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Tenth Plenary Meeting: Discussions on the Efficiency and Effectiveness of Court Proceedings | Strategic vision of the Office of the Prosecutor on achieving efficiency and effectiveness

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Check against delivery

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Esteemed Ambassadors,
Madam President,
Excellencies,
Ladies and Gentlemen,

Increasing efficiency and effectiveness, as well as consistent quality output, have been key priorities for me since I assumed Office as Prosecutor, and correspondingly, key objectives entrenched in my Office's new Strategic Plans.

Let me also say from the outset that I welcome and congratulate the commendable efforts of President Fernández, as well as the Registrar, to enhance the efficiency and effectiveness of proceedings and Court operations within their respective mandates.

What's more, I also wish to publically acknowledge and thank my colleagues, the other Principals of the Court, for the cooperative spirit and team work with which they have assumed their respective mandates and inter-organ collaboration. This productive dynamic is, in and of itself, a great asset, conducive to the effective and efficient management of the organisation. We all are committed to taking the Court to the next level, and notable efforts have already been taken and are being taken towards this aim.

In our interdependent Court, collective efforts bear full fruit when all the organs and parties to the proceedings find ways to discharge their respective mandates more efficiently and effectively. This is and should be an ongoing commitment.

In the time allotted, I wish to highlight the efforts that my Office has been undertaking in order to contribute to this shared goal.

Before I enter into the details, an important question needs to be asked and answered: why is it that we need to be more effective and efficient?

My answer, which I hope is commonly shared, is that we need to adequately respond to the ever-growing need for accountability for atrocity crimes, and to bring timely and meaningful redress to victims and affected communities in accordance with the Rome Statute. The responsibilities placed on the Court are great; in short, there is no room for error or deficiencies. We must consistently perform, and perform well.

Without these efforts, my Office and the Court simply will not be able to meet that demand in a manner that also creates credibility and trust in the ICC and in the Rome Statute system as a whole.

As you know, in accordance with its mandate, my Office has been extremely busy this past year, engaging in a high level of activities. I am proud of my team and the great efforts we have been exerting to fulfil our mandate.

I have mentioned many of these activities in my previous interventions during this Assembly.

To quickly recap: we have been conducting preliminary examinations in nine situations, one of which resulted in my recent request to the Court's judges seeking authorisation to open investigations in Georgia. We closed our preliminary examinations in Honduras.

While we opened one new preliminary examination regarding the situation in Palestine and expanded the scope of our preliminary examination of the situation in Ukraine, we closed the two preliminary examinations I just mentioned.

Our preliminary examination activities this year have shown results.

Other preliminary examination dossiers are close to finalisation, and being prepared for my ultimate decision making.

Every situation we examine is unique, however, and no set timelines are possible, given the various contexts, the amount of information to be analysed, and considerations of complementarity.

We are currently conducting a number of active investigations.

In the situation affecting Central African Republic, we are investigating crimes allegedly committed by both sides in the conflict.

In Côte d'Ivoire, we have done what we could with the limited resources available and have begun investigation of crimes allegedly committed by anti-Gbagbo forces.

Our investigations in Mali have resulted in the arrest of a suspect, Al Mahdi, whose matter will go for a confirmation of charges hearing early next year. This is a historically important case at the ICC; indeed, the first dealing with the deliberate destruction of protected property under the Rome Statute.

Investigations also continue in Uganda to prepare the case of Dominic Ongwen for the confirmation of charges hearing.

In addition, even in situations such as Libya and Darfur where arrests have not taken place, we conduct opportunistic necessary investigative activities to follow up new and important leads or just to manage witnesses, preserve evidence, and deal with filings. With more resources, we could do more. With budget cuts, we simply cannot respond to the great need, say in Libya, for additional investigations.

We have four trials that are active or about to start: Bosco Ntaganda; Bemba Article 70; Ruto & Sang; and Gbagbo & Blé Goudé.

Ongwen will be the fifth trial, if charges are confirmed with Al Mahdi pending confirmation of charges as a possible sixth trial, depending on how the case develops.

Further, there is the distinct possibility of a sentencing hearing in the Bemba main case, if the pending trial judgment is a conviction.

We also have a very busy appellate practice, where we enjoy a success rate of more than 90% in stopping interlocutory appeals or achieving positive outcomes.

Resolving complex legal questions through appeals is an important way to ensure efficiencies for future trials.

Three cases have now completed the full judicial cycle, namely, Lubanga, Katanga, and Ngudjolo. The first two have progressed now to the reparations phase for victims.

Excellencies,

The OTP strategy we have implemented over the past three years has involved a number of changes.

We have, for example, shifted from the “focused” investigative approach of previous years to “open-ended, in-depth investigations.”

Where appropriate, we also “build upwards,” investigating the alleged crimes of lower level perpetrators where it is difficult to establish the culpability of those most responsible for the most serious crimes.

We also endeavour to be as trial-ready as early as possible, and in any case not later than the confirmation of charges hearing.

These new approaches promise greater speed and efficiency in the eventual proceedings before the Court, since well-founded cases that are cogently presented help the Chambers to conduct proceedings that are efficient and fair.

By applying our new investigative and prosecutorial strategies and by efficiently using the resources provided to us, we are seeing positive results.

We need States Parties to stay the course with us, to provide us with the resources and support that we need in order to capitalise on the achievements we have made thus far.

Demand keeps growing. We are required to do more, and *will* do more as our mandate so requires.

My Office also implemented organisational changes that were necessary to improve our performance.

For example, I have strengthened my overall management oversight of the Office as well as that of the Executive Committee, and modified the three operational Divisions’ reporting lines.

Senior Trial Lawyers are now in charge of the integrated teams, which have members from all divisions: Prosecution, Investigations, and Cooperation.

Improvements were also made to the processes and capabilities of each Division.

For instance, in the Investigations Division, this includes increased ability to collect cyber and forensic evidence, and longer term or permanent field presence of investigators.

The central aim of all these efforts is to improve the Office's prosecutorial results, which in fact reflect the effectiveness and quality of our investigations and prosecutions.

If we compare the strategy that was followed from 2003 until June 2012 with the strategy from June 2012 until now, we see a performance increase of 23.3% in the confirmation of charges.

We see an even bigger increase when we compare the number of accused persons against whom charges were confirmed in those same periods.

Those figures show a performance increase of 28.6%. These figures are explained in detail in the annex to my Office's Strategic Plan 2016-2018.

Apart from the tremendous investment we have made to complete quality investigations, I believe that the positive outcomes are also due to the policy of systematic case review that we now apply in all of our situations.

We subject our cases – respecting both the evidence and the legal theories – to rigorous internal critical review.

We hope that we will achieve positive outcomes in the trial proceedings, just as we have done in the confirmation proceedings.

Having analysed these initial positive results, as well as the lessons learned in implementing the 2012-2015 Strategic Plan, my strategy for the next three years is largely based on this same approach.

We managed to achieve these results by focusing on the quality of our work, rather than trying to meet all the demands on the Office.

The Office is nevertheless effectively stretching its resources to the breaking point, with staff members simultaneously involved in multiple investigations and cases.

We have also suffered from our inability to open investigations as quickly as we would have wanted, due to pressure on resources.

This has significant risks: in Côte d'Ivoire, for instance, our inability to investigate both sides to the conflict simultaneously due to financial constraints has been misinterpreted and translated into erroneous perceptions of bias.

The ICC and the international criminal justice project as a whole suffer from such misperceptions.

I sincerely hope that States Parties recognise this risk and support our resource requirements to achieve the necessary quality and depth.

We have done our utmost in fully describing the resource requirements needed for sufficient quality operations in our Basic Size document.

In the Basic Size document, we have explained in a transparent manner what resources my Office needs in order to fulfil its mandate on the basis of reasonable and workable priorities.

We have also attempted to provide States with better predictability respecting our budgetary needs.

We are working with the other organs of the Court to present the budgetary implications of the Basic Size for the whole Court, with a view to reporting to the CBF in April 2016.

There are many other efficiency gains my Office has realised in the past year.

These have been reported in the Annex to my most recent Strategic Plan 2016-2018.

With your indulgence, I will just highlight here some examples:

- We have made actual savings from our efficiency gains in the past years. The exact figures are in our latest Strategic Plan;
- We outsource transcription of documents, where possible;
- For longer-term field missions, we use residential accommodation instead of hotels;
- We have made improvements in the submission of mission plans to ensure more advantageous travel rates;
- We have streamlined our witness management system;
- We increasingly use video conference instead of face-to face staff recruitment interviews;
- We have reduced training costs by using an in-house and train-the trainer approaches;
- We are creating a permanent task force on efficiency gains, which will only build on our existing efforts.

Excellencies,

The President has already mentioned the Court-wide process of developing performance indicators.

At my Office, in 2015, we have already developed a start-up set of 14 organ-specific performance indicators, which we will be measuring as of next year.

These relate to strategic effectiveness, that is, prosecutorial results such as those I mentioned earlier, but also to operational excellence, respecting the quality, efficiency, and productivity of our preliminary examinations, investigations, and prosecutions.

We will also measure our management excellence, through gauging performance in human resources, financial management, and risk management.

Here I wish to highlight a key strategic objective of immense importance to me, which is to maintain at all times a professional and ethical office with specific attention to gender and geographical balance, staff merit, quality and motivation, and performance measurement and management.

I strongly believe that staff motivation and well-being are key to achieving efficient operations.

In this regard, strong and clear HR policies, such as on performance management, reclassification of posts, medical support in the field, burn-out prevention, or prevention of secondary traumatisation will enable us to address some long-standing issues in an efficient and structured manner.

I hope to count on the Assembly's support in this regard.

We will also need to consider various external critical success factors. These include cooperation, security, and resources. I have already mentioned the impact of stretched resources.

Cooperation, or the lack of it, affects my Office's performance in many ways.

For instance, it has an impact on the speed of proceedings depending on how swiftly our requests for assistance are fulfilled, including the execution of arrest warrants. I have already mentioned during this session of the Assembly that cooperation also involves adherence to the Office's prosecutorial independence.

In inter-organ discussions on the development of Court-wide performance indicators, a point was made to develop performance indicators to cover the *full* Rome Statute system, including States Parties' role in ensuring the efficiency of Court operations.

I think this is an important suggestion.

As the Court makes progress in improving and measuring performance in the internal areas of activity over which it has a degree of control, an assessment of external factors, over which we have little control and their impact upon our performance, will also be important.

Finally, security considerations also affect the efficiency and effectiveness of my Office's activities. This comprises the physical security of both staff and witnesses and victims who interact with us.

Given the increasingly challenging environments in which the Court operates, we need to be ready to deal with newly emerging threats respecting information security and the very security of our premises.

Let me conclude by mentioning the important issue of synergies.

This is something we have been implementing for years, and will continue to do so, both within the Office and Court-wide. We will continue to actively seek opportunities for efficiently achieving common objectives.

I believe that the individual efficiency efforts of each organ have put us in a better position to continue identifying further areas where efficiency can be increased through synergies.

I am looking forward to the recommendations from the inter-organ working group, which has been assigned to identify such areas and recommend action.

Excellencies, ladies and gentlemen,

I hope my presentation has provided you with an overview of the good faith and committed efforts already undertaken by my Office to achieve efficiencies.

My Office remains committed to continuing to invest in finding further efficiencies in our operations.

When closely examined, this venerable body will in fact note that we find ourselves in a period where the Court's Principals and their respective organs have – with utmost commitment and vision – undertaken great efforts to enhance the effectiveness and efficiencies of the Court's proceedings and operations.

I hope we can count on the support of the Assembly as we continue this important work, and I look forward to further exchanges on this issue. Thank you for your attention. |

OTP