharge its significant mandate.

The 2021 PPB proposes a nominal budget increase only in relation to the Office of the Prosecutor, the Independent Oversight Mechanism, and the Office of Internal Audit. The remaining major programs either presented a decrease, or presented a budget at the same level as in 2020. The Secretariat of the Assembly of States Parties presented a net decrease.

The 2021 PPB highlights how a zero nominal growth policy has a negative impact on the Court’s ability to realize its mandate. The PPB explains that while some of the organs have followed a “flexible approach to resource allocation”, the Court needs additional resources to effectively conduct its activities.

The Coalition consistently calls for the Court and the CBF to support an efficient, needs-based ICC budget that allows the Court to execute its mandate effectively.

Particularly in the context of current discussions aimed at reviewing and strengthening the Court and the Rome Statute system, it is necessary that sufficient resources are allocated for the Court to fulfil its mandate effectively and independently.

Committee on Budget and Finance recommendations

To prepare its final recommendations to the ASP, the CBF—a technical expert body of the ASP tasked with evaluating and making recommendations on the unique budgetary needs of the ICC—considers various prosecutorial, judicial, and organizational requirements, as well as the Court’s obligations to defendants and victims, during its bi-annual meetings. After assessing the Court’s 2021 budget proposal, the CBF recommended the following figures for the ASP to consider at their 19th session (*excluding Host State Loan*):

CBF recommended 2021 ICC budget: **€ 144.7 million** (Excluding State loan)

Recommended reduction to Court’s 2021 budget request: € 0,2 million

Recommended increase to approved 2020 ICC budget: €0,9 million (0.7%)

The CBFs resulting recommendations for funding the Court’s Major Programs in 2020 were as follows:

¹⁷ Proposed Program Budget 2021- Executive Summary, Para 2.

¹⁸ According to the PPB, the UNCS revised and increased the salaries for professional posts by around 1.8 per cent.

- Major Program I – Judiciary: €11,8 million (*a decrease of 2.7% from the Approved 2020 Program Budget (APB)*);
- Major Program II – Office of the Prosecutor: €47.3 million (*a decrease of 0.1 % from the 2020 APB*);
- Major Program III – Registry: €75.8 million (*a decrease of 0.2 % from the 2020 APB*);
- Major Program IV – Secretariat of the ASP: €2.8 million (*a decrease of 14,5% from the 2020 APB*)
- Major Program V – Premises: €2.3million (*an increase of 0% from the 2020 APB*)
- Major Program VI – Secretariat of the Trust Fund for Victims: €3.2 million (*a decrease of 0.8% from the 2020 APB*).
- Major Program VII-5 – Independent Oversight Mechanism: €739.5 thousand (*an increase of 4.9% from the 2020 APB*).
- Major Program VII-6 – Office of Internal Audit: €752.7 thousand (*an increase of 4.4% from the 2020 APB*).

Major Program	Approved 2020 budget (thousands of euros)	Proposed 2021 budget (thousands of euros)	CBF recommended 2021 budget (thousands of euros)
I: Judiciary	12,081.5.	11,781.8	11,756.3
II: OTP	47,383.4	47,388.6	47,334.8
III: Registry	76,147.6	75,917.7	75,784.0
IV: ASP Secretariat	2,837.0841	2,837.0	2,837.0
V: Premises	2,775.0	2,270.0	2,270.0
VI: TFV Secretariat	3,226.1	3,226.1	3,199.6
VII - 5: IOM	551.9	739.5	739.5
VII - 6: OIA	621.2	756.5	752.7
Subtotal	145,493.0	144,917.2	144,673.9
VII - 2: Host State Loan	3,585.1	3,585.1	3,585.1
Total Court	149,308.8	148,502.3	148,259.0

States Parties in arrears

When States Parties are in arrears, or have not yet paid their assessed contributions, the Court cannot access the entirety of the budget allocated to it by the ASP. The ASP discusses this issue in a dedicated New York Working Group facilitation, currently led by Ambassador Andrés Terán Parral (Ecuador).

The CBF noted that as of 31 August 2020 a total of €42.5 million of contributions were outstanding.

According to RS Article 112(8), “a State Party which is in arrears in the payment of its financial contributions toward the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years.” According to the CBF,¹⁹ at 15 September 2020, 11 States Parties were in arrears and would not be able to vote in accordance with article 112, paragraph 8 of the Rome Statute.

The Committee expressed concern with regards to the trend of increasing arrears in recent years, as it results in a considerable liquidity shortfall.

¹⁹ Report of the CBF on the work of its 35 session, https://asp.icc-cpi.int/iccdocs/asp_docs/ASP19/ICC-ASP-19-15-ENG-CBF-35-report.pdf.

16. UN - ICC Relationship

The UN Security Council and the ICC

The UN Security Council (UNSC) has the power to refer situations to the ICC that represent a threat to international peace and security for the purposes of investigation and possibly prosecution, irrespective of whether the state in question is party to the Rome Statute. To date, the UNSC has referred the situations in Darfur, Sudan (2005) and Libya (2011) to the Court. In order to keep the UNSC abreast of the situations it refers, the Prosecutor briefs the Council on the status of both referral cases periodically throughout the year.

The UNSC also has the power to defer ICC investigations for up to one year at a time if it believes a deferral is in the interest of international peace and security, pursuant to article 16 of the Rome Statute.

Article 3 of the Relationship Agreement between the International Criminal Court and the United Nations establishes a reciprocal obligation of cooperation between the bodies. However, to the detriment of international justice, the UNSC has consistently failed to provide the requisite cooperation or financial support to ensure effective ICC investigations and prosecutions arising from its referrals. Certain provisions in UNSC referrals have further undermined the ICC's ability to serve impartial justice, such as the explicit exclusion of nationals of non-States Parties from the Court's jurisdiction.

The ICC cannot investigate suspected Rome Statute crimes situations involving non-States Parties in the absence of a UNSC referral or a self-referral by those States. This is an increasingly pressing issue in light of the well-documented crimes occurring in many places around the world where the ICC does not have jurisdiction.

The five permanent members of the UNSC—China, France, Russia, the United Kingdom, and the United States—have the power to veto any resolution that comes before them. In May 2014, despite the support of over 60 UN Member States and hundreds of civil society groups, Russia and China vetoed a resolution to refer widespread atrocities in Syria to the ICC—the first time a referral resolution had failed. This political selectivity towards accountability on the part of UNSC members results in uneven access to justice for victims of grave crimes worldwide, and undermines the credibility of both the Council and ICC.

To address this incoherence, two separate initiatives have been proposed aiming to restrain UNSC members' use of the veto when dealing with situations of genocide, war crimes, or crimes against humanity:

The ACT (Accountability, Coherence, Transparency) Group established a Code of Conduct²⁰ in 2015, in which states pledge to support action in the UNSC with the goal of preventing or ending the commission of genocide, crimes against humanity and war crimes, including supporting credible draft resolutions and calling on the Secretary General to continue to use the full expertise and early-warning capacities of the UN system. As of June 2020, 122 states have signed on to the initiative, including two permanent members, France and the UK. The Code is not restricted to elected or permanent members of the Council, and instead calls on all UN Member States to uphold the principles of the UN Charter by supporting the work of the UNSC to maintain international peace and security.

Similarly, the France-Mexico initiative calls on the permanent five members of the Council to voluntarily refrain from using the veto in situations of mass atrocity.²¹

²⁰ List of supporters of the Code of Conduct regarding Security Council action against genocide, crimes against humanity or war crimes, https://www.regierung.li/media/medienarchiv/2020-6-9_CoC_List_of_supporters.pdf

<http://www.centerforunreform.org/sites/default/files/Final%202015-09-01%20SC%20Code%20of%20Conduct%20Atrocity.pdf>

²¹ <https://www.diplomatie.gouv.fr/en/french-foreign-policy/united-nations/france-and-the-united-nations/france-and-the-united-nations-security-council/article/why-france-wishes-to-regulate-use>

While the Coalition as a whole does not take positions on the referral of specific situations to the Court, it calls on the five permanent members of the UNSC to refrain from using the veto when dealing with mass atrocities and to:

- Back up ICC referrals with effective cooperation, such as by arresting suspects;
- Encourage funding of ICC referrals through the UN system;
- Not exclude any (group of) nationals of non-States Parties from the Court's jurisdiction in referrals; and
- Engage in constructive dialogue with the Court.

The UN General Assembly and the ICC

Each year, the Court reports on its activities to the UN General Assembly (UNGA), with the resident of the Court presenting the report to UN Member States in a plenary session. The UNGA drafts a resolution welcoming the report and its contents, and takes note of the ongoing relationship between the UN and the ICC, often with the support needed to adopt the resolution by consensus. Many states use the opportunity presented by this plenary session to reiterate their support for the Court, and highlight the need for continued and effective cooperation between the ICC and the organs of the UN.

As the Court faces ongoing threats, further emboldening its opponents, the 2020 UNGA plenary session on the ICC, on 2 November, provided a unique forum for States Parties to articulate their robust support for the Court in an open and public format.

The UNGA resolution on the Report of the ICC,²² a technical update from the previous year, was adopted by consensus with over 70 states co-sponsoring the resolution, and just few states disassociating from consensus including Israel, Myanmar, the Philippines, Russia, and the United States.

17. Amendments

The ICC's legal texts, such as the Rome Statute, the Rules of Procedure and Evidence, and the Regulations of the Court, may be subject to amendments. Amendments are a vital part of the Rome Statute and legal codes and rules more generally, allowing documents to remain relevant in changing times and contexts.

For the Rome Statute, any State Party may propose an amendment. The proposed amendment can be adopted by a two-thirds majority vote in either a session of the Assembly of States Parties or at a review conference. An amendment comes into force for all States Parties one year after it is ratified by seven-eighths of the States Parties. A different procedure is in place for amendments to the Articles dealing with the core crimes of the Rome Statute.

At its 18th session in 2019, the ASP adopted an amendment to Art 8 of the Rome Statute proposed by Switzerland, which criminalizes starvation as war crime also in non-international armed conflicts, while it was already considered a crime in international armed conflicts.

Working Group on Amendments in 2020

The ASP's Working Group on Amendments (WGA), chaired by Ambassador Juan Sandoval Mendiolea (Mexico) and meeting in New York, aims to achieve greater clarity on both the substantive views of the amendment proposals at hand and on the procedure to be followed in dealing with amendment proposals. It also prepares to

²² Resolution adopted by the General Assembly on 2 November 2020 A/RES/75/3, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/296/54/PDF/N2029654.pdf?OpenElement>

inform the ASP in considering the amendments during its annual session. Sessions of the WGA are closed to civil society and observer states unless otherwise indicated. Nonetheless, the Chair of the group gives regular updates to the NYWG on the progress of discussions.

The work of the WGA in 2020 considered the amendment proposals previously submitted to it by the Assembly, including:

- Increasing the number of ratifications to the amendments to Article 8, as well as to continue the discussion on amendment to Art 8 regarding the use of antipersonnel mines. Belgium requested to keep the proposal on the table for discussion;
- Several years ago, Mexico submitted a proposal to the WGA on criminalizing the use of nuclear weapons in the Rome Statute. As was the case in recent years, discussions on this issue were on the table, but postponed.
- No further updates on the amendments proposed by Trinidad and Tobago, South Africa, and Kenya.

The WGA Chair discussed with the Co-Chairs of the SGG the issue of the Procedure for amending Rules of Procedure and Evidence, and decided to remain engaged in the discussions.

18. The Omnibus Resolution

At each of its sessions since 2003, the Assembly of States Parties has adopted an omnibus resolution, formally entitled, “Strengthening the International Criminal Court and the Assembly of States Parties.” The omnibus resolution addresses a wide range of substantive, practical, and policy issues in relation to the Court, the ASP, and other stakeholders.

The ASP will adopt an updated version of the omnibus resolution this year, following consultations in the NYWG chaired by facilitator Mr. Vincent Rittener (Switzerland). The facilitations in NYWG and HWG also inform the text of the omnibus, with reports from the various facilitations containing suggested language for inclusion in the resolution. Given the lower lever of activities carried out in 2020, the Omnibus facilitator has suggested a technical rollover from the previous year, streamlining the information to add.

Omnibus topics and related facilitations and focal points

A number of other topics will be addressed in the 2020 omnibus resolution. The below list of topics indicates those that have already been discussed in ASP Bureau facilitations in the lead-up to the 19th ASP session. The Omnibus resolution will include the date of the next ASP session as well as the mandates of the ASP Bureau for 2020. The Bureau will then meet at the beginning of next year to appoint the facilitators and focal points for the approved topics.

- **Universality and full implementation of the Rome Statute**
 - *Ad country co-focal points: The Netherlands and the Republic of Korea*
- **Agreement on Privileges and Immunities of the ICC (APIC)**
- **Cooperation**
 - *Co-facilitation (HWG): Ambassador Luis Vassy (France) and Ambassador Momar Gueye (Senegal)*
- **Host State**
- **Relationship with the United Nations**
- **Relationships with other international organizations and bodies**
- **Activities of the Court**

- **Elections (*Review of the procedure for the nomination and election of judges*)**
 - *Facilitation: Mr Luke Roughton (New Zealand) & Maria Beretta (Uruguay)*
- **Secretariat of the Assembly of States Parties**
- **Counsel**
- **Legal Aid**
- **Study Group on Governance (SGG)**
 - *Co-facilitation (HWG): Ambassador María Teresa Infante Caffi (Chile) and Ambassador Heinz Walker Nederkorn (Switzerland)*
- **Focal Points:**
 - *Mr Reinhard Hassenpflug (Germany), Ms Edith Ngungu (Kenya) and Ms Laura Victoria Sanchez (Colombia).*
- **Proceedings of the Court**
- **Working Methods Review**
- **Victims and Affected Communities, Reparations and Trust Fund for Victims**
- **Recruitment of Staff (*Geographical Representation and Gender Balance of Staff at the Court*)**
 - *Facilitation (NYWG): Ms Kristina Pelkiö (Czech Republic)*
- **Complementarity**
 - *Ad country co-focal points (HWG): Mr Jarrod Jolly (Australia) and Ms Raluca Karassi-Rădulescu (Romania)*
- **Independent Oversight Mechanism**
- **Programme Budget**
 - *Facilitation: Ambassador Marlene Bonnici (Malta)*
- **Review Conference**
- **Consideration of Amendments (*Working Group on Amendments*)**
 - *Facilitation (NYWG): Ambassador Juan Sandoval Mendolea (Mexico)*
- **Participation in the Assembly of States Parties**

19. Acronyms and Key Terms

ACN	Advisory Committee on the Nomination of Judges
APB	Approved Program Budget
ASP	Assembly of States Parties
ASP19	The 2020 session of the ASP
AU	African Union
BoD	Board of Directors
ASP Bureau	The President, Vice-Presidents, and Rapporteur, along with 18 States Parties
CBF	Committee on Budget and Finance
CICC/Coalition	Coalition for the International Criminal Court
CSS	Counsel Support Section
DJS	Division of Judicial Services
EU	European Union
GRULAC	Latin America and Caribbean Group
HWG/THWG	The ASP Bureau's Hague Working Group
IAC	International armed conflict
IOM	Independent Oversight Mechanism
MENA	Middle East and North Africa Region
NIAC	Non-international armed conflict
NGO	Non-Governmental Organization
NYWG	New York Working Group
OAS	Organization of American States
OP	Operative Paragraphs of a Resolution
OTP	Office of the Prosecutor
Omnibus	An ASP resolution formally entitled, " <i>Strengthening the International Criminal Court and the Assembly of States Parties</i> "
PE	Preliminary Examination

PP	Preambular Paragraphs of a Resolution
Plenary	General discussions at the ASP with all States Parties attending
ICC Presidency	President: Judge Chile Eboe-Osuji (Nigeria); First Vice-President: Judge Robert Fremr (Czech Republic); Second Vice-President: Judge Marc Perrin de Brichambaut (France)
RPE	Rules of Procedure and Evidence
SASP	Secretariat of the ASP
SGD	Sustainable Development Goals
Statute/RS	Rome Statute, founding document of the ICC and the legislation that states must ratify to become members of the ASP and to the ICC
SGBV/SGBC	Sexual and Gender-Based Violence/ Sexual and Gender-Based Crimes
SGG/Study Group	Study Group on Governance
TFV	Trust Fund for Victims
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
VWU	Victims and Witnesses Unit (of the ICC's Registry)



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