

INDEPENDENT EXPERT REVIEW: CATEGORIZATION OF RECOMMENDATIONS AND REMAINING ISSUES
Prepared by the Review Mechanism

Sections	Cluster (Sub)-Section	Assembly	Assembly & Court	Court	Comments
CWM	I. GOVERNANCE				
	A. Unified Governance				
	<p>1. Structure of the Court: (1) ICC/Court Governance, (2) ICC/IO Governance</p> <p>2. Decision-Making Process and Internal Legal Framework</p> <p>3. Content of Internal Legal framework</p> <p>4. Working Culture at the Court</p>		<p>ASP and Court; though Court is just through the office of the Prosecutor</p> <p>ASP and Court</p>		<p>I agree with the findings that show bureaucratic and administrative convolutions amongst the 3 organisational structures that have impacted on efficiency and speed. However I wonder if R4 and R6 that spell out the recommended changes, could also go one step further to spell out clearly the roles, responsibilities between the Prosecutor and the Registrar so that there would be a certain level of governance and accountability. It is deeply acknowledged that the work of the ICC is supremely challenging.</p> <p>Value the R14 and R 15 as these ought to address the findings of para 62 and 63. The right to reply and share perspectives by current actors in the Court is crucial to enhancing R14 and R15</p>
B. Chambers Governance (Working Environment and Culture, Structure, Management and Organisation)					
	<p>1. Working Environment and Culture, 2. Chambers Structure and Organisation (1) Static and Dynamic Case Teams Led by référendaires (2) Specialised Pre-trial Team (3) Transferability of Case Teams (4) Role of Presiding Judges (5) Legal Staff Support to Judges, 3. Managment in Chambers (1) Head of Chmabers Staff (2) Legal Advisers to Divisions (3) Quality of Legal Support Staff and Professional Development (4) Administrative Assistants</p>		<p>ASP & Court - Clairty on delineation of roles, responsibilities and direct influence on the state of well-being of persons as well as on procedures and processes</p>		<p>It is rather unfortunate the levels of stresses there have been in a very important structure that also impacted the Court. The findings in particular reference to para 82, 94 and 103 show deviation in roles of judges into taking on administrative and mentoring of cases and lawyers. Recommendations are clear in spelling out the point, I have raised under A.1 in that roles and responsibilities need to be clearly spelt out and also in terms of governance and accountability.</p>
C. OTP Governance					
	<p>1. The OTP Structure, 2. The OTP Regulatory Framework (1) Current OTP Regulatory Framework (2) Areas Not Addressed Under the Current Framework</p> <p>3. OTP Management and Leadership Structures (1) Prosecutor and Deputy Prosecutor - <i>Roles of Prosecutor and Deputy Prosecutor, Issue of two Deputy Prosecutors</i></p> <p>3. (2) Executive Committee (ExCom)</p> <p>3. (3) Immediate Office of the Prosecutor (IOP) - <i>Chef de Cabinet, Public Information Unit (PIU)</i></p> <p>3. (4) Integrated Teams</p> <p>4. OTP Staffing (1) Staff Qualifications</p> <p>4. (2) Quantity of Staff</p>		<p>OTP Governance - ASP and Courts - output and outcome focus. Dotted lines connection and integration with Courts as ASP enables the Court</p> <p>as above</p> <p>as above</p> <p>as above</p> <p>as above</p>		<p>Agree with R 38, 39 and 46. I wonder if R 46 is a tough call to make for keeps (It is just a thought).</p> <p>R 47 is key - both for internal and external communications. Knowledge management internally and externally is a dedication. This is crucial in the light of privacy, multi-mediums and instant access to information, disinformations and misinformation. Hence alignment into revised organisational structure, strategy and governance becomes even more important.</p> <p>R 52 needs to be tied in with R 47 on role and responsibilities of the PIU</p> <p>PIU is key. Agree with R 53 to 56. However, to be under the Chief Prosecutor is important. Hence hope chiefs have to be of stellar quality as the field is sensitive and yet many want information on the access to justice. Specialised task for PIU and bearing in mind findings of Para 166 etc</p> <p>Would be good to remember qualifications for PIU lead, a key stakeholder and bridge-building role</p>

D. Registry Governance	
1. Election of the Registrar and Deputy Registrar 2. Various Sections of the Registry 3. Field offices	Assembly
	R 83 is good. But perhaps this could also be constructed on a progressive timeline for field officers to be skilled in languages as well as for local populations who are qualified to become documenters.

II. HUMAN RESOURCES	
A. General; B. Working Environment and Culture, Staff Engagement, Staff Welfare; C. Bullying and Harassment;	
	ASP & Courts
	The findings in para 209-212 are distressing. R87 and R88 are good but they do not go far enough to address predatory behaviours, bully and sexual harrassment. There is a need to have an internal accountability mechanisms as there is within the UN. In addition for anyone working in ICC (Courts and IO) the work has its own stresses and trauma. There ought to be such provisions within the human resource practice for staff, field officers etc to gain access. Perhaps this is already provided currently, but it would be good to assess levels of adequacy.

D. Management of Human Resources	

E. Adequacy of Human Resources - Recruitment; F. Short-Term Appointments, Local Recruitment	

G. Performance Appraisal	

H. Staff Training and Development	
	Courts and ASP
	What are the levels of training available and appraising them. The findings do not clearly spell this part out. So it is hard to assess.

I. Multilingualism	

J. Flexibility, Scalability and Mobility in Staffing	
1. Internal Mobility 2. External Mobility 3. Secondments 4. Tenure	Courts
	R105 is core and needs further deliberation. It is beyond solution-providing as core strength of the ICC is dedicated and experienced staff. How to strike a balance and also offer scope to other officers need more thinking. It needs to avoid what has happened in some key academic institutions.

III. ETHICS AND PREVENTION OF CONFLICTS OF INTEREST	
A. Ethics Framework	

Court staff and/or officials, Individuals affiliated with the Court	
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B. Prevention of Conflict of Interest	

IV. INTERNAL GRIEVANCE PROCEDURES	
A. General; B. Accountability of Judges	

1. Disciplinary Mechanisms and Complaints 2. Disciplinary Standards 3. A Readjusted Disciplinary Arrangement 4. Judicial Council of the Court	R124, R125 ASP and Courts
	Crucial to be a bastion. Agree with R115, 118, 119, 131. This part ties up well with comments I have made under the discussion on harrassment and bullying etc (see above)

V. BUDGET PROCESS	
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A. Court Budget Process, B. Committee on Budget and Finance (CBF) C. Enhancing Trialogue D. Assembly of States Parties E. Miscellaneous	
ASP and Courts	R 135 seemingly seems to be a good approach as long as findings are thorough.
VI. PERFORMANCE INDICATORS AND STRATEGIC PLANNING	
A. Efficiency B. Effectiveness	
ASP and Courts - outcome and PIU focus. Therefore dotted lines for knowledge and information channels	Para 354 has mentioned the importance of qualitative findings. R 144 needs to qualify the KPIs in relation to qualitative reports. This is crucial as documenting the tactic sexual violence against women, girls and boys, with witnessing of the acts of degradation cannot be quantified. Yet they are crucial. Women, Peace and Security have moved into defining these areas more clearly and under the discussion of Training - these also become crucial intersectionalities that are core to the prosecution office.
VII. EXTERNAL RELATIONS	
A. Relations with the United Nations B. Role of the Court's New York Liason Office to the UN (NYLO) Relations with UN Agencies and Other International and Regional Organisations	
D. Relations with Civil Society and Media Organisations	
ASP and Courts	A comment on para 384 is this- often the CSOs (from someone who is from civil society and also a researcher) can feel 'used' and not respected enough. So R155, 157, 160 are crucial. To have someone be the partnership person with CSOs will enable this process more sensitively. And the scholarships and training programmes can actually increase the pool of resources in the field as no one wants to witness atrocity crimes without accountability.
E. Communications Strategy F. Outreach Strategy	
ASP and Courts; key role of PIU	Core R 163. Hence the lack of adequate and timely information on the work of the ICC. Much has been accidental discoveries
G. External Political Measures against the Court	
ASP and Courts; Key role of PIU	R169 is core. Part of the strategic Crisis Communications with key spokesperson. Crucial to engage.
OSM: C	VIII. ELECTION OF THE PRESIDENCY
IX. WORKING METHODS	
A. Induction and Continuing Professional Development	
1. Induction Programme 2. Timing 3. Contents 4. Continuing Professional Development	
B. Full-Time Service of New Judges	
C. Code of Judicial Ethics	
D. Judicial Collegiality	
X. EFFICIENCY OF THE JUDICIAL PROCESS AND FAIR TRIAL RIGHTS	
A. Pre-Trial Stage	
1. Disclosure of Evidence 2. Confirmation of Charges 3. Length of Pre-Trial Stage 4. Chambers Practice Manual and Judicial Case Management	
B. Trial Stage	

<p>1. Transfer of the Case to Trial Division 2. No Case to Answer 3. Amicus Curiae 4. Evidence Admitted vs Submitted 5. Witness Preparation/Proofing 6. Prior Recorded Testimony and Live Testimony by Means of Audio or Video-Link Technology 7. Management of the Trial 8. Court Activities <i>in situ</i> and Site Visits 9. Brief Absence of a Judge 10. Technology in the Judicial Process (1) Case Law Database (2) Other Digital Resources and Legal Tools (3) Effect on the Defence and Legal Representatives of Victims</p>	
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C. Interlocutory Appeals	

D. Management of Transitions in the Judiciary	
<p>1. Continuing in Office on Expiry of Term 2. Designation of an Alternate Judge 3. Appointment of a Substitute Judge R214, R215</p>	

XI. DEVELOPMENT OF PROCESSES AND PROCEDURES TO PROMOTE COHERENT AND ACCESSIBLE JURISPRUDENCE AND DECISION-MAKING	
A. Standard of Review in Appeals B. Departure from Established Practice and Jurisprudence C. developing a Deliberation Culture D. Judgment Structure and Drafting E. Conflicts Between Different Legal Systems and Best Practices	

OSM: OTP	XII. OTP SITUATIONS AND CASES: PROSECUTORIAL STRATEGIES OF SELECTION, PRIORITISATION, HIBERNATION AND CLOSURE
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A. Initial Situation and Case Selection: Preliminary Examinations	
<p>1. Situation Selection During Phase 1 2. Situation Selection during PRs (Phases 2-4) (1) Narrower Standards for Admissibility (2) Feasibility Considerations in Situation Selection and Prioritisation</p>	

B. Selection and Prioritisation of Cases and Perpetrators	
<p>1. The Criteria for Case Selection and Prioritisation (1) The Policy in relation to Selecting and Charging Suspects (2) Defining a Case: Charging Practices (3) Case Prioritisation: Feasibility Issues 2. The Process of Case Selection and Prioritisation</p>	

C. Situation Prioritisation, Hibernation and Closure	

XIII. PRELIMINARY EXAMINATIONS	
A. Concerns Related to Preliminary Examinations Section (PES)	

B. Length of PE Activities, Time Limits	

C. Complementarity and Positive Complementarity	
1. Complementarity Assessments for Admissibility (Article 17) 2. Positive Complementarity	

D. Transparency of Preliminary Examinations	

XIV. INVESTIGATIONS	
A. Investigative Strategy	

B. Investigative Technique and Tools	
1. Cooperation for Evidence Collection 2. Cooperation Requests - JCCD International Cooperation Section 3. Developing Technical Expertise within the ID (1) Financial Investigations (2) Tracking and Arrests of Fugitives (3) Remote Investigations	

C. ID Field Presence in Situation Countries	

D. Evidence Assessment and Analysis	

XV. OTP INTERNAL QUALITY CONTROL MECHANISMS	
A. Evidence Reviews: Internal and Peer Review	

B. Trial Monitoring	

C. Lessons Learnt	

OSM: R	XVI. DEFENCE AND LEGAL AID	
	A. Institutional Representation	

B. Legal Aid	

XVII. VICTIM PARTICIPATION	
A. Outline of the System B. The System in Operation C. Recognition of Victims as Participants D. Concerns about the System as a Whole E. Legal Representation of Victims F. Tracing Victims in the Reparations Phase	
ASP and Courts with greater work at ASP level	agree with Recommendations made. Victims are core. But protection and access to trials are equally important; with professional translators

XVIII. VICTIMS: REPARATIONS AND ASSISTANCE	
A. Current Framework for Victims Participation in the Rome Statute System, and its Functioning B. Judicial Matters Related to Reparations	

B. 1. General (Judicial) Principles on Reparations 2. Specialised Reparations Chamber 3. Non-Stay of Reparation Proceedings 4. Individual Requests for Reparations 5. Registry-Led Victim Application Process 6. New Potential Beneficiary Requests and Information 7. Reparations Experts 8. Mutually Agreed Protocols 9. Chambers Oversight Role in Implementation	
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C. The TFV and its Secretariat: Governance and Functioning	
1. Delivery of Mandate 2. Governance, Oversight and Management	ASP R356 - agree. crucial apparatus that needs to be developed well. R 360 - core to have the SOPs

EG	XIX. OVERSIGHT BODIES	
	A. ASP - Court Relations	
	B. Internal and External Oversight Mechanisms	
	C. Secretariat of the ASP	
	XX. IMPROVEMENT OF THE SYSTEM OF NOMINATION OF JUDGES	
	XXI. DEVELOPMENT OF THE RULES OF PROCEDURE AND EVIDENCE	

RI	RESOLUTION ICC-ASP/18/Res.7	
	OP 18 Appendix II, para 5	(a) Strengthening, cooperation (b) Non-cooperation, (c) Complementarity, and the relationship between national jurisdictions and the Court, (d) Equitable geographical representation and gender balance The election of the Prosecutor, implementation of arrest warrants and reviewing Assembly working methods

KEY	
CWM	Court-wide Matters
OSM: C	Organ Specific Matters: Chambers
OSM: OTP	Organ Specific Matters: Office of the Prosecutor
OSM: R	Organ Specific Matters: Registry
EG	External Governance
RI	Remaining Issues