

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				
	1. Structure of the Court: (1) ICC/Court Governance, (2) ICC/IO Governance		X		
	2. Decision-Making Process and Internal Legal Framework		X mostly the Court but concerns also the ASP for accountability purpose (R10)		
	3. Content of Internal Legal framework			X (caveat: need to check where lies the legal responsibility to choose the relevant jurisdiction for appeals: Court only or Court and ASP?)	
4. Working Culture at the Court			X		
B. Chambers Governance (Working Environment and Culture, Structure, Management and Organisation)					
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			X (mainly the Presidency and the Registry but ASP's involvment for budgetary aspects of restructuring some posts)		
C. OTP Governance					
1. The OTP Structure, 2. The OTP Regulatory Framework (1) Current OTP Regulatory Framework (2) Areas Not Addressed Under the Current Framework				X	

3. OTP Management and Leadership Structures (1) Prosecutor and Deputy Prosecutor - <i>Roles of Prosecutor and Deputy Prosecutor, Issue of two Deputy Prosecutors</i>	X		Issue of number of Deputy prosecutors is also for the ASP, notably for the budgetary aspects
3. (2) Executive Committee (ExCom)		X	
3. (3) Immediate Office of the Prosecutor (IOP) - <i>Chef de Cabinet, Public Information Unit (PIU)</i>		X	
3. (4) Integrated Teams		X	
4. OTP Staffing (1) Staff Qualifications		X	
4. (2) Quantity of Staff		X	

D. Registry Governance			
1. Election of the Registrar and Deputy Registrar	R76, R77, R78		
2. Various Sections of the Registry		X	
3. Field offices		X	Court's presence on the field is also a key governance matter for the ASP

II. HUMAN RESOURCES			
A. General; B. Working Environment and Culture, Staff Engagement, Staff Welfare; C. Bullying and Harassment;			
		X	

D. Management of Human Resources			
		X	

E. Adequacy of Human Resources - Recruitment; F. Short-Term Appointments, Local Recruitment			
		X	Questions of structures of posts and reclassification are also of interest for the ASP

G. Performance Appraisal			
		X	

H. Staff Training and Development			
		X	

I. Multilingualism			
		X	

J. Flexibility, Scalability and Mobility in Staffing			
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1. Internal Mobility 2. External Mobility 3. Secondments	X	States parties have an important role to play to encourage and foster exchanges and secondment need to check which legal instrument need to be amended in order to implement R105 and if the ASP has a role in it
4. Tenure	X	

III. ETHICS AND PREVENTION OF CONFLICTS OF INTEREST

A. Ethics Framework

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

	X	
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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	X	
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V. BUDGET PROCESS

A. Court Budget Process, B. Committee on Budget and Finance (CBF) C. Enhancing Trialogue D. Assembly of States Parties E. Miscellaneous

	X	Discussions could be held in the budget facilitation
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VI. PERFORMANCE INDICATORS AND STRATEGIC PLANNING

A. Efficiency B. Effectiveness

	X	
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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

	X	
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D. Relations with Civil Society and Media Organisations

	X	
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E. Communications Strategy F. Outreach Strategy

	X	States Parties should however be consulted on this matter, importance of coordinated and understandable communication
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G. External Political Measures against the Court		
	X	Importance of coordination of responses between ASP, States Parties and the Court; development of a strategy to enable a rapid response

OSM: C

VIII. ELECTION OF THE PRESIDENCY		
	X	Implies a potential amendment of the Rome Statute

IX. WORKING METHODS		
A. Induction and Continuing Professional Development		
1. Induction Programme 2. Timing 3. Contents 4. Continuing Professional Development	X	

B. Full-Time Service of New Judges		
	X	Involvement of the ASP due to budgetary implications

C. Code of Judicial Ethics		
	X	

D. Judicial Collegiality		
	X	

X. EFFICIENCY OF THE JUDICIAL PROCESS AND FAIR TRIAL RIGHTS		
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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	X	States could opportunely be consulted

B. Trial Stage		
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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	X	These recommendations are primarily the responsibility of the Court, but the States should be involved in the budgetary implications of the use of new technologies. Consultations of the ASP also regarding the continuation of the proceedings in the absence of a judge
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C. Interlocutory Appeals		
	X	

D. Management of Transitions in the Judiciary			
1. Continuing in Office on Expiry of Term 2. Designation of an Alternate Judge 3. Appointment of a Substitute Judge	R214, R215	X	Implies a potential amendment of the Rome Statute

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			
	X		Implies a potential amendment of the Rome Statute

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			
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		x	States could opportunistically be consulted

B. Selection and Prioritisation of Cases and Perpetrators			
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		x	States could opportunistically be consulted

2. The Process of Case Selection and Prioritisation	x	
C. Situation Prioritisation, Hibernation and Closure		
	x	
XIII. PRELIMINARY EXAMINATIONS		
A. Concerns Related to Preliminary Examinations Section (PES)		
	x	
B. Length of PE Activities, Time Limits		
	x	
C. Complementarity and Positive Complementarity		
1. Complementarity Assessments for Admissibility (Article 17) 2. Positive Complementarity	x	States could opportunistically be consulted
D. Transparency of Preliminary Examinations		
	x	
XIV. INVESTIGATIONS		
A. Investigative Strategy		
	x	
B. Investigative Technique and Tools		
1. Cooperation for Evidence Collection	x	
2. Cooperation Requests - JCCD International Cooperation Section	x	
3. Developing Technical Expertise within the ID (1) Financial Investigations (2) Tracking and Arrests of Fugitives (3) Remote Investigations	x	
C. ID Field Presence in Situation Countries		
	x	
D. Evidence Assessment and Analysis		
	x	
XV. OTP INTERNAL QUALITY CONTROL MECHANISMS		
A. Evidence Reviews: Internal and Peer Review		
	x	
B. Trial Monitoring		
	x	

C. Lessons Learnt	
	x

OSM: R

XVI. DEFENCE AND LEGAL AID

A. Institutional Representation

	x	This subject has budgetary consequences that can be significant, so the States must be closely associated (could lead to the creation of a new organ of the Court). This question was has been discussed in the WG of the Bureau on Legal Aid.
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B. Legal Aid

	x	This subject has budgetary consequences that can be significant, so the States must be closely associated. Moreover, work has already begun in the framework of a Bureau working group, and should be continued.
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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

	x	It is important to involve the States Parties on this issue, however, at least to have their views taken into account, as some of the recommendations would result in a redistribution of competences between the Trustfund and the Registry.
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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	X	Mainly the Court, but also the ASP for RPE amendments and for redistribution of competences between the Trustfund and the Registry.
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C. The TFV and its Secretariat: Governance and Functioning		
1. Delivery of Mandate 2. Governance, Oversight and Management	R357	X
		ASP for the redefinition of the missions of the Trustfund

EG	XIX. OVERSIGHT BODIES		
	A. ASP - Court Relations		
			X
	B. Internal and External Oversight Mechanisms		
	R364 ; R366 ; R368	R367	R365
	C. Secretariat of the ASP		
			X
	XX. IMPROVEMENT OF THE SYSTEM OF NOMINATION OF JUDGES		
			X
	XXI. DEVELOPMENT OF THE RULES OF PROCEDURE AND EVIDENCE		
		X	

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