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Second Court's report on the development of performance  
indicators for the International Criminal Court

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## I. Introduction

1. This second report on the development of performance indicators for the International Criminal Court (“Second Report”) is a follow up to the first preliminary report submitted to the 14<sup>th</sup> Assembly of States Parties (“Assembly”) in November of 2015 (“2015 Report”).<sup>1</sup> It is part of a continuing effort to improve the efficiency of the International Criminal Court (“Court” or “ICC”) and to respond to the request to the ICC by the Assembly in 2014<sup>2</sup> 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”.<sup>3</sup>

2. In the Second Report the four key goals identified in the 2015 Report are kept essentially unchanged while some measurable criteria for each goal are developed in more detail and some initial data is already provided as a sample of potential future measurements to be undertaken.

3. The Second Report continues to focus on the development of Court-wide performance indicators, reflecting the activities of the institution as a whole, this being without prejudice to developing indicators per organ in parallel or at a later stage.<sup>4</sup>

4. As further developed below, the Annexes to this Report contain some relevant data. The data does not yet provide a full picture of the Court’s performance but merely represents a sample of information, intended to illustrate how selected criteria could be measured in practice. It is also noted that the Annexes presently describe, for a large part, workload indicators measuring the Court’s performance mostly in quantitative terms. However, as outlined below, the Court considers that the choice of certain indicators and the manner in which they are grouped also assists in assessing the Court’s performance in qualitative terms.

## II. Preparation of the report

### A. The 2015 Report

5. In the 2015 Report, four key goals were identified as critical for the assessment of the ICC’s overall performance:

- (a) The Court’s proceedings are expeditious, fair and transparent at every stage;
- (b) The ICC’s leadership and management are effective;
- (c) The ICC ensures adequate security for its work, including protection of those at risk from involvement with the Court; and

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<sup>1</sup> Available at: [https://www.icc-cpi.int/itemsDocuments/Court\\_report-development\\_of\\_performance\\_indicators-ENG.pdf](https://www.icc-cpi.int/itemsDocuments/Court_report-development_of_performance_indicators-ENG.pdf).

<sup>2</sup> In the following “ASP” or “Assembly”.

<sup>3</sup> ICC-ASP/13/Res.5, 17 December 2014, Annex I, para. 7(b). In 2015, the Assembly “welcome[d] the efforts of the Court to develop qualitative and quantitative indicators”, ICC-ASP/14/Res.4, Strengthening the International Criminal Court and the Assembly of States Parties, 26 November 2015, para. 59; it also invited the Court to share with the Study Group on Governance any update on the development of indicators, see *ibid.*, Annex I, *Mandates of the Assembly of States Parties for the intersessional period*, para. 8(b). It is to be noted that some Court’s organs’ performance indicators are already provided in the yearly budget such as those listed in Annexes V(c) to (f) of the Proposed Programme Budget of 2017, ICC-ASP/15/10, pp. 175 f. (while they were in previous budgets part of the narratives of each organ of the Court). The latter are technical workload indicators regarding certain recurrent quantifiable activities *per organ*. While some of those indicators were also useful for the present exercise, indicators developed in response to the Assembly request are intended to assist in the strategic assessment of the Court’s performance *as a whole*, both in quantitative and qualitative terms.

<sup>4</sup> Once sufficient progress has been made, further work is likely to be needed on the development of additional performance indicators reflecting specific functions of the main organs. See, for the OTP, *Office of the Prosecutor: Strategic plan 2016-2018*, ICC-ASP/14/22, 21 August 2015, p. 24. See also the organ-specific indicators in Annex V(c)-(f) of the Proposed Programme Budget 2017 of the ICC, ICC-ASP/15/10, pp. 175 f. In addition, throughout 2016 the OTP has continued the development and roll-out of its OTP-specific indicators in parallel to the Court-wide initiative.

(d) Victims have adequate<sup>5</sup> access to the Court

6. These goals were selected on the basis of the first two of the three major categories of goals ('Judicial and Prosecutorial'; and 'Managerial') contained in the Strategic Plan of the Court for 2013-2017.<sup>6</sup> Similarly, performance indicators developed for such goals take into account the Court's priority objectives in the Strategic Plan.

7. While recognizing that the performance of the Court substantially depends on external cooperation, the last category of goals identified in the Strategic Plan ('Cooperation and Support') was excluded as it was considered that performance indicators should only address, at least at the beginning, activities of the Court that are mostly in its own control.

8. In the 2015 Report it was underlined that the four key goals cannot be measured in the abstract. Instead, a number of Court-wide criteria needed to be identified which contribute to the achievement of these goals.

## B. Work undertaken in 2016

9. A number of initiatives and contacts took place in 2016 intended to obtain as much input as possible on the relevant goals and criteria from the principals and judges of the Court as well as from relevant sections of the Court's organs, both Offices of Public Counsel, representatives of victims and the defence, the Trust Fund for Victims and civil society. The Court also engaged in a dialogue on the matter with the newly created ICC Bar Association in order to apprise them of the initiative. The Court also sought to understand the work done by other international tribunals and exchanged views with, *inter alia*, the Special Tribunal for Lebanon, in light of their own efforts to develop indicators.

10. Initiatives and contacts in 2016 included, in particular, the following:

### a) Retreat in Glion

11. A retreat on indicators organised by the Swiss Government, took place in Glion, Switzerland April 2016. It was attended by the President and sixteen of her fellow judges of the Court, the Registrar and Deputy Prosecutor and a number of officials of the Court's organs, as well as a few representatives of State Parties and civil society. The event offered an important opportunity to discuss during two days the initiative as well as the goals and criteria relevant to assess the performance of the Court.

12. During the first day of the retreat, the judges of the Court, the representatives of the Office of the Prosecutor and the Registry engaged in discussions on the four key goals of the ICC identified in the 2015 Report and possible performance indicators towards these goals. Judges first held discussions in a separate session, which was followed by discussions in mixed working groups where all organs were represented. Discussions were guided by questions put to the participants at Glion.<sup>7</sup> A more detailed set of questions was circulated among judges in advance of the retreat in order to prepare for the separate judges session.

### b) Briefing at the Hague Institute for Global Justice

13. On 24 May 2016, a meeting took place at the Institute for Global Justice in The Hague, at which the Swiss authorities, the Court and the Executive Director of Open Society Justice Initiative ("OSJI") briefed representatives of States Parties, representatives of the defence and victims before the Court and civil society on the Glion meeting.

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<sup>5</sup> The concept of "adequate" access was abandoned in the Second Report following comments that the concept of "access to justice" is a term of art that should not be qualified.

<sup>6</sup> The Strategic Plan was last updated in September of 2016; the update was presented to States Parties in the Hague Working Group on 16 September 2016. For the Plan, see International Criminal Court Strategic Plan 2013 – 2017, at: [https://www.icc-cpi.int/iccdocs/registry/Strategic\\_Plan\\_2013-2017\\_\\_update\\_Jul\\_2015.pdf](https://www.icc-cpi.int/iccdocs/registry/Strategic_Plan_2013-2017__update_Jul_2015.pdf).

<sup>7</sup> See the Agenda of the meeting in: Swiss Federal Department of Foreign Affairs, Convenor's Summary, 24 May 2016, *International Criminal Court Retreat on Indicators - Glion, Switzerland, 6 – 8 April 2016*, pp. 3-6, at: [https://www.eda.admin.ch/content/dam/eda/en/documents/aussenpolitik/voelkerrecht/2016-criminal-court-conveno-srsummary\\_EN.pdf](https://www.eda.admin.ch/content/dam/eda/en/documents/aussenpolitik/voelkerrecht/2016-criminal-court-conveno-srsummary_EN.pdf).

14. A discussion ensued around the question of viability of performance indicators for an international criminal court and the need to preserve judicial and prosecutorial independence while striving for an optimal organisational performance. It was also emphasized that the ICC's performance depends in many respects on the support and cooperation that it receives from the global community.<sup>8</sup>

**c) Workshop with representatives of the Defence and Victims**

15. On 22 June 2016, a workshop was organised at the Court where all representatives of the defence and victims were invited, including the Office of Public Counsel for the Defence and the Office of Public Counsel for Victims, and representatives of civil society. During the workshop, input and recommendations were received from all participants. Further informal input from civil society was received in writing.<sup>9</sup> Discussions were held on the basis of questions similar to those put to the participants of the Glion retreat.

**d) Briefings of States Parties**

16. In order to keep States Parties informed of all relevant steps and developments in the performance indicator exercise, the Court reported on progress at various informal and formal occasions, particularly as part of Cluster II of the Hague Working Group's Study Group on Governance as well as the Hague Working Group's facilitation on strategic planning.<sup>10</sup>

### **III. General considerations**

17. The work on performance indicators has been guided by a number of principles and methodological considerations that transpired from relevant research, the Glion retreat, other discussions held and input received in the course of its preparation, including the following:

**A. National methodologies and practices**

18. The methodologies used in many national judicial bodies applying performance management systems are difficult to apply to an international criminal tribunal, and specifically so to the ICC. This is so due to the relatively limited number and great diversity of its cases as well as the differing underlying contexts and country situations that the Court, given its global geographic jurisdictional orientation and permanent nature, may need to address.

19. For these reasons, the common national practice of assessing average performance levels across a large number of cases is of limited value at the ICC, at least at its current stage of development. For similar reasons, specific performance benchmarks developed at the national level will often be inappropriate in the ICC context. The experience of other international courts and tribunals may be more relevant.

20. In this regard, the Court welcomes any additional views or inputs from States Parties and other stakeholders on what they consider to be relevant indicators or national experiences that they may consider relevant to the activity of international courts and tribunals.

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<sup>8</sup> See *ibid.*

<sup>9</sup> The input was contained in informal submissions from Avocats sans Frontières; FIDH; HRW; No Peace Without Justice; OSJI; and REDRESS.

<sup>10</sup> SGG II: informal meetings on 16 March and 27 June; formal meetings on 6 July (brief status update); 9 August (dedicated session on performance indicators).

## **B. Modesty in selection of key indicators**

21. For the purpose of developing Court-wide indicators, the Court needs to be modest and concentrate on a reduced number of measurable criteria that adequately reflect the *overall* operational performance of the Court without overburdening the exercise with too many criteria and details.<sup>11</sup>

## **C. Complexity of indicator selection**

22. Some aspects, while central to key goals of the institution, are very difficult to measure in practice. This is particularly the case of fairness, which may be very difficult to measure as such and would require great efforts to identify relevant proxy values instead. Expeditionness and fairness are also examples of potentially conflicting goals, reflecting the difficulties of measuring the performance of a judicial institution in qualitative terms. Also, while the time for different phases of the judicial process can be measured rather easily for one case, assessing expeditionness and bench-marking from one case to another may be extremely difficult, at least at this stage of the development of the Court. As already indicated, the limited number of cases at the Court is compounded by their great variety and differing contexts and country situations.

## **D. Scope of indicators**

23. It is prudent to limit the choice of indicators for now to those primarily under the control of the Court itself. As said, issues which rely heavily on external factors (e.g. number of referrals by States, number of arrests achieved; extent of judicial or other cooperation by external partners and stakeholders) have remained excluded for now and left to be considered at a later stage.

## **E. Impact of context**

24. External factors such as local security conditions and the cooperation of local and international partners can however have a substantial impact on the Court's "own" performance indicators. Such contextual factors may lead to a significant variance of parameters from one situation to another (for example, the availability of protective measures for witnesses including through relocation to third countries impacts on the pace of the trial). Consequently, all Court-wide performance indicators need to be read and evaluated in their specific context, particularly where they relate to case-specific performance.

25. For this reason, performance indicators pertaining to judicial proceedings in each case cannot automatically be used for a comparison with other cases or for the purpose of generating averages and/or benchmarks across cases. Indeed, the Court's experience so far has been that each case, even if arisen from the same situation, has had many unique features and many specific challenges at the different stages, from investigations to the enforcement of the sentence, as appropriate. Many of these challenges depend on factors largely outside the Court's control (e.g., availability of witnesses; cooperation of national authorities) or are also dependent on the parties.

## **F. Performance Indicators and other ICC managerial tools**

26. The development of performance indicators may partially overlap with a number of other managerial initiatives and reporting obligations that also require identification of objectives or measurement of workload such as budget, strategic planning, risk management, victim participation in the proceedings, or outreach. The development of performance indicators may provide an opportunity to streamline the various reporting obligations of the Court as well as to improve the data collection of specific sections'

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<sup>11</sup>More details could be included in the development of organ-specific indicators. See footnote 4 above.

activities, many of which are collected and coordinated by the Information Management Services Section and the Court Management Section.

#### **G. Indicators and yearly budget**

27. The Court's performance needs to be evaluated within the constraints of its annual budget. The existing resources impact on the amount and quality of prosecutorial and judicial activities and relevant services to the parties and participants to the proceedings, as well as outreach, victims' assistance in the field and their participation in the proceedings. In turn, as performance indicators flow from the Court's Strategic Plan, relevant key performance indicators ideally link to the Court's budgetary requirements and such connection could be highlighted in relevant budget documentation.

### **IV. Measurable criteria**

28. As indicated above, this Second Report identifies in further detail potential measurable factors or criteria that are relevant to assess the achievement of each of the four key goals identified in the 2015 Report and by so doing is intended to provide a tool to assess the overall performance of the Court. The indicators listed below provide but a sample of potential future indicators; further work is needed to refine these and provide a more holistic and accurate picture of the Court's operations. The Second Report continues to be work in progress in light of the fact that it is indeed a first attempt at an international level to provide a holistic picture of judicial activities through performance indicators. Once all the data is collected, the present choice of indicators may to some extent be modified as some factors may turn out to be less relevant than others, and further indicators may need to be added.

### **V. FIRST GOAL: The Court's proceedings are expeditious, fair and transparent at every stage**

#### **A. The fairness and expeditiousness of proceedings**

##### **a) Two inextricably linked concepts**

29. The expeditiousness of proceedings is not only one of the central rights of an accused (article 67(1)(c) of the Rome Statute) but is also an obligation under article 64(2) of the Rome Statute.<sup>12</sup> At the same time, the speed of proceedings is conditioned by the time and procedural possibilities to be afforded to the parties and participants as may be required by fairness and the need to establish the truth. Speed of proceedings also depends on the external cooperation: whether or not States have rendered requested assistance and have done so speedily.

30. The obligation to safeguard the fairness of proceedings lies in the first place with the judges that are mandated to interpret and apply the ICC legal framework, which in turn is presumed to be fair. The Office of the Prosecutor also has fairness obligations (see, for instance, article 54 of the Rome Statute) and the Registry plays an essential supporting role regarding fairness as a neutral service provider to all parties and participants to the proceedings.

31. Discussions on the concept of fairness and how to measure it, if at all, took place during the Glion retreat and subsequent discussions and some research was also carried out regarding national concepts of how to measure fairness. It transpired that the approach to the concept of fairness and its requirements may vary following different legal systems and

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<sup>12</sup> A similar obligation rests on the ICC Appeals Chamber through Rule 149 of the Rules of Procedure and Evidence.

traditions. International and regional human rights jurisprudence has also lent some tangible values to the concept of fairness.<sup>13</sup>

32. In practice, what appears to be mostly used to measure fairness at the national level are workload indicators on defence issues that could point towards a level of fairness of proceedings (such as time spent addressing concerns raised by the defence; time given to defence in making their case; etc.).

33. During discussions held in 2016, a number of values were mentioned which could point towards the concept of fair proceedings, such as the treatment afforded to the defence and victims; equality of arms; allocation of resources of the Court as well as fairness as perceived by the parties and participants. However, discussions at Glion and other meetings also highlighted that the concepts of expeditiousness and fairness are in fact intertwined and affecting each other, and that relevant indicators may either relate to both or that fairness-related values many need to be read in light of expeditiousness and vice versa.

34. For the above reasons, the Second Report contains a set of common indicators which seek to measure relevant aspects of both concepts taken together.

#### **b) The duration of and activity during phases of cases**

35. The duration of cases is widely seen as an indicator of the Court's overall efficiency. However, as outlined *supra*, care must be taken to balance speed with fairness. An illustrative sample set of indicators that takes into account both expeditiousness and fairness is proposed below in order to measure the amount of relevant activity in certain pre-defined phases in relation to the overall duration of each phase across the cases before the Court.

36. As said, each case has its unique features and benchmarking from one case to another will therefore not be possible *stricto sensu*. The duration of each case is affected by a number of case-specific factors such as the number of accused persons, the number and nature of the charges, the volume of evidence and likely number of witnesses and the geographical scope of the case (localised or extensive), cooperation of States in providing needed assistance, and the speed with which such assistance is provided. These and any other relevant factors taken together may contribute to assess the relative complexity of a case, which is likely to affect its overall duration. In principle, the more complex and voluminous a case, the longer its duration.

##### *(a) Key phases*

37. In measuring relevant activities, performance can best be considered in key phases. The duration of each phase will be dependent on the specifics of the case and will have to be set by the Chambers, mindful of the parties' requirements. Taken together, the different phases in the "life" of a case can provide working assumptions for the likely overall duration per case. If and where delays are incurred vis-à-vis the timelines set by a chamber, the reasons for such delays can be documented for purposes of transparency and lessons learnt with a view to developing improved ways over time for anticipating and managing such difficulties.

38. The following phases are considered as the most relevant distinguishable phases of a trial for the purpose of performance measurement:

- (a) between initial appearance and confirmation of charges decision;<sup>14</sup>
- (b) between confirmation of charges decision and start of hearing phase<sup>15</sup>;

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<sup>13</sup> See for instance European Court of Human Rights, *Guide on Article 6 of the European Convention on Human Rights*, 2013, available at: [http://www.echr.coe.int/Documents/Guide\\_Art\\_6\\_ENG.pdf](http://www.echr.coe.int/Documents/Guide_Art_6_ENG.pdf).

<sup>14</sup> Concretely, this translates into the date of the first hearing pursuant to article 60(1) of the Rome Statute, to the Pre-Trial Chamber's issuance of the decision on the confirmation of charges, pursuant to article 60(1) of the Rome Statute (date of notification in accordance with regulation 31 of the Regulations of the Court ("RoC")).

<sup>15</sup> The start of the hearing would be the opening statements of the parties, as directed by the Chamber pursuant to Rule 140 RPE.



- (c) trial phase;<sup>16</sup>
- (d) between the closing of the evidentiary phase of the trial (following closing submissions of the parties)<sup>17</sup> and the issuance of the judgment pursuant to article 74 of the Rome Statute;
- (e) between the issuance of judgment pursuant to article 74 of the Rome Statute and, where appropriate, a sentencing decision pursuant to article 76 of the Rome Statute;
- (f) where appropriate, between the judgment<sup>18</sup> and the implementation of a reparations award, or the approval of an implementation plan, as appropriate, pursuant to article 75 of the Rome Statute;
- (g) between the completion of the appeals briefing schedule<sup>19</sup> (all written submissions are filed) and the appeal judgment pursuant to article 81 of the Rome Statute.<sup>20</sup>

(b) *Indicators per phase*

39. Per phase, a variety of mostly workload indicators apply which serve to express the major activity drivers per *specific case/phase* in a given time frame. The following values need to be read in conjunction in order to appraise the overall performance in a given phase of the case:

- (a) *Phase 1 – Confirmation:*
  - (i) Total duration of the phase
  - (ii) Number of suspects
  - (iii) Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel
  - (iv) Number of charges confirmed
  - (v) Number of motions of all parties and participants
  - (vi) Number of decisions and orders
  - (vii) Scheduled confirmation hearing date achieved<sup>21</sup>
  - (viii) Amount of evidence submitted for the purpose of presentation at the confirmation hearing
  - (ix) Number of courtroom days
  - (x) Number of languages supported in the courtroom.
- (b) *Phase 2 – Trial preparation:*
  - (i) Total duration of the phase
  - (ii) Number of accused persons
  - (iii) Number of charges
  - (iv) Number of motions by the parties and participants

<sup>16</sup> Concretely, this translates into the date of the 1<sup>st</sup> opening statement hearing (regulation 54(a) of the RoC) until the last (closing) submission in court.

<sup>17</sup> See rule 141 of the RPE.

<sup>18</sup> Relevant is the day of notification of the last version relevant for timelines of parties' appeals filings, in accordance with regulation 31 of the RoC.

<sup>19</sup> See regulations 57-60 of the RoC.

<sup>20</sup> For the issuance of the appeals judgment pursuant to articles 81, 83 of the Rome Statute, the date of notification in accordance with regulation 31 of the RoC is authoritative.

<sup>21</sup> Pursuant to Rule 121(1) of the RPE. It is noted that it is normal practice that parties seek postponements of the confirmation of charges hearing to Rule 121(7) of the RPE due to mostly evidence disclosure related issues and required preparation time of the parties.

- (v) Number of decisions and orders (oral and in writing)<sup>22</sup>
- (vi) Amount of disclosed material by the parties<sup>23</sup>
- (vii) Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial
- (viii) Total amount of court days
- (ix) Scheduled trial start date achieved (for opening statements).
- (c) *Phase 3 – Trial hearing:*
  - (i) Total duration of the phase
  - (ii) Time allocated for opening statements and closing arguments
  - (iii) Number of court days used
  - (iv) Number of witnesses heard (in physical presence/via video link/introduced in writing/hybrid<sup>24</sup>)
  - (v) Average time per witness in court
  - (vi) Number of witnesses brought to headquarters
  - (vii) Number of motions by the parties and participants
  - (viii) Number of decisions and orders (oral and in writing)<sup>25</sup>
  - (ix) Amount of (additional) disclosed material by the parties
  - (x) Amount of evidence admitted
  - (xi) Length of evidence hearing phase<sup>26</sup>
  - (xii) Number of languages supported in the courtroom
  - (xiii) Number of pages of final submissions by the parties.
- (d) *Phase 4 – Judgment*<sup>27</sup>:
  - (i) Total duration of deliberation time up to delivery of judgement
  - (ii) Number of pages of judgement.
- (e) *Phase 5 – Sentencing:*
  - (i) Total duration of the phase
  - (ii) Number of (pages of) submissions by parties and participants
  - (iii) Number of courtroom days on sentencing
  - (iv) Number of witnesses heard.
- (f) *Phase 6 – Reparations:*
  - (i) Total duration of the phase
  - (ii) Time lapse between issuance of trial judgment and reparations decision/order
  - (iii) Number of victims seeking reparations

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<sup>22</sup> As far as relevant data is available.

<sup>23</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.

<sup>24</sup> Testimony introduced in writing but witness present in court.

<sup>25</sup> As far as relevant data is available.

<sup>26</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber's closure of the hearing of evidence pursuant to Rule 141(1) RPE.

<sup>27</sup> The duration of this phase is in and of itself indicative of the Chamber's workload.

- (iv) Number of victims approved
  - (v) Number of submissions (and number of pages) received regarding reparations considerations by parties and participants
  - (vi) Overall number of courtroom days used
  - (vii) Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.
- (g) *Phase 7 – Appeal:*
- (i) Final appeals:
    - Absolute duration of appeal
    - Number of appealing parties
    - Number of grounds per party
    - Number of submissions and pages received
    - Number of courtroom days used;
  - (ii) Interlocutory appeals:
    - Amount of interlocutory appeals per year vs. average duration of an interlocutory appeal in that year.
- c) **Registry services that contribute to the expeditiousness of proceedings irrespective of the phases**

40. The volume of services provided is dependent on the case-related needs of the OTP, Defence, victims’ representatives and the Judiciary. General Registry performance can be measured on a per case basis regarding a number of main support services as follows:

- (a) *Volume of services delivered on time versus requested* (% of services delivered on time versus requested):
- (i) Transcript provision<sup>28</sup>
  - (ii) Interpretation
  - (iii) Translation<sup>29</sup>
  - (iv) Volume of witness-related services.

#### A. Transparency of proceedings

41. Article 64(7) of the Rome Statute stipulates that the trial shall be held in public. This is mirrored in article 67(1) as one of the accused’s fundamental rights. Only in special – exceptional – circumstances may the Court depart from this general legal principle.<sup>30</sup> Similarly, the exclusion of the public from filings and decisions has to remain the exception and needs to be motivated by case-specific reasons.

##### a) Indicators of public transparency

42. Percentage of judicial decisions that are public vs. confidential.<sup>31</sup>

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<sup>28</sup> Volume of transcripts delivered within the required delivery time vs. volume of transcripts delivered with delays.

<sup>29</sup> How many translations were delivered on time including the total of pages vs. delayed translations including the total of pages.

<sup>30</sup> See articles 64(7), 2<sup>nd</sup> sentence, 68(2) of the Rome Statute. It is noted that the primary reason for exclusion of the public is the need to protect witnesses and victims.

<sup>31</sup> The term “public” would also include redacted and reclassified versions of decisions. Furthermore, many reclassifications from confidential to public are only undertaken towards the end of a trial; a reliable figure will therefore only be available towards the end of a trial.

43. Overall percentage of courtroom time spent in public hearings vs. confidential or closed sessions.<sup>32</sup>

**b) Accessibility of information to the public**

44. Another aspect of transparency of proceedings is the accessibility of Court-related information and documentation to the public. The activities of the Prosecutor and relevant orders and decisions of the Chambers require an adequate amount of public accessibility so that the wider public can follow the Court's activities and judicial decisions from preliminary examination to the final verdict and beyond (think of reparations). The ICC Registry's Public Information and Outreach Section entertains a set of relevant workload and performance indicators, per situation country and globally, on which it reports periodically.

45. The following indicators appear to be pertinent to measure the accessibility of ICC-related information:

- (a) Number of hits of the homepage / live streaming
- (b) Number of ICC social medias accounts followers, posts and impressions ('share's, 'like's, etc.)
- (c) Number of visitors to court hearings
- (d) Number of press releases, interviews, media queries and other communications
- (e) Number of information sessions with medias and number of participants
- (f) Number of ICC publications distributed
- (g) Number of audio and video summaries produced for international media.

46. It is noted that the present indicators merely describe (amounts of) activities and do not directly relate these to direct comparison values; however, in future reporting periods the present output can be compared against relevant future performance thus leading to suitable comparison values.

47. Relevant data regarding the above First Goal is included in **Annex I** regarding the five most recent cases at the Court, and, where the relevant value is to be measured in a given time frame, on a yearly basis from 2014 to date. Further data is being collected and will be made available at a later stage. In particular, the Court is also assembling relevant data of the first three already adjudicated cases (*Lubanga*, *Katanga* and *Bemba*) in order to set these into context with present cases before the Pre-Trial and Trial Chambers and reflect relevant progress in performance. In this context, the Court will also undertake to show significant emerging trends such as pre-trial expediency through the Chambers Practice Manual.

## **VI. SECOND GOAL: "The ICC's leadership and management are effective"**

48. Effective management, communication and cooperation between the organs of the Court on topics of common concern are essential. The Court's performance in these areas<sup>33</sup> is mainly evaluated through its reporting to external governance bodies such as the Assembly, the Committee on Budget and Finance, various audit bodies, or the New York and Hague Working Group facilitations of States Parties. However, some essential internal indicators are not yet fully captured by present reporting obligations, or presently scattered over different reports to external stakeholders. Some information relating particularly to

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<sup>32</sup> At present the exact duration of closed/private session vs. open session is not recorded by CMS; data will start to be collected as of 2017.

<sup>33</sup> E.g. the Court's programme and budget performance; strategic planning; risk management; inter-organ synergies; the Court's Basic Size; audit; policy development; human resources management; analytical accountability; etc.

budget implementation, procurement and human resources issues of a Court-wide significance merit being brought together here as they will provide comparative data for future indicator measurement cycles.

49. The main aspects for measurement in these three areas may include the following and are captured in **Annex II** of this Report:

- (a) Budget implementation rates per Court organ;<sup>34</sup>
- (b) Average time of recruitment process;
- (c) Percentage rate of staff appraisals conducted in a given time;
- (d) Geography and gender balance of staff;
- (e) Relevant indicators regarding the Court's procurement process.

50. It is worth noting that with respect to performance appraisals, it is a priority strategic objective for the Court to develop an effective performance management system which recognizes staff performance and achievements, identifies areas of under-performance and the corresponding needs for staff development (and feeds those into learning and development plans and programmes), and instils accountability for performance and development. The Court will therefore put a particular emphasis on its performance management system in 2017 and onwards.

51. In addition, it is envisaged to add, as of 2017, the following indicators to those listed above in the present section of indicators:

- (a) The implementation of training programmes per year: planned versus actual;
- (b) implementation rate of measures to control priority risks of the relevant risk register.

52. Data collection for these three indicators will commence in 2017.

## VII. THIRD GOAL: "The ICC ensures adequate security for its work, including protection of those at risk from involvement with the Court"

53. The Court has obligations to protect not only its own staff but also to ensure the security of victims, witnesses and others who may be at risk because of their involvement with the ICC. A subdivision needs to be made between two main areas: (1) physical and asset security; and (2) information security. Relevant data is captured in **Annex III**.

54. It needs to be underlined that the measures presented below only touch upon a fraction of the measures that are put in place to ensure the security of staff, persons at risk on account of interacting with the ICC, Court assets and information. They only provide an illustrative sample while a more comprehensive measurement framework is being considered for 2017 to capture the present key goal in relevant indicators.

### A. Physical and asset security (at Headquarters and in the field)

55. Three general questions need to be regularly asked in order to assess whether the Court is managing adequately the potential threats and risks at a given point in time:

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<sup>34</sup> For any significant variances, explaining narrative will be provided. Furthermore, forward budgeting and expenditure forecasting remain subject to the impact of unforeseen investigative, judicial or case developments, so that year-end variances are always to be expected.

**a) Determination of the general threat level that the Court is facing**

56. The Court continuously surveys relevant applicable threat levels and adjusts its strategies and security measures accordingly.

*(a) Headquarters*

57. The general threat level towards the Netherlands and its overseas interests is assessed by the National Coordinator for Counter-Terrorism. The Court is in permanent contact with the National Coordinator, ensuring a constant information exchange and assessment of the threat level based, *inter alia*, on data thus received. This includes the Court premises, personnel and Elected Officials.

58. The United Nations Security Management System, of which the ICC is a member, conducted a security risk assessment for the Netherlands in July 2016. This information, too, is being used by the Court in its assessment.

*(b) Field*

59. The Court independently conducts periodic security risk assessments for all its field office locations and the threats towards the Court are considered similar to those towards the UN and other international organisations at each location.

**b) Has the Court implemented an appropriate/proportionate threat management programme?**

*(a) Appropriate risk management framework*

60. The first indicator to the appropriateness of threat management is the existence of an adequate risk management programme/framework, including relevant policies. The Court has developed a risk framework in 2014 and rated relevant risks regarding the likelihood to manifest themselves and the adverse effect on the Court. This includes an assessment of the Court's risk appetite in light of relevant mitigation measures and costs, and the balance between the two. Risk owners are being identified and trained as a next step in 2016/2017. An Administrative Instruction on risk management is presently being finalised and will be issued in the end of 2016. Once the framework is in place in 2017, relevant performance indicators will be:

- (a) risk owners adequately identified and trained;
- (b) number of policy gaps identified (and description of the gap(s)); and
- (c) % of policy gaps addressed.

61. These indicators could be added to the present set of indicators as of 2017 and measured on a yearly basis.

*(b) Adequate training*

62. Another indicator is the adequacy (i.e. relevant topics and qualified trainers) and intervals of training of security personnel. An illustrative table is provided.<sup>35</sup>

*(c) Situation and protocol monitoring*

63. An indicator for the need to amend/recalibrate safety risk management practices and mitigating strategies is the amount of relevant incidents.<sup>36</sup> Up until today, there have been no serious physical security or safety incidents at the ICC Headquarters or in the field.

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<sup>35</sup> See Annex III, lit. A, section I, table 1.

<sup>36</sup> See Annex III, lit. A, section I, table 3.<sup>37</sup> See Annex III, lit. A, section I, table 2.

64. Constant monitoring and periodic risk assessments per situation need to be carried out in order to *prevent* risks from materialising. This is being carried out through the ICC security officers deployed permanently to the Field Offices, as well as the Country Analysis Unit in the Registry's External Operations and Support Section. The OTP relies on the assessments made by the Registry and complements them with the information that it obtains through its normal activities. This process has been defined in the past and found to be sound in the context of the synergies review. Given the more sensitive nature of the OTP activities, the OTP in addition develops advanced concepts of operations to ensure the confidentiality and specific security conditions related to its missions.

65. Threat management is also relevant regarding the Court's interactions with external interlocutors in the field. Some relevant indicators are as follows:

- (a) When engaging with external actors, has regular protocol been followed?
- (b) Has there been a mission briefing?<sup>37</sup>
- c) When a risk manifests itself, has the Court's security framework proven adequate in the circumstances?**

66. This last question requires a lessons learnt exercise after the incident in light of the questions whether protocol has been followed and whether the risk manifested itself for a fault of the Court.<sup>38</sup> The lessons learnt exercise, in turn, informs the need to amend/recalibrate relevant policies and strategies. A relevant indicator is:

- (a) The number of security incidents that led to harm due to the Court's error *versus* the number of these incidents.

67. Relevant data has not been collected in a systematic fashion so far and may be subject to confidentiality due to security reasons for affected individuals. Nevertheless, the Court will record relevant data as of 2017 and assess confidentiality restrictions regarding any future incident on a case-by-case basis.

## B. Information Security (in the field and at Headquarters)

68. As with physical and asset security, there needs to be a robust risk framework outlining per major item how much risk the Court accepts and what activities can be carried out for risk mitigation within the Court's capacity. As it is the case for physical and asset security, the performance of the Court needs to be assessed taking into account the existing threat level at a certain point in time.

### a) Threat level

69. The general threat level towards the Court's information assets and information technology (IT) systems has increased over the period 2014-2016, with the most significant trend being the increasing frequency, diversity, stealth and complexity of cyber-threats targeting the Court's computers and communications systems.<sup>39</sup> The cyber-threat level is assessed to be likely to further increase as the Court extends its interest into new situations and as it conducts preliminary examinations, particularly when the Court's actions conflict with the interests of States and entities that have a significant offensive cyber-capability. Similarly, as the Court's activities and interests expand, so too does the demand for increasingly secured IT and communications systems. In turn, this represents an increased surface area against which the increased threat may be directed.

70. The continuing proliferation of cyber-attack tools places a significant arsenal in the hands of a wide range of potential attackers. States increasingly incorporate offensive cyber-

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<sup>37</sup> See Annex III, lit. A, section I, table 2.

<sup>38</sup> This does not include any accepted risks in light of the unavailability of a reasonable mitigation strategy. For example, occasional traffic accidents in the field are accepted risks and mitigation (no longer using motor vehicles in the field) would be seriously hampering the mission.

<sup>39</sup> See Annex III, lit. B, section I, tables 1 and 2.

attack capabilities into traditional military and intelligence doctrine. Non-state actors are also able to access, deploy and use cyber-attack tools against swathes of society, institutions and governments with great effect and with little chance of detection, attribution or prosecution. Cyber-attack tools are freely available on the Internet and many sophisticated tools are made available as commercial services for very low costs by unscrupulous parties.

71. The Court, along with most other users of Internet-connected technologies, is also exposed to a continuous barrage of low level probes, attacks and unwanted cyber-activity, including Denial of Service (DoS) attacks, “phishing” email attacks, vulnerability scans, virus infection, and more recently, ransomware. Malicious software (malware) represents a significant element of regular attacks against the Court, and is widely used to attempt unauthorised access, establish illicit communication channels, damage or export data and gather information.

72. The Court’s staff and elected officials are also directly and indirectly targeted through computers, mobile devices, electronic mail and other means. Social engineering, in many forms, is widely used against staff to attempt to gather information, obtain access to sensitive data or compromise individual integrity.

**b) Has the Court implemented an adequate/proportional information security program?**

73. The Court’s information security program has managed, in spite of the current threat, to achieve a very good level of control, with very few substantive<sup>40</sup> security incidents. This matches the Court’s limited tolerance for risks to the security of its sensitive information. Notwithstanding, the capability and capacity to maintain an adequate level of protection is hard to sustain, and is susceptible to being rapidly overtaken by the increasingly agile, diverse and stealthy threat.

74. To counter the cyber-threats facing the Court’s wide and distributed IT infrastructure, the Court deploys, in accordance with the assessed risks, numerous defensive, detective and awareness controls configured to achieve a defence-in-depth. Relevant indicators are as follows:

- (a) Number of relevant software updates detected;
- (b) Number of relevant software updates carried out.<sup>41</sup>

75. However, cyber security is a rapidly evolving realm, requiring new and sometimes innovative methods to identify and counter the ever-increasing range and sophistication of attack methods. In this regard, and although the Court has equipped its new Headquarters with a new, security-centric, strengthened network architecture, and has additionally invested (EUR 160k) in its cyber-security capacity during 2016, continuing strategic investment and improvement through 2017 and beyond will be of the essence to maintain an adequate level of sustained protection. Thus, Information Security is a strategic theme for investment throughout the Information Management/Information Technology five-year strategy and roadmap, which is currently under development with targeted completion for the first quarter of 2017. More sophisticated indicators will be developed on the back of the implementation of the new IT strategy in 2017.

**c) When a risk manifests itself, has the Court’s security framework proven adequate in the circumstances?**

76. The same logic applies as for physical and asset security. As relevant performance indicators, it is essential to measure the following:

- (a) Number of substantive IT security incidents during the reporting period;

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<sup>40</sup> Substantive incidents are defined as those where there has been a discernible non-trivial adverse impact upon the information security goals and objectives of the Court or its Organs and Sections, either collectively or individually, caused by an act or omission of any party.

<sup>41</sup> See Annex III, lit. B, section II, table I.



- (b) Number of incidents which generated security compromises;
- (c) % of cases where immediate counter-measures were taken;
- (d) Number of these incidents where a 'lesson learnt' assessment followed.<sup>42</sup>

## VIII. FOURTH GOAL: Victims have access to the Court

77. The definition of 'access to the Court' is twofold: first, it refers to formal participation in a case by victims affected by the crimes prosecuted. Effective, formal participation in proceedings is a key area for assessment through performance indicators. Second, access should be additionally understood in a broader context and encompass access of affected communities to court proceedings in terms of relevant information. Concerted efforts are needed to both consider these diverse local constituencies and what it means for them to access court proceedings.

78. Indeed, in interactions with civil society, it was made clear that indicators should not only speak to the Court and States Parties, but also to communities outside the Court. It was underlined that performance indicators should also reflect the Court's impact on victims and affected communities. Is quality justice done and perceived to be done by the communities affected by the crimes tried before the Court?

79. The following groups of indicators encompass access by victims and affected communities both to criminal proceedings in the courtroom and also, to the extent possible, access by affected communities to information about the Court and proceedings related to them in a broader sense. Relevant values are listed in **Annex IV**.

### A. Meaningful victim participation (information, application, legal representation, and modalities of participation)

80. Some relevant indicators are:

- (a) Number of persons applying to be recognised as victims per case vs. number of victims admitted;
- (b) Number of victims seeking reparations per case vs. accepted;
- (c) Number of victims assisted and/or represented by the OPCV and external victims' representatives per case versus the overall number of victims recorded per case;
- (d) Number of Court-appointed legal representatives of victims' trips to the field.

81. The following indicators are, while highly relevant, inherently difficult to measure:

- (a) Number of victims that apply to participate in proceedings before the Court vs. approximate amount of victims presumed to be affected by the crimes underlying the charges per case;
- (b) Percentage of victims participating in ICC cases meeting in person with Court-appointed victims' representative at least once per reporting period;
- (c) Degree of improvement in awareness and understanding of the ICC's mandate, among the general population in situations under investigation;
- (d) Degree of satisfaction expressed by victims about their participation;
- (e) Percentage of affected population that are reached in practice through the Court's outreach activities or others involved (e.g. VPRS, assisting NGOs, Trust Fund for Victims).

82. While different Registry Sections operating in the field are constantly thriving to receive feedback from relevant clients as to the effectiveness of the Court's operations, a

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<sup>42</sup> See Annex III, lit. B, section II, table 2.

more comprehensive system of measuring the above, such as the conduct of surveys, would arguably require extensive dedicated resources and time in order to determine relevant assessment strategies, methods and actions. This would be impossible for the Court to undertake within existing resources. However, the Court can be greatly assisted by the survey efforts of other entities, such as those contained in the recent reports of the Human Rights Center of UC Berkeley School of Law of 2014<sup>43</sup> and 2015<sup>44</sup>, the International Bar Association<sup>45</sup> and other studies.<sup>46</sup> Data thus received could be used as strategic pointers and relevant background information.

83. The Court also considered the establishment of an indicator regarding the selection and appointment of victim counsel and relevant consultations with clients. Due to the diversity of relevant factors and limited availability of data, this will be further considered in the next phase of indicator development.<sup>47</sup>

## B. Reparations and assistance

84. The ICC is the first international criminal court with a mandate to provide reparations for victims. Assessing performance in this innovative and key component is essential. However, given that no judicial cycle has so far been completed, there is no data presently available to measure the Court's performance in terms of reparations.

85. In addition, the amount and effectiveness of reparations are dependent mainly on external factors outside the Court's influence, such as the amount of available funds of a convict; or the amount of funds afforded by the Trust Fund of Victims ("TFV") where appropriate.

86. Activities of the TFV can only to a limited extent be ascribed to the ICC and thus be determinative of its performance, since the TFV is an independent body from the Court. At the same time the TFV represents an essential part of the justice cycle as foreseen by the Rome Statute system and also its key mandates need to be included when considering the performance of the Court under the common umbrella of the Rome Statute.

87. With this caveat, the most relevant future performance indicators include:

- (a) Number of victims for each case benefitting from reparations projects during the reporting period;
- (b) Number of victims benefitting from assistance mandate-related TFV projects vs. overall estimated number of victims.

88. The TFV has commenced the collection of relevant data with a view to reporting from 2017 onwards. It has also developed its own set of performance indicators relating to both mandates in its Performance Monitoring Plan of March 2016 which outlines the concept of future reporting.<sup>48</sup> Some limited initial data is available for 2016.<sup>49</sup>

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<sup>43</sup> Human Rights Center of UC Berkeley School of Law, BEARING WITNESS AT THE INTERNATIONAL CRIMINAL COURT: An Interview Survey of 109 Witnesses, June 2014, available at: [https://www.law.berkeley.edu/files/HRC/Bearing-Witness\\_FINAL\(3\).pdf](https://www.law.berkeley.edu/files/HRC/Bearing-Witness_FINAL(3).pdf).

<sup>44</sup> Human Rights Center of UC Berkeley School of Law, THE VICTIMS' COURT? A Study of 622 Victim Participants at the International Criminal Court, 2015, available at: [https://www.law.berkeley.edu/wp-content/uploads/2015/04/VP\\_report\\_2015\\_final\\_full2.pdf](https://www.law.berkeley.edu/wp-content/uploads/2015/04/VP_report_2015_final_full2.pdf).

<sup>45</sup> IBA ICC Perspectives, Witnesses before the International Criminal Court An International Bar Association International Criminal Court Programme report on the ICC's efforts and challenges to protect, support and ensure the rights of witnesses, July 2013, available at: [file:///C:/Users/ambach/Downloads/ICC%20Witness%20report%20\(July%202013\).pdf](file:///C:/Users/ambach/Downloads/ICC%20Witness%20report%20(July%202013).pdf).

<sup>46</sup> See, for instance, Redress, The Impact of the ICC on Victims and Affected Communities – A Report of the Victims' Rights Working Group, April 2010, available at: <http://www.redress.org/Stocktakingreport2010.pdf>

<sup>47</sup> A similar point can be made for indicators relating to the Court's legacy (e.g. training of national authorities; archives; exit strategy; etc).

<sup>48</sup> See TFV Strategic Plan 2014-2107, August 2014, Annex 1: Global Performance Monitoring and Evaluation Plan, available at: [http://www.trustfundforvictims.org/sites/default/files/media\\_library/documents/pdf/TFV\\_Strategic\\_Plan\\_2014\\_2017\\_approved.pdf](http://www.trustfundforvictims.org/sites/default/files/media_library/documents/pdf/TFV_Strategic_Plan_2014_2017_approved.pdf).

<sup>49</sup> See Annex IV, lit. B.

### C. ICC field presence

89. To facilitate its work in the field, the Court needs to have a fully staffed and functional presence in or near each situation country, taking security considerations into account. Staff members based in the field are likely to have a more nuanced understanding of the environment in each country, can conduct activities on a far more consistent and regular schedule, and serve as the much-needed “face of the ICC” locally for affected communities, the media, national authorities, and diplomatic or intergovernmental missions.

90. In light of the above, a relevant indicator in this context is the number of ICC situations in which the Court has established a field office (either in-country or nearby when country option is not possible due to security concerns).<sup>50</sup>

91. As a future (set of organ-specific) indicator(s), the effectiveness of field offices, ratio of relevant staff between Headquarters and the field per procedural period/activities, and field-related policy review could be envisaged.

### D. In-country outreach and public information

92. Outreach and public information activities can facilitate transparency of proceedings, promote awareness and understanding of the ICC’s mandate, inform expectations regarding the court’s performance, and establish a two-way dialogue with affected communities. In situations under investigation in particular, this can serve to ensure that justice is not only done, but seen to be done, and to provide opportunities for the views and concerns of affected communities to inform court policy and practice.<sup>51</sup> In light of the above, relevant indicators include the following:

- (a) Number of events organized by the Court’s Outreach Unit, and the level of participation
- (b) Number of hours of radio and TV broadcasts of audio-visual productions on the ICC
- (c) Estimated population reached through radio and television
- (d) Number of interviews given to local media.<sup>52</sup>

93. A goal of relevant performance indicators in this context is to assess the impact of the work on the public, through monitoring the evolution of the content of questions raised, through surveys assessing the satisfaction of partners (NGOs, media, local interlocutors) and in assessing the level of knowledge and understanding on the ICC and its developments. Relevant indicators for this are inherently difficult to measure as they require survey or mapping exercises that are resource-intensive. Future indicators could be as follows:

- (a) Level of awareness/satisfaction of local partners as per surveys monitoring the perceptions related to the ICC.
- (b) Number and percentage of affected communities (as defined through mapping exercises) participating in outreach events or reached by Court-conducted outreach and public information media activities in situations under investigation.

94. In-field resources and capacity will determine in the coming years to what extent the above indicators can be fed with relevant information. Again, the Court stands ready to reach out and cooperate with relevant stakeholders to aggregate relevant information.

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<sup>50</sup> See Annex IV, lit. C. Of note, this indicator is of significance also regarding the key goal of fair and expeditious proceedings since the Field Office also has an important facilitating role for in-field (investigative) activities of the parties to the proceedings.

<sup>51</sup> It is noted that the Public Information and Outreach Section (PIOS) has already developed relevant outreach indicators.

<sup>52</sup> See Annex IV, lit. D.

## IX. Accompanying data

95. This Second Report already attaches an initial and preliminary set of data that was readily available and could be swiftly assembled for each one of the four key goals. As outlined above, the accompanying data is only a limited sample intended merely to illustrate how the selected criteria could be translated into measurable indicators in practice. It was considered that the attachment of concrete data, even if only preliminary and incomplete, could contribute to the comprehension of the Second Report and assist the Court in further efforts to define and adjust the selected criteria in the future.

96. In some cases, the data contained in the charts is accompanied by an explanation by way of comments or footnotes. Indeed, during discussions it was recognised that quantitative measurements may need to be supplemented by a narrative in order to explain certain results or that could otherwise be misleading.

97. It is worth noticing that some data included in this Report may not provide *per se* a clear indication how the Court is performing. However, the collected data sets a starting point and thus provides relevant comparison data for the future, as far as the high level of diversity of the cases before the Court allows. In other words, the comparative value of certain data collected today will increase with each evaluation cycle ahead.

## X. Next steps

98. The Court will continue to collect and assemble relevant data on the selected criteria in order to fully accompany the selected performance indicators in 2017.

99. The Court notes that a fair amount of data on its courtroom-related activities is already available but is hard to access or scattered across various reports. This data includes case specific information which could be made public in a more comprehensive way at regular intervals. It is currently being contemplated internally amongst the Judges of the Court to make such case-specific information available on the Court's homepage.

100. The Court is also aware of the recommendation from civil society to give serious attention to the development of indicators that measure and facilitate improvement in achieving a broader sense of impact in situation countries on the ground. The Court notes that performance indicators in this area as well as in the area of cooperation by external actors may need to be further elaborated once the presently envisaged framework has solidified.

101. Following further discussions on the basis of this Second Report, the Court may consider further adjustments of its indicators developed so far.

## Annex I

### Goal I - The Court's proceedings are expeditious, fair and transparent at every stage

#### I. Fairness and expeditiousness of proceedings

##### A. The duration and activity per phase of each case<sup>1</sup>

As outlined in the Second Report, the following figures are of provisional nature. They should be read in accordance with the distinct features of each case as well as different procedural approaches taken by various Chambers. As indicated in the Second Report,<sup>2</sup> simple comparison, without consulting the relevant case-specific background, might very likely be misleading.

Performance indicators are developed in a forward-looking manner as they require the collection of relevant data to measure preselected criteria.<sup>3</sup> Although some of the data already collected by the Court in the past may be relevant, additional efforts will need to be made in the future to gather and assess relevant data to meet all the selected criteria. As a result, data contained in this Annex concerns ongoing trials only. Data for ongoing appeals or reparation proceedings related to past trials (in particular *Lubanga*, *Katanga*, and *Bemba*) will continue to be collected.

##### 1. The Prosecutor v. Dominic Ongwen

###### a) Relevant case information

The case against Mr Dominic Ongwen in the Uganda situation before the ICC addresses alleged war crimes and crimes against humanity, crimes under article 5 of the Rome Statute, which were committed in the context of a conflict between the Lord's Resistance Army (LRA) and the national authorities in Uganda since 1 July 2002. The case is presently in trial preparation, the trial is set to start on 6 December 2016.

###### b) Indicators per key phase

**Phase 1 – Confirmation** (between initial appearance and confirmation of charges decision):

Indicator	Relevant value	Comments
Absolute duration of the phase	1 year, 2 months (first appearance: 26 January 2015; confirmation of charges decision: 26 March 2016)	The Chamber granted the Prosecutor additional time to investigate, and possibly expand, the case, in light of the amount of time passed since the issuance of the arrest warrant on 8 July 2005
Number of suspects	1	
Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel <sup>4</sup>	30 days	Surrendered on 16 January 2015; transferred to ICC on 21 January 2015; duty counsel from 12 January 2015 until 24 February 2015; appointment

<sup>1</sup> Colour coding: parts of the tables below marked grey pertain to procedural phases per case which are yet to be reached.

<sup>2</sup> See paras. 25, 36 of the Second Report.

<sup>3</sup> Open Society Justice Initiative Briefing Paper, *Establishing Performance Indicators for the International Criminal Court*, November 2015, p. 3, at: <https://www.opensocietyfoundations.org/sites/default/files/briefing-icc-perforamnce-indicators-20151208.pdf>.

<sup>4</sup> It is noted that the speed of activity to be performed is dependent on the speed of decision-making process of the suspect; the list of counsel and other relevant information is provided to the suspect upon arrival. For more details see Section 3. 'Initial defence-related services delivered per case'.

			of permanent counsel on 20 February 2015.
Number of charges confirmed		70	Each charge covers either one or several incidents.
Number of motions <sup>5</sup> and number of pages, but excluding annexes	Prosecution	80 (1070 pages)	
	Defence team	38 (370 pages)	
	Victims <sup>6</sup>	LRV 4 (44 pages) OPCV 7 (74 pages)	
Decisions and orders <sup>7</sup>		116	The number includes some decisions and orders copied from the <i>Kony et al.</i> case when the case was severed.
Scheduled confirmation hearing date achieved <sup>8</sup>		No	Originally set for 24 August 2015; postponed to 21 January 2016 for the OTP to investigate, and possibly expand, the case, in light of the amount of time passed since the issuance of the arrest warrant
Amount of evidence submitted for the purpose of presentation at the confirmation hearing (number of items <sup>9</sup> / pages)	Prosecution	1658 items, 12534 pages	ICC-02/04-01/15-376
	Defence	N/A	Confidential; ICC-02/04-01/15-398
Number of courtroom days	Confirmation of charges hearing	5	21 – 27 January 2016
	Other	16	
Number of languages supported in the courtroom		3	FRA/ENG/ACH

**Phase 2 – Trial preparation** (between confirmation of charges decision and start of hearing phase):

Indicator	Relevant value	Comments
Absolute duration of the phase	8 months, 10 days (expected)	Confirmation of charges decision: 26 March 2016; trial commencement date: 6 December 2016
Number of accused persons	1	
Number of charges	70	Each charge covers either one or several incidents.

<sup>5</sup> The term “motion” also encompasses any applications, submissions and requests, as well as redacted versions, corrigenda and translations, at all levels of confidentiality. Responses and replies to motions of others, as well as annexures, are excluded.

<sup>6</sup> Victims’ filings include only those made by or on behalf of victims, i.e. the victims’ legal representatives before the Court (including OPCV).

<sup>7</sup> The figure only includes decisions and orders of the relevant Pre-Trial Chamber (and excludes any decisions by the Appeals Chamber or the Presidency).

<sup>8</sup> Pursuant to Rule 121(1) of the RPE. It is noted that it is normal practice that parties seek postponements of the confirmation of charges hearing to Rule 121(7) of the RPE due to mostly evidence disclosure related issues and required preparation time of the parties.

<sup>9</sup> The term “evidence items” includes documents.

Number of motions and number of pages, but excluding annexes	Prosecution	53 (837 pages)	Common filing OTP&Defence 2 (29 pages)
	Defence	30 (291 pages)	
	Victims	LRV 6 (86 pages) OPCV 5 (62 pages)	Common filing OPCV&LRV 1 (9 pages)
Decisions and orders <sup>10</sup>	Oral	3	At the first status conference
	In writing	Orders: 4 Decisions: 28	
Amount of disclosed material by the parties (number of items / pages) <sup>11</sup>	Prosecution	18613 documents (126141 pages)	
	Defence	68 documents (331 pages)	
Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial		6 months, 1 week (expected)	Initial scheduling decision: 30 May 2016; trial commencement date: 6 December 2016 (expected)
Total amount of court days		1	May 2016
Scheduled trial start date achieved		Yes (expected)	

**Phase 3 – Trial phase** (from the date of the opening statement hearing until the last submission in court):

Indicator		Relevant value	Comments
Absolute duration of the phase		N/A	
Number of accused persons		1	
Number of charges		70	Each charge covers either one or several incidents
Time allocated for opening statements and closing arguments			
Number of court days used			
Number of witnesses	Heard in physical presence		
	Heard via video link		
	Testimony introduced in writing		
	Hybrid (testimony introduced in writing but witness present in court)		
Average time per witness in court			
Number of witnesses brought to headquarters			
Number of motions and number of pages, but excluding annexes	Prosecution		
	Defence		
	Victims		
Decisions / Orders	Oral		

<sup>10</sup> Excluding annexes, translations and redacted versions. As at 10 November 2016.

<sup>11</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.

	In writing		
Amount of (additional) disclosed material by the parties (number of items / pages)	Prosecution		
	Defence		
Amount of evidence admitted (number of items <sup>12</sup> / pages)			
Length of evidence hearing phase <sup>13</sup>			
Number of languages supported in the courtroom	3		
Number of pages of final submissions by the parties			

**Phase 4 – Judgment** (after the end of closing submissions until the issuance of the judgment)<sup>14</sup>:

Indicator	Relevant value	Comments
Absolute duration of deliberation time up to delivery of judgement		
Number of pages of judgement		

**Phase 5 – Sentencing** (between the issuance of judgment and a sentencing decision):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Number of pages of submissions by parties and participants	Defence	
	Prosecutor	
	Victims	
Number of courtroom days on sentencing		
Number of witnesses heard		

**Phase 6 – Reparations** (between the judgment and the implementation of a reparations award, or the approval of an implementation plan, as appropriate):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Time lapse between issuance of trial judgment and reparations decision/order		
Number of victims seeking reparations		
Number of victims approved		

<sup>12</sup> The term “evidence items” includes documents.

<sup>13</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber’s closure of the hearing of evidence pursuant to Rule 141(1) RPE.

<sup>14</sup> The term ‘closing submissions’ entails oral or written submissions, which ever come last. The duration of this phase is in and of itself indicative of the Chamber’s workload.



Number of submissions and number of pages received regarding reparations considerations	Victims		
	Defence		
	Prosecution (where appropriate)		
	TFV (where appropriate)		
	Other		
Number of courtroom days used			
Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.			

**Phase 7 – Final Appeal** (between the closing date for appeals submissions<sup>15</sup> and the appeal judgment):

Indicator	Relevant value	Comments
Absolute duration of appeal		
Number of appealing parties		
Number of grounds per party	Defence	
	Prosecution	
Number of submissions and pages received		
Number of courtroom days used		

## 2. The Prosecutor v. Bosco Ntaganda

### a) Relevant case information:

Mr Bosco Ntaganda is accused of 13 counts of war crimes and five crimes against humanity (crimes under article 5 of the Rome Statute), allegedly committed in Ituri (Democratic Republic of Congo). The charges were confirmed on 9 June 2014. The trial opened on 2 September 2015 and is ongoing.

### b) Indicators per key phase

**Phase 1 – Confirmation** (between initial appearance and confirmation of charges decision):

Indicator	Relevant value	Comments
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<sup>15</sup> The phase commences with the filing of the last relevant material submission by the parties pursuant to Regulations 58-60 of the Regulations of the Court.

Absolute duration of the phase		1 year, 2 months and 18 days (first appearance: 26 March 2013; confirmation of charges decision: 9 June 2014)	The Chamber granted the Prosecutor additional time to prepare the case as it had been dormant for several years, see decision ICC-01/04-02/06-73
Number of suspects		1	
Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel		27 days	Transfer to ICC on 22 March 2013; duty counsel on 12 April 2013 and permanent counsel on 18 April 2013.
Number of charges confirmed		18	Charges cover several incidents
Number of motions <sup>16</sup> and number of pages, but excluding annexes	Prosecution	92 (992 pages)	OTP&Defence 1 (3 pages) OTP&Registrar 1 (5 pages)
	Defence team	42 (794 pages)	
	Victims <sup>17</sup>	LRV 1 (6 pages) OPCV 14 (205 pages)	
Decisions and orders <sup>18</sup>		82	
Scheduled confirmation hearing date achieved <sup>19</sup>		No	Initially scheduled for 12 September 2013; postponed to 10 February 2014.
Amount of evidence submitted for the purpose of presentation at the confirmation hearing (number of items <sup>20</sup> / pages)	Prosecution	2081 items	
	Defence	N/A	Confidential; ICC-01/04-02/06-227
Number of courtroom days	Confirmation of charges hearing	5	
	Other	4	
Number of languages supported in the courtroom		3	ENG/FRA/KIN

**Phase 2 – Trial preparation** (between confirmation of charges decision and start of hearing phase):

Indicator	Relevant value	Comments
Absolute duration of the phase	1 year, 2 months and 25 days	Charges confirmed 9 June 2014; trial hearing started 2 September 2015
Number of accused persons	1	
Number of charges	18	Charges cover several incidents.

<sup>16</sup> The term “motion” also encompasses any applications, submissions and requests, as well as redacted versions, corrigenda and translations, at all levels of confidentiality. Responses and replies to motions of others, as well as annexures, are excluded.

<sup>17</sup> Victims’ filings include only those made by or on behalf of victims, i.e. the victims’ legal representatives before the Court (including OPCV).

<sup>18</sup> The figure only includes decisions and orders of the relevant Pre-Trial Chamber (and excludes any decisions by the Appeals Chamber or the Presidency).

<sup>19</sup> Pursuant to Rule 121(1) of the RPE. It is noted that it is normal practice that parties seek postponements of the confirmation of charges hearing to Rule 121(7) of the RPE due to mostly evidence disclosure related issues and required preparation time of the parties.

<sup>20</sup> The term “evidence items” includes documents.

Number of motions and number of pages, but excluding annexes	Prosecution	200 (1764 pages)	OTP&Defence 1 (3 pages)
	Defence	113 (1100 pages)	
	Victims	LRV 5 (38 pages) OPCV 16 (164 pages)	
Decisions and orders	Oral	11	
	In writing	Orders: 27 Decisions: 73	
Amount of disclosed material by the parties (number of items / pages)) <sup>21</sup>	Prosecution	12886 documents (102415 pages)	
	Defence	1 document (2 pages)	
Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial		10 months and 24 days	Initial scheduling order: 9 October 2014; trial commencement date: 2 September 2015
Total amount of court days		12	
Scheduled trial start date achieved		No	The commencement date for trial was set as 2 June 2015; trial started on 2 September 2015 following defence requests for adjournment in order to prepare for trial.

**Phase 3 – Trial phase** (from the date of the opening statement hearing until the last submission in court):

Indicator		Relevant value	Comments
Absolute duration of the phase		N/A	Opening statements: 2 September 2015; trial is still ongoing
Number of accused persons		1	
Number of charges		18	Charges cover several incidents.
Time allocated for opening statements and closing arguments		OTP 4h, Defence 4h, LRV (1+2)=total 1h	2 and 3 September 2015
Number of court days used		122	
Number of witnesses	Heard in physical presence	46	<i>The trial phase is ongoing and final numbers are not yet available</i>
	Heard via videolink	1	
	Testimony introduced in writing	3	
	Hybrid (testimony introduced in writing but witness present in court)	15	This includes expert witnesses whose reports have been addressed under R68(3) RPE
Average time per witness in court		9h or 548 minutes	
Overall number of witnesses brought to headquarters		2015: 9 2016: 41	
Number of motions and number of pages, but	Prosecution	232 (2009 pages)	

<sup>21</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.

excluding annexes	Defence	138 (1350 pages)	
	Victims	OPCV 33 (250 pages)	In the Ntaganda case, the victims' legal representatives are from the OPCV
Decisions / Orders <sup>22</sup>	Oral	141	Ordinary course rulings on admission/ on objections during questioning etc. (which are made multiple times each day) are <u>not counted</u>
	In writing	Orders: 7 Decisions: 92	
Amount of additional disclosed material by the parties (number of items / pages)	Prosecution	1534 documents (10452 pages)	In total until today: 16052 docs (125795 pages) for OTP, 154 docs (2370 pages) for the Defence. The case is still in the prosecution phase; more defence disclosure is expected before the start of the defence phase
	Defence	133 documents (1597 pages)	
Amount of evidence admitted (number of items <sup>23</sup> / pages)		+/- 1059 (6987 pages)	Final data available at the end of trial
Length of evidence hearing phase <sup>24</sup>		The Prosecution's presentation of evidence started on 15 September 2015 and is ongoing into 2017.	
Number of languages supported in the courtroom		3+ witness' language	FRA/ENG/KIN + witness language if need arise (SWH)
Number of pages of final submissions by the parties		N/A	No final submissions yet

**Phase 4 – Judgment** (after the end of closing submissions until the issuance of the judgment)<sup>25</sup>:

Indicator	Relevant value	Comments
Absolute duration of deliberation time up to delivery of judgement		
Number of pages of judgement		

**Phase 5 – Sentencing** (between the issuance of judgment and a sentencing decision):

Indicator	Relevant value	Comments	
Absolute duration of the phase	N/A	Case still in trial phase throughout 2017	
Number of pages of submissions by parties and participants	Defence		N/A
	Prosecutor		N/A

<sup>22</sup> From 2 September 2015 to 10 November 2016.

<sup>23</sup> The term "evidence items" includes documents.

<sup>24</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber's closure of the hearing of evidence pursuant to Rule 141(1) RPE.

<sup>25</sup> The term 'closing submissions' entails oral or written submissions, which ever come last. The duration of this phase is in and of itself indicative of the Chamber's workload.

	Victims	N/A	
Number of courtroom days on sentencing		N/A	
Number of witnesses heard		N/A	

**Phase 6 – Reparations** (between the judgment and the implementation of a reparations award, or the approval of an implementation plan, as appropriate):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Time lapse between issuance of trial judgment and reparations decision/order		
Number of victims seeking reparations		
Number of victims approved		
Number of submissions and number of pages received regarding reparations considerations	Victims	
	Defence	
	Prosecution (where appropriate)	
	TFV (where appropriate)	
	Other	
Overall number of courtroom days used		
Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.		

**Phase 7 – Final Appeal** (between the closing date for appeals submissions<sup>26</sup> and the appeal judgment):

Indicator	Relevant value	Comments
Absolute duration of appeal		
Number of appealing parties		
Number of grounds per party	Defence	
	Prosecution	
Number of submissions and pages received		

<sup>26</sup> The phase commences with the filing of the last relevant material submission by the parties pursuant to Regulations 58-60 of the Regulations of the Court.

Number of courtroom days used		
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### 3. The Prosecutor v. Laurent Gbagbo & Charles Blé Goudé

#### a) Relevant case information

Mr Laurent Gbagbo is charged with four counts of crimes against humanity committed during the 2010-2011 post-election violence in Abidjan, Côte d'Ivoire; Charles Blé Goudé is charged with five counts of crimes against humanity in the same context. The charges against them were confirmed on 12 June 2014 and 11 December 2014, respectively. The two cases were joined on 11 March 2015 and the trial began on 28 January 2016. It is currently ongoing.

#### b) Indicators per key phase

*Phase 1 – Confirmation* (between initial appearance and confirmation of charges decision):

Indicator	Relevant value	Comments
Absolute duration of the phase	Gbagbo: 2 years, 6 months and 8 days (first appearance: 5 Dec 2011; confirmation of charges decision: 12 June 2014) Blé Goudé: 8 months and 15 days (first appearance: 27 March 2014; confirmation of charges decision: 11 December 2014)	For Mr Gbagbo, following the pre-trial hearing on 19- 28 February 2013, the Pre-Trial Chamber decided to adjourn the hearing and requested the Prosecutor to provide it with further evidence following additional investigations. Additional evidence was thus submitted in the following months, including observations from the Defence and Victims. Further time was necessary to determine whether he was fit to take part in proceedings.
Number of suspects	2	
Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel	Gbagbo: 1 day Blé Goudé: 2 days	Gbagbo transferred to ICC: 30 November 2011; assignment of counsel: 1 December 2011. Blé Goudé transferred to ICC: 22 March 2014; appointment of counsel: 24 March 2014.
Number of charges confirmed	4 (Gbagbo) / 4 (Blé Goudé)	Charges cover several incidents
Number of motions <sup>27</sup> and number of pages, excluding annexes	Prosecution	223 (1606 pages)
	Defence team	202 (3058 pages)
	Victims <sup>28</sup>	OPCV 40 (610 pages)
		Gbagbo 179 (1388 pages) Blé Goudé 44 (218 pages)
		Gbagbo 170 (2848) Blé Goudé 32 (210 pages) Defence LG and Registrar 2 (14 pages)
		Gbagbo: OPCV 36 (564 pages) Blé Goudé: OPCV 4 (46 pages)

<sup>27</sup> The term "motion" also encompasses any applications, submissions and requests, as well as redacted versions, corrigenda and translations, at all levels of confidentiality. Responses and replies to motions of others, as well as annexures, are excluded.

<sup>28</sup> Victims' filings include only those made by or on behalf of victims, i.e. the victims' legal representatives before the Court (including OPCV).

Decisions and orders <sup>29</sup>		169	Gbagbo: 139 Blé Goudé: 38
Scheduled confirmation hearing date achieved <sup>30</sup>		No	Gbagbo: commencement date was set for 18 June 2012 but was rescheduled to August 13 2012 following a Defence request, and again rescheduled <i>proprio motu</i> by the Chamber to 19 February 2013 due to Mr Gbagbo's fitness for trial. Blé Goudé: commencement date was set for 18 August 2014 but was rescheduled to 22, then 29 September 2014, due to parties' requests regarding the collection of evidence / time to investigate.
Amount of evidence submitted for the purpose of presentation at the confirmation hearing (number of items <sup>31</sup> )	Prosecution	Laurent Gbagbo – 3817 items Blé Goudé – 2425 items	
	Defence	776 documents	See filing ICC-02/11-01/11-381
Number of courtroom days	Confirmation of charges hearing	Gbagbo: 8 Blé Goudé: 4	
	Other	Gbagbo: 7 Blé Goudé: 3	
Number of languages supported in the courtroom		2	FRA/ENG

**Phase 2 – Trial preparation** (between confirmation of charges decision and start of hearing phase):

Indicator	Relevant value	Comments	
Absolute duration of the phase	Gbagbo: 1 year, 7 months and 17 days. Blé Goudé: 1 year, 1 month and 18 days.	Gbagbo confirmation of charges on 12 June 2014; Blé Goudé confirmation of charges on 11 December 2014; joint trial began on 28 January 2016.	
Number of accused persons	2		
Number of charges	4	Charges cover several incidents	
Number of motions and number of pages, but excluding annexes	Prosecution	131 (946 pages)	OTP&OPCV 3 (19 pages) OTP&Defences 1 (8 pages) Defence&Registrar 1 (10 pages)
	Defence	209 (2792 pages)	Defence LG and Registrar 3 (21 pages)
	Victims	22 (259 pages)	
Decisions and orders	N/A	See figures from the constitution of Trial Chamber I up until present in the 'Trial phase' box	

<sup>29</sup> The figure only includes decisions and orders of the relevant Pre-Trial Chamber (and excludes any decisions by the Appeals Chamber or the Presidency).

<sup>30</sup> Pursuant to Rule 121(1) of the RPE. It is noted that it is normal practice that parties seek postponements of the confirmation of charges hearing to Rule 121(7) of the RPE due to mostly evidence disclosure related issues and required preparation time of the parties.

<sup>31</sup> The term "evidence items" includes documents.

Amount of disclosed material by the parties (number of items / pages) <sup>32</sup>	Prosecution	11088 documents (72018 pages)	
	Defence	95 documents (941 pages)	
Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial		Gbagbo: 1 year, 2 months and 9 days Blé Goudé: 8 months and 21 days	Gbagbo initial scheduling order: 17 November 2014; Blé Goudé initial scheduling order: 7 May 2015; trial commencement date: 28 January 2016
Total of court days		9	
Scheduled trial start date achieved		No	Gbagbo's trial was set to start on 7 July 2015. Cases of Gbagbo and Blé Goudé were joined on 11 March 2015. The joint trial was set to commence on 10 November 2015 but began on 28 January 2016.

**Phase 3 – Trial phase** (from the date of the opening statement hearing until the last submission in court):

Indicator		Relevant value	Comments
Absolute duration of the phase		N/A	The trial started on 28 January 2016 and is still ongoing.
Number of accused persons		2	
Number of charges		4	The charges cover several incidents
Time allocated for opening statements and closing arguments		OTP+2 Defence teams 3h each, LRV 2h	
Number of court days used		80	
Number of witnesses	Heard in physical presence	17	<i>The trial phase is ongoing, absolute numbers are not yet available</i>
	Heard via videolink	3	
	Testimony introduced in writing	2	
	Hybrid (testimony introduced in writing but witness present in court)	2	There are, as at Oct. 2016, 15 R68(3) RPE witnesses that have been approved
Average time per witness in court		10h30 per witness	This is based on 19 witnesses. The 20 <sup>th</sup> witness is being heard
Overall number of witnesses brought to headquarters		2015: 3 2016: 20	In 2016, VWS facilitated the video link testimony of 3 witnesses
Number of motions and number of pages, but excluding annexes	Prosecution	72 (576 pages)	OTP and Defence 1 (4 pages)
	Defence	47 (649 pages)	Gbagbo 31 (425 pages) Blé Goudé 16 (224 pages)
	Victims	LRV 1 (3 pages) OPCV 3 (25 pages)	
Decisions / Orders	Oral	107	<i>From the constitution of Trial Chamber I until present (as at 11 Nov. 2016).</i> <sup>33</sup>

<sup>32</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.

<sup>33</sup> A number of orders on minor procedural matters are also issued via email and not included in the above counting.



	In writing	127	
Amount of (additional) disclosed material by the parties (number of items / pages)	Prosecution	831 documents (6512 pages)	Case still in prosecution phase; more defence disclosure expected before the start of the defence case <sup>34</sup>
	Defence	1921 documents (10671 pages)	
Amount of evidence admitted (number of items <sup>35</sup> / pages)		N/A	Data available at the end of the trial
Length of evidence hearing phase <sup>36</sup>		N/A	<i>Trial ongoing</i>
Number of languages supported in the courtroom		2	ENG/FRA + witness' language if need arises (DYU)
Number of pages of final submissions by the parties		N/A	<i>Trial ongoing</i>

**Phase 4 – Judgment** (after the end of closing submissions until the issuance of the judgment)<sup>37</sup>:

Indicator	Relevant value	Comments
Absolute duration of deliberation time up to delivery of judgement		
Number of pages of judgement		

**Phase 5 – Sentencing** (between the issuance of judgment and a sentencing decision):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Number of pages of submissions by parties and participants	Defence	
	Prosecutor	
	Victims	
Number of courtroom days on sentencing		
Number of witnesses heard		

**Phase 6 – Reparations** (between the judgment and the implementation of a reparations award, or the approval of an implementation plan, as appropriate):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Time lapse between issuance of trial judgment and reparations decision/order		
Number of victims seeking reparations		
Number of victims approved		

<sup>34</sup> Total to date: OTP: 10237 (72031 pages); Defence: 2032 (12885 pages).

<sup>35</sup> The term "evidence items" includes documents.

<sup>36</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber's closure of the hearing of evidence pursuant to Rule 141(1) RPE.

<sup>37</sup> The term 'closing submissions' entails oral or written submissions, which ever come last. The duration of this phase is in and of itself indicative of the Chamber's workload.

Number of submissions and number of pages received regarding reparations considerations	Victims		
	Defence		
	Prosecution (where appropriate)		
	TFV (where appropriate)		
	Other		
Overall number of courtroom days used			
Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.			

**Phase 7 – Final Appeal** (between the closing date for appeals submissions<sup>38</sup> and the appeal judgment):

Indicator	Relevant value	Comments
Absolute duration of appeal		
Number of appealing parties		
Number of grounds per party	Defence	
	Prosecution	
Number of submissions and pages received		
Number of courtroom days used		

#### 4. The Prosecutor v. Ahmad Al Faqi Al Mahdi

##### a) Relevant case information

On 27 September 2016, Mr Al Mahdi was found guilty of intentionally directing attacks against cultural property in Timbuktu, Mali, between about 30 June 2012 and 10 July 2012. He was sentenced to nine years of imprisonment. His trial took place on 22-24 August 2016, during which he made an admission of guilt. The case is currently in at the reparation stage.

##### b) Indicators per key phase

**Phase 1 – Confirmation** (between initial appearance and confirmation of charges decision):

<sup>38</sup> The phase commences with the filing of the last relevant material submission by the parties pursuant to Regulations 58-60 of the Regulations of the Court.

Indicator	Relevant value	Comments	
Absolute duration of the phase	5 months and 25 days (initial appearance: 30 September 2015; confirmation of charges decision: 24 March 2016)	Mr Al Mahdi had announced his intention to make an admission of guilt	
Number of suspects	1		
Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel	6 days	Surrender to the Court: 26 September 2015; Duty counsel from 25 to 30 September 2015; same counsel was appointed as permanent counsel on 2 October 2015	
Number of charges confirmed	1		
Number of motions <sup>39</sup> and number of pages, but excluding annexes	Prosecution	56 (888 pages)	OTP and Defence 8 (28 pages)
	Defence team	4 (36 pages)	
	Victims <sup>40</sup>	N/A	
Decisions and orders <sup>41</sup>	12		
Scheduled confirmation hearing date achieved <sup>42</sup>	No	Initially set for 18 January 2016, the hearing took place on 1 March 2016, at the request of the defence.	
Amount of evidence submitted for the purpose of presentation at the confirmation hearing (number of items <sup>43</sup> / pages)	Prosecution	593 items	
	Defence	none	
Number of courtroom days	Confirmation of charges hearing	1	1 March 2016
	Other	1	
Number of languages supported in the courtroom	3	English, French, Arabic	

**Phase 2 – Trial preparation** (between confirmation of charges decision and start of hearing phase):

Indicator	Relevant value	Comments
Absolute duration of the phase	5 months	Confirmation of charges decision: 24 March 2016; trial started 22 August 2016
Number of accused persons	1	

<sup>39</sup> The term "motion" also encompasses any applications, submissions and requests, as well as redacted versions, corrigenda and translations, at all levels of confidentiality. Responses and replies to motions of others, as well as annexures, are excluded.

<sup>40</sup> Victims' filings include only those made by or on behalf of victims, i.e. the victims' legal representatives before the Court (including OPCV).

<sup>41</sup> The figure only includes decisions and orders of the relevant Pre-Trial Chamber (and excludes any decisions by the Appeals Chamber or the Presidency).

<sup>42</sup> Pursuant to Rule 121(1) of the RPE. It is noted that it is normal practice that parties seek postponements of the confirmation of charges hearing to Rule 121(7) of the RPE due to mostly evidence disclosure related issues and required preparation time of the parties.

<sup>43</sup> The term "evidence items" includes documents.

Number of charges		1	
Number of motions and number of pages, but excluding annexes	Prosecution	34 (384 pages)	OTP and Defence 10 (62 pages)
	Defence	10 (91 pages)	
	Victims	LRV 6 (39 pages)	
Decisions and orders	Oral	N/A	<i>See figures from the constitution of Trial Chamber VIII through the judgment in the 'Trial phase' box</i>
	In writing		
Amount of disclosed material by the parties (number of items / pages) <sup>44</sup>	Prosecution	12496 documents (36704 pages)	
	Defence	0	
Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial		2 months and 21 days	Initial scheduling decision: 1 June 2016; trial commencement date 22 August 2016
Total court days		1	
Scheduled trial start date achieved		Yes	Trial was set to start on 22 August 2016, see ICC-01/12-01-15-93, p.6.

**Phase 3 – Trial phase** (from the date of the opening statement hearing until the last submission in court):

Indicator		Relevant value	Comments
Absolute duration of the phase		3 days	Trial commencement date: 22 August 2016; closing submissions: 24 August 2016
Number of accused persons		1	
Number of charges		1	
Time allocated for opening statements and closing arguments		OTP 3h, LRV 1h, Defence 1h30	Time used: OTP 4h07, Defence 1h59
Number of court days used		4	Including 1 court day for the delivery of judgment
Number of witnesses	Heard in physical presence	3	
	Heard via videolink	none	
	Testimony introduced in writing	2	See Judgment, ICC-01/12-01/15-171, para. 5, referring to 2 defence witness statements on sentencing
	Hybrid (testimony introduced in writing but witness present in court)	none	
Average time per witness in court		Approx. 2h or 118 minutes	
Number of witnesses brought to headquarters		3 (2016)	
Number of motions and number of pages, but	Prosecution	1 (3 pages)	OTP and Defence 1 (3 pages)

<sup>44</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.

excluding annexes	Defence	3 (59 pages)	
	Victims	LRV 1 (5 pages)	
Decisions / Orders	Oral	12 decisions	See ICC-01/12-01/15-171, para. 8; some of these decisions were rendered in the preparation phase
	In writing	Orders: 4 Decisions : 14 37 e-mail decisions	See also ICC-01/12-01/15-171, para. 8.
Amount of (additional) disclosed material by the parties (number of items / pages)	Prosecution	111 documents (2844 pages)	
	Defence	2 (8 pages)	Mr Al Mahdi made an admission of guilt
Amount of evidence admitted (number of items <sup>45</sup> )		714 items and two written Defence witness statements for sentencing (see judgment ICC-01/12-01/15-171, para. 5)	The parties agreed on the pieces of evidence (as part of the agreement on admission of guilt); hence there was no decision as such to <i>admit</i> evidence
Length of evidence hearing phase <sup>46</sup>		3 days	
Number of languages supported in the courtroom		3	English, French, Arabic
Number of pages of final submissions by the parties		OTP: 21 pages Defence: 28 pages	The Defence only submitted observations on sentencing, ICC-01/12-01/15-141-Corr-Red

**Phase 4 – Judgment** (after the end of closing submissions until the issuance of the judgment)<sup>47</sup>:

Indicator	Relevant value	Comments
Absolute duration of deliberation time up to delivery of judgement	1 month and 4 days	Closing submissions: 24 August 2016; Issuance of judgment: 27 September 2016.
Number of pages of judgement	49 pages	Judgement and sentence

**Phase 5 – Sentencing** (between the issuance of judgment and a sentencing decision):

Indicator	Relevant value	Comments
Absolute duration of the phase	N/A	The judgement and sentencing decision were issued on the same date.
Number of pages of submissions by parties and participants	Defence	28 pages
	Prosecutor	29 pages
	Victims	13 pages

<sup>45</sup> The term “evidence items” includes documents.

<sup>46</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber’s closure of the hearing of evidence pursuant to Rule 141(1) RPE.

<sup>47</sup> The term ‘closing submissions’ entails oral or written submissions, which ever come last. The duration of this phase is in and of itself indicative of the Chamber’s workload.

Number of courtroom days on sentencing	N/A	The judgement and sentencing decision were issued on the same date.
Number of witnesses heard	none	

**Phase 6 – Reparations** (between the judgment and the implementation of a reparations award, or the approval of an implementation plan, as appropriate):

Indicator	Relevant value	Comments
Absolute duration of the phase	N/A	<i>Phase is ongoing</i>
Time lapse between issuance of trial judgment and reparations decision/order		
Number of victims seeking reparations		Applications for reparations must be filed by 16 December 2016
Number of victims approved		
Number of submissions and number of pages received regarding reparations considerations	Victims	
	Defence	
	Prosecution (where appropriate)	
	TFV (where appropriate)	
	Other	6 pages
Overall number of courtroom days used		
Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.		

**Phase 7 – Final Appeal** (between the closing date for appeals submissions<sup>48</sup> and the appeal judgment): the trial judgment has not been appealed and is thus final.

5. The Prosecutor v. The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido

a) Relevant case information

The accused were charged of offences against the administration of justice in connection with defence witnesses' testimonies in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, in the situation in the Central African Republic. The offences were allegedly committed between 2011 and 2013 in various locations. The charges were partially confirmed on 11 November 2014 and the trial took place between September 2015 and June 2016. All five accused were convicted on 19 October 2016.

<sup>48</sup> The phase commences with the filing of the last relevant material submission by the parties pursuant to Regulations 58-60 of the Regulations of the Court.

b) Indicators per key phase

*Phase 1 – Confirmation* (between initial appearance and confirmation of charges decision):

Indicator	Relevant value	Comments
Absolute duration of the phase	Approx. 11 months (for Narcisse Arido: 7 months and 23 days)	Initial appearances: between 27 Nov 2013 and 20 March 2014; <sup>49</sup> confirmation of charges decision for all suspects: 11 November 2014
Number of suspects	5	
Time lapse between transfer of suspect in ICC custody and assignment/ appointment of permanent counsel	Aimé Kilolo Musamba: 3 days. Fidèle Babala Wandu: 11 days. Jean-Jacques Mangenda Kabongo: 11 days. Narcisse Arido: 9 days.	JPB: In custody since 3 July 2008 (main <i>Bemba</i> case), counsel appointed for the article 70 proceedings on 26 November 2013; AKM: custody 23 November 2013, counsel appointed 2 December 2013; FBW: custody 23 November 2013, counsel appointed 4 December 2013; JJMK: custody 23 November 2013, counsel appointed on 4 December 2013; NR custody 18 March 2014, counsel appointed 27 March 2014
Number of charges	43 counts in the Document Containing the Charges	The charges cover 14 incidents (14 witnesses and 14 documents, see ICC-01/05-01/13-526-AnxB1-Red).
Number of motions <sup>50</sup> and number of pages, excluding annexes	Prosecution	105 (597 pages)
	Defence team	240 (3401 pages)
	Victims <sup>51</sup>	N/A
Decisions and orders <sup>52</sup>	133	
Scheduled confirmation hearing date achieved	No	For proceedings under art. 70, no hearing is required; an oral decision of 4 Dec 2013 set all relevant timelines: ICC-01/05-01/13-T-2-Red-ENG, pp. 30-33. The confirmation of charges calendar was amended three times, <i>inter alia</i> , due to the time the Dutch authorities needed to make intercepted communications available to the Court

<sup>49</sup> Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba and Fidèle Babala Wandu: 27 November 2013; Jean-Jacques Mangenda Kabongo: 5 December 2013; Narcisse Arido: 20 March 2014.

<sup>50</sup> The term "motion" also encompasses any applications, submissions and requests, as well as redacted versions, corrigenda and translations, at all levels of confidentiality. Responses and replies to motions of others, as well as annexures, are excluded.

<sup>51</sup> Victims' filings include only those made by or on behalf of victims, i.e. the victims' legal representatives before the Court (including OPCV).

<sup>52</sup> The figure only includes decisions and orders of the relevant Pre-Trial Chamber (and excludes any decisions by the Appeals Chamber or the Presidency).

Amount of evidence submitted for the purpose of presentation at the confirmation hearing (number of items <sup>53</sup> )	Prosecution	715 items, 2286 exhibits	See OTP list of evidence ICC-01/05-01/13-1048
	Defence	Arido: 86 items Kilolo: 101 items	
Number of courtroom days	Confirmation of charges hearing	N/A	For proceedings under art. 70, no hearing is required; proceedings were held in writing
	Other	6	
Number of languages supported in the courtroom		2	English, French

*Phase 2 – Trial preparation (between confirmation of charges decision and start of hearing phase):*

Indicator	Relevant value	Comments
Absolute duration of the phase	10 months and 19 days.	Confirmation of charges decision: 11 November 2014; trial started 29 September 2015.
Number of accused persons	5	
Number of charges	20	Charge covers several incidents (14 witnesses)
Number of motions and number of pages, but excluding annexes	Prosecution	113 (981 pages)
	Defence	215 (2154 pages)
	Victims	N/A
Decisions and orders	N/A	<i>See figures from the constitution of Trial Chamber VII through the judgment in the 'Trial phase' box</i>
Amount of disclosed material by the parties (number of items / pages) <sup>54</sup>	Prosecution	3034 documents (8824 pages)
	Defence	350 documents (1794 pages)
Preparation time of the parties from the Trial Chamber's initial scheduling order/decision until the start date of trial	4 months, 1 week; allotted to the Defence: 3 months following the Prosecution's full disclosure	On 22 May 2015, the Chamber set 29 September as trial start date (ICC-01/05-01/13-960, para.12)
Scheduled trial start date achieved	Yes	29 September 2015 (ICC-01/05-01/13-960, para. 12)

*Phase 3 – Trial phase (from the date of the opening statement hearing until the last submission in court):*

Indicator	Relevant value	Comments
Absolute duration of the phase	8 months and 4 days	
Number of accused persons	5	
Number of charges	20 charges (including alternative charges) Bemba: 5 Kilolo: 3	Charges cover several incidents (14 witnesses).

<sup>53</sup> The term "evidence items" includes documents.

<sup>54</sup> Disclosure commences in Pre-Trial and continues beyond the confirmation of charges until a deadline set by the Trial Chamber usually some months before the start of the hearing phase of trial.



		Mangenda: 5 Babala: 3 Arido: 4	
Time allocated for opening statements and closing submissions		OTP 2h, Defence for Mr Mangenda 1h30, Defence for Mr Arido 1h30, Defence for Mr. Bemba 1h30, Defence for Mr. Babala 1h30 and Defence for Mr. Kilolo 1h	29 Sept 2015 opening statements; 31 May-1 June 2016 closing statements
Number of court days used		40	
Number of witnesses	Heard in physical presence	OTP: 10 Defence: 3	At trial, the Chamber heard a total of 19 witnesses, including 13 witnesses called by the OTP, 6 witnesses called by the five Defence teams. See judgment ICC-01/05-01/13-1989-Red, fn. 11
	Heard via videolink	OTP: 3 Defence: 3	
	Testimony introduced in writing	(R68(2)(b)/(c) RPE) OTP: 3 Defence: 5	
	Hybrid (testimony introduced in writing but witness present in court)	(via R68(3) RPE) OTP: 4 Defence: 1 (expert report)	
Average time per witness in court		5h or 302 minutes per witness	
Number of witnesses brought to headquarters		2015: 10 2016: 4	
Number of motions and number of pages, but excluding annexes	Prosecution	63 (572 pages)	
	Defence	243 (2038 pages)	
	Victims	N/A	
Decisions / Orders	Oral	80 (excluding redaction orders)	See judgment ICC-01/05-01/13-1989-Red, fn. 11
	In writing	266	
Amount of additional disclosed material by the parties (number of items / pages)	Prosecution	3684 documents (24518 pages)	In total: 6601 (33350 pages)
	Defence	609 documents (6877 pages)	In total: 907 (8532 pages)
Amount of evidence admitted (number of items <sup>55</sup> / pages)		2075 items (13123 pages)	
Length of evidence hearing phase <sup>56</sup>		7 months and 1 day	Trial started on 29 September 2015; closing of submission of evidence on 29 April 2016
Number of languages supported in the courtroom		2	English and French
Number of pages of final submissions by the parties		Prosecution: 150 pages; Defence Arido: 85 pages; Defence Babala: 90 pages; Defence Kilolo: 90 pages; Defence Mangenda: 79 pages	

<sup>55</sup> The term "evidence items" includes documents.

<sup>56</sup> The phase starts with the first hearing of evidence after the opening statements and ends with the Trial Chamber's closure of the hearing of evidence pursuant to Rule 141(1) RPE.

**Phase 4 – Judgment** (after the end of closing submissions until the issuance of the judgment)<sup>57</sup>:

Indicator	Relevant value	Comments
Absolute duration of deliberation time up to delivery of judgement	4 months and 18 days	Closing oral statements: 1 June 2016; verdict delivered on 19 October 2016
Number of pages of judgement	458	

**Phase 5 – Sentencing** (between the issuance of judgment and a sentencing decision):

Indicator	Relevant value	Comments
Absolute duration of the phase		<i>Sentencing phase ongoing, see sentencing calendar ICC-01/05-01/13-1990</i>
Number of pages of submissions by parties and participants	Defence	
	Prosecutor	
	Victims	
Number of courtroom days on sentencing		
Number of witnesses heard		

**Phase 6 – Reparations** (between the judgment and the implementation of a reparations award, or the approval of an implementation plan, as appropriate):

Indicator	Relevant value	Comments
Absolute duration of the phase		
Time lapse between issuance of trial judgment and reparations decision/order		
Number of victims seeking reparations		
Number of victims approved		
Number of submissions and number of pages received regarding reparations considerations	Victims	
	Defence	
	Prosecution (where appropriate)	
	TFV (where appropriate)	
	Other	
Overall number of courtroom days used		
Time lapse between issuance of reparations decision/order and implementation of award/approval of reparations plan.		

<sup>57</sup> The term ‘closing submissions’ entails oral or written submissions, which ever come last. The duration of this phase is in and of itself indicative of the Chamber’s workload.

**Phase 7 – Final Appeal** (between the closing date for appeals submissions<sup>58</sup> and the appeal judgment):

Indicator	Relevant value	Comments
Absolute duration of appeal		
Number of appealing parties		
Number of grounds per party	Defence	
	Prosecution	
Number of submissions and pages received		
Number of courtroom days used		

## 6. Overall disclosure figures

In addition, OTP calculated the following OTP-related disclosure figures for 2015:

Documents disclosed by OTP: 45944 = 84.6% increase vs. 2014

Pages disclosed by OTP: 290078 = 108.25% increase vs. 2014.<sup>59</sup>

Similar data is being recorded for 2016 and beyond.

## 7. Interlocutory appeals

Year	Number of interlocutory appeals handled <sup>60</sup>	Average duration (days) <sup>61</sup>	Comments
2016	5 <sup>62</sup>	108 / 87 <sup>63</sup>	Since 2014, stored data allows the measuring of averages also from the completion of the appeal briefing
2015	17	147 / 129 <sup>64</sup>	
2014	14	168 / 108 <sup>65</sup>	
2013	7	87	
2012	12	58	
2011	19	49	
2010	10	92	

<sup>58</sup> The phase commences with the filing of the last relevant material submission by the parties pursuant to Regulations 58-60 of the Regulations of the Court.

<sup>59</sup> This is reciprocated by comparable data increases on the Defence side; concrete figures are not yet available.

<sup>60</sup> This figure reflects the number of interlocutory judgements rendered per year.

<sup>61</sup> Between the submission of the document in support of the appeal and the date of the judgement.

<sup>62</sup> Two interlocutory appeals are currently pending.

<sup>63</sup> Between the completion of appeal briefing and the date of the judgement.

<sup>64</sup> Between the completion of appeal briefing and the date of the judgement.

<sup>65</sup> Between the completion of appeal briefing and the date of the judgement.

The increase in average duration from 2013 to 2014 can be explained through the corresponding sharp increase in workload (from seven to 14 interlocutory appeals handled).

**8. Remaining case data**

Relevant data for the remaining cases is in the process of being assembled but will not be part of the present report as the data is still being retrieved.

**B. Relevant Registry services that contribute to the fairness and expeditiousness of proceedings irrespective of the phases**

**1. Volume of services delivered on time versus requested per year (% of services delivered on time versus requested):**

(a) Transcripts:

Transcript provision		Overall volume <sup>66</sup>	Reclassification <sup>67</sup>
2016	ENG	216(15857)	36(2916)
	FRA	212(15726)	32(2558)
2015	ENG	144(8012)	308(17769)
	FRA	130(7404)	43(2271)
2014	ENG	171(11692)	79(5670)
	FRA	169(11515)	71(5110)

The timeliness of delivery of transcripts, in addition to the volume as such (and the amount of reclassified transcripts), will be recorded as of 2017.

b) Translation / Interpretation

aa) **Court Interpretation 2016-2014:**

	Requests received	Services provided/ on time	Implementation	Overall amount of interpreter days vs. outsourced
2016 (to date) <sup>68</sup>	194	194	100%	Staff: 1555
2015	257	257	100%	FL: 547
2014	140	140	100%	Staff: 1227

<sup>66</sup> Number and pages of edited transcript produced per year. The edited transcript is the full confidential or public version of the transcript. Certain hearings were only transcribed in one language which explains the discrepancy between the number of English and French edited transcripts produced.

<sup>67</sup> Number and pages of transcripts reclassified during the year mentioned in the table.

<sup>68</sup> Data for 2016 covers until 21/10/2016.

**bb) Field and Operational Interpretation 2016-2014:**

	Requests received	Services provided/ on time	Implementation	Overall amount of field interpreter days
2016 (to date) <sup>69</sup>	77	77	100%	337 <sup>70</sup>
2015	82	82	100%	675
2014	77	77	100%	408

**cc) Translation of judicial documents 2016-2014:**

	Pages of translation produced	Services provided/ on time	Pages of translation outsourced	Comments
2016 (to date)	5386	95-100%	378	The service delivery "on time" also includes document submitted pursuant to a re-negotiated timeline as well as delay of less than five days
2015	6455	95-100%	286	
2014	8213	95-100%	103	

**dd) Translation of non-judicial documents 2016-2014:**

	Pages of translation produced	Services provided/ on time	Pages of translation outsourced	Comments
2016 (to date)	4225	95-100%	336	The service delivery "on time" also includes document submitted pursuant to a re-negotiated timeline as well as delay of less than five days
2015	4094	95-100%	182	
2014	2735	95-100%	129	

**2. Volume of witness-related services delivered**

The Victims and Witnesses Section (VWS) is responsible for the availability and appearance (in person or via videolink) in every case before the Court. The relevant performance indicator is therefore already captured in Section A, I, "Witnesses heard"/ "Number of witnesses". In addition, the VWS is responsible of the protection of victims and witnesses relating to the proceedings before the Court. Relevant statistics, while serving as an internal key performance indicator, have to remain confidential in order not to endanger individuals or operations.

Some overall indicators are, however, available.

Relevant value	2014 <sup>71</sup>	2015 <sup>72</sup>	Comments
Number of witnesses assisted at the Court incl. psychosocial and other support	26	36	<i>Data for 2016 is not yet available</i>
Number of individuals	Approx. 650	Approx. 620	

<sup>69</sup> Data for 2016 covers until 21/10/2016.

<sup>70</sup> Substantial drop from 2015 in *Overall amount of field interpreter days* is due to the cessation of the DRC project which counted 202 days in 2015.

<sup>71</sup> See Report on activities and programme performance of the International Criminal Court for the year 2014, ICC-ASP/14/8, 4 May 2015, paras. 171 f.

<sup>72</sup> See Report on activities and programme performance of the International Criminal Court for the year 2015, ICC-ASP/15/3, 14 September 2016, paras. 181 f.

<b>receiving protection measures</b>		
<b>Relevant interaction with Chambers</b>	Expert input for approx. 65 Registry filings; 70 reports to Chambers by email.	Expert input for approx. 57 Registry filings; 76 reports to Chambers by email.
<b>Number of specific cases subject to interaction</b>	9	9
<b>Conclusion / amendment of relocation agreements</b>	2	2

## II. Transparency of proceedings

### 1. *Indicators of public transparency:*

It needs to be noted that the figures below need to be read in the context of the relevant trial phase per trial: since many reclassifications from confidential to public are only undertaken towards the end of a trial, the number of public decisions may increase in time.

2016 (status October)	Percentage of judicial decisions that are public vs. confidential <sup>73</sup>	Overall percentage of courtroom time spent in public hearings vs. confidential or closed sessions	Comments
<b>Ongwen</b>	Public 91% Classified 9%	<i>At present the exact duration of closed/private session vs. open session is not recorded by CMS; data will start to be collected as of 2017.</i>	Ongoing
<b>Ntaganda</b>	Public 59% Classified 41%		Ongoing
<b>Al Mahdi</b>	Public 60% Classified 40%		Ongoing
<b>Gbagbo &amp; Blé Goudé</b>	Public 76% Classified 24%		Ongoing
<b>Bemba et al.</b>	Public 77% Classified 23%		Ongoing

### 2. *Accessibility of ICC-related information:*<sup>74</sup>

Indicator	2014	2015	2016	Comments
<b>Number of hits of the homepage / live streaming</b>	Web site: 1.795.000 12.425.764  Web streaming: 289.170	Web site: 1.727.000 5.964.691  Web streaming: 41.975	Web site: 1.071.000 930.313  Web streaming: 930.313	
<b>Number of ICC social medias accounts followers, posts and impressions ('share's, 'like's, etc.)</b>	Twitter: 119,000 followers	Twitter: 161,000 followers	Twitter: 190,000 followers Jan.-Oct. (averages): 44,675 impressions/day 79 'likes'/day  YouTube: 10.836 followers 2.647.966 views	
<b>Number of visitors to court hearings</b>	7244	4731	7493	Figure represents only visitors that were received by Events

<sup>73</sup> The term "public" includes redacted and reclassified versions of decisions. Redaction orders are excluded from this calculation.

<sup>74</sup> 2016 data: status as at 17 October 2016.

				and Protocol Unit
<b>Number of press releases, interviews and other communications</b>	4344	5924	2451	Figure is of Aug 2016 (and likely to increase substantially towards the end of 2016); it includes also documents posted on the web site
<b>Number of information sessions with medias and number of participants</b>	570	445	161	Figure refers to number of information sessions with media
<b>Number of ICC publications distributed</b>	13.355	30.911	16.275	Material distributed through field offices and in the HQ
<b>Number of audio and video summaries produced for international media</b>	380	364	460	

## Annex II

### Goal II – The ICC’s leadership and management are effective

#### A. Budget implementation

Final budget implementation data for 2016 is not yet available at the time of issuance of this report.

##### I. Budget Performance of Programme Budget 2015

<b>Court organs<sup>1</sup></b>	<b>Approved Budget</b>	<b>Actual Expenditure</b>	<b>Implementation rate in %</b>	<b>Variance</b>
MP I	12,034.1	10,906.0	90.6	1,128.1
MP II	39,612.6	38,369.6	96.9	1,243.0
MP III	65,025.9	64,956.7	99.9	69.2
<b>Total</b>	<b>130,665.6</b>	<b>126,832.1</b>	<b>97.1</b>	<b>3,833.5</b>

**Comments:** The main variation between budgeted and implemented funds in 2015 was linked to change of assumptions concerning new judges being called (judges were called later than anticipated in 2014, following a conservative needs-based assumption); difficulties in recruitment of temporary and established posts for Judiciary and the OTP.

##### II. Budget Performance of Programme Budget 2014

	<b>Approved Budget</b>	<b>Actual Expenditure</b>	<b>Implementation rate in %</b>	<b>Variance</b>
MP I	10,045.8	10,021.6	99.8	24.2
MP II	33,220.0	32,156.0	96.8	1,064.0
MP III	66,293.0	64,460.8	97.2	1,832.2
<b>Total</b>	<b>121,656.2</b>	<b>117,668.5</b>	<b>96.7</b>	<b>3,987.7</b>

#### B. Human resources

##### I. Average time of recruitment process

###### 1. 'Time to recruit' data:

Time to recruit is defined as the date of opening the vacancy until the start date of the incumbent minus a two months' notice period for professional and higher staff, and one month for general services staff. As the 'Success factors Recruitment System' only started in 2016, the Registry has precise data available only for 2016. It can, however, be said that in

<sup>1</sup> The main organs of the Court (including a number of independent Court offices) are called "Major Programmes" (MP) in budgetary terms. The Judiciary/Presidency represents MP I; OTP is MP II; and the Registry is MP III.



previous years the recruitment time was by 20-30% longer due to the fact that a) Success factors has shortened a number of internal timelines in the process; and b) ReVision recommendations have led to further streamlining of processes since their implementation in late 2015.

	<b>Duration general service (GS) selection process</b>	<b>Duration professional level (P) selection process</b>	<b>Comments</b>
2016	73 days	86 days	

HR is presently devising a more detailed data collection and reporting framework which will lead to relevant benchmarking figures for this report from 2017 onwards.

**2. Relevant timelines in the recruitment process**

The HR Section entertains several internal timeline benchmarks such as, e.g., the close of vacancy announcement to decision on successful candidate, from the decision on a successful candidate to a report of the Review Board, and from the Review Board decision to sending of an offer. However, reliable data has not yet been collected prior to the implementation of the ‘Success factors Recruitment System’; relevant data that is collected now will be used in the future as *internal* benchmarks.

**II. Percentage rate of staff appraisals conducted**

**Performance appraisal statistics for the 2015-2016 Cycle<sup>2</sup>**

Table 1: Compliance rate of 2015-2016 – Performance Appraisal Form (PAF) submissions and completed PAFs per organ/office

	<i>No. of Staff</i>	<i>No. of Submitted*</i>	<i>PAFs Completed**</i>
JUDICIARY	58	21	21
OTP	329	299	238
REGISTRY	431	360	276
OIA	4	3	3
SASP	7	1	1
STFV	8	3	3
POPP	3	3	3

<sup>2</sup> It is envisaged that the Court will in the future report in the more detailed fashion as for the present cycle.

	<i>PAFs Submitted*</i>	<i>PAFs Completed**</i>
JUDICIARY	36%	36%
OTP	91%	72%
REGISTRY	84%	64%
Office of Internal Audit	75%	75%
Secretariat of the ASP	14%	14%
Secretariat of the TFV	38%	38%
Project Office Permanent Premises OPP	100%	100%

*\*Number of PAFs entered in the system*

*\*\*Number of PAFs Completed – PAFs that have been finalized at the end-of-year cycle*

Table 2: Court-wide statistics on the overall performance rating on completion of the PAFs for the cycle 2015-2016:

<i>Performance Rating</i>	
Did not meet	0%
Partially Met	1%
Fully met	77%
Exceeded	21%
Significantly exceeded	1%

Table 3: Year-end statistics on the performance rating per organ/office

<i>Overall rating</i>	<i>performance</i>	<i>Judiciary<sup>3</sup></i>	<i>OTP</i>	<i>Registry</i>	<i>Others</i>
Did not meet		N/A	0%	0%	0%
Partially Met		N/A	1%	1%	0%
Fully met		N/A	73%	79%	33%
Exceeded		N/A	25%	18%	67%
Significantly exceeded		N/A	1%	2%	0%

<sup>3</sup> Data has been shared with Human Resources and is being entered into the database. It follows the trend of other Organs in the table.

Prior to this, the Court did not collect relevant data in an electronic data storage system; no reporting requirement existed to the Assembly. Therefore, no sufficiently reliable data is available.

### III. Geography and gender balance of staff 2016 - 2014

It is noted that in expressing any such balance, the percentage of members of the relevant group in the respective professional category needs to be factored in as well. Relevant data will be aggregated in 2017.

#### 1. Gender Balance of All Established Posts, excluding Elected Officials

##### b) 2015 Data:

DATA DEC 2015

ALL ICC	F	M	Total	F%	M%
Judiciary	26	19	45	57.78%	42.22%
OTP	101	102	203	49.75%	50.25%
Registry	164	222	386	42.49%	57.51%
Secretariat of the ASP	1	3	4	25.00%	75.00%
Secretariat of the TFV	4	2	6	66.67%	33.33%
Project Director's Office	1	1	2	50.00%	50.00%
IOM	0	1	1	0.00%	100.00%
Office of Internal Audit	3	1	4	75.00%	25.00%
<b>Total</b>	<b>300</b>	<b>351</b>	<b>651</b>	<b>46.08%</b>	<b>53.92%</b>

  

Professional	F	M	Total	F%	M%
Judiciary	14	15	29	48.28%	51.72%
OTP	66	76	142	46.48%	53.52%
Registry	80	79	159	50.31%	49.69%
Secretariat of the ASP	1	2	3	33.33%	66.67%
Secretariat of the TFV	2	2	4	50.00%	50.00%
Project Director's Office	0	1	1	0.00%	0.00%
IOM	0	1	1	0.00%	0.00%
Office of Internal Audit	2	1	3	0.00%	0.00%
<b>Total</b>	<b>165</b>	<b>177</b>	<b>342</b>	<b>48.25%</b>	<b>51.75%</b>

c) 2014 Data:

DATA DEC 2014

<i>ALL ICC</i>	<i>F</i>	<i>M</i>	<i>Total</i>	<i>F%</i>	<i>M%</i>
Judiciary	29	18	47	61.70%	38.30%
OTP	97	102	199	48.74%	51.26%
Registry	182	238	420	43.33%	56.67%
Secretariat of the ASP	2	3	5	40.00%	60.00%
Secretariat of the TFV	5	2	7	71.43%	28.57%
Project Director's Office	2	2	4	50.00%	50.00%
IOM	0	0	0	0.00%	0.00%
<b>Total</b>	<b>317</b>	<b>365</b>	<b>682</b>	<b>46.48%</b>	<b>53.52%</b>

  

<i>Professional</i>	<i>F</i>	<i>M</i>	<i>Total</i>	<i>F%</i>	<i>M%</i>
Judiciary	16	15	31	51.61%	48.39%
OTP	63	79	142	44.37%	55.63%
Registry	87	85	172	50.58%	49.42%
Secretariat of the ASP	2	2	4	50.00%	50.00%
Secretariat of the TFV	3	2	5	60.00%	40.00%
Project Director's Office	1	2	3	33.33%	66.67%
IOM	0	0	0	0.00%	0.00%
<b>Total</b>	<b>172</b>	<b>185</b>	<b>357</b>	<b>48.18%</b>	<b>51.82%</b>

2. Geographical distribution

Geographical Distribution as of September 2016

Over represented	In balance	Under represented	Non-represented
Belgium	Albania	Argentina	Afghanistan
Bosnia & Herzegovina	Canada	Australia	Andorra
Colombia	Congo	Benin	Antigua and Barbuda
Côte d'Ivoire	Democratic Republic of the Congo	Brazil	Austria
Croatia	Ecuador	Bulgaria	Bangladesh
Finland	Lesotho	Burkina Faso	Barbados
France	Mali	Chile	Belize
Gambia	Mongolia	Costa Rica	Bolivia
Georgia	Palestine	Cyprus	Botswana
Ghana	Slovenia	Denmark	Burundi
Ireland	Trinidad and Tobago	Germany	Cambodia
Kenya	United Republic of Tanzania	Greece	Cape Verde
Netherlands		Guinea	Central African Republic
Niger	<b>Total 12</b>	Iceland	Chad
Peru		Italy	Comoros
Portugal		Japan	Cook Islands
Republic of Moldova		Jordan	Czech Republic
Romania		Malawi	Djibouti
Senegal		Mexico	Dominica
Serbia		New Zealand	Dominican Republic
Sierra Leone		Nigeria	El Salvador
South Africa		Philippines	Estonia
Spain		Poland	Fiji
Uganda		Sweden	Gabon
United Kingdom		Switzerland	Grenada
		Venezuela	Guatemala
		Zambia	Guyana
			Honduras
		<b>Total 27</b>	Hungary
			Latvia
			Liberia
			Liechtenstein
			Lithuania
			Luxembourg
			Madagascar
			Maldives
			Malta
			Marshall Islands
			Mauritius
			Montenegro
			Namibia
			Nauru
			Norway
			Panama
			Paraguay
			Republic of Korea
			Saint Kitts and Nevis
			Saint Lucia
			Saint Vincent and the Grenadines
			Samoa
			San Marino
			Seychelles
			Slovakia
			Suriname
			Tajikistan
			The Former Yugoslav Rep. of Macedonia
			Timor-Leste
			Tunisia
			Uruguay
			Vanuatu
			<b>Total 60</b>
<b>Total 25</b>			

Geographical Distribution as of 31 December 2015

Over represented	In balance	Under represented	Non-represented
Argentina	Albania	Austria	Afghanistan
Australia	Benin	Brazil	Andorra
Belgium	Bosnia and Herzegovina	Bulgaria	Antigua and Barbuda
Congo, Democratic Republic of	Burkina Faso	Chile	Bangladesh
Colombia	Canada	Congo	Barbados
Cote d'Ivoire	Costa Rica	Denmark	Belize
Croatia	Cyprus	Germany	Bolivia
Ecuador	Ghana	Greece	Botswana
Finland	Guinea	Japan	Burundi
France	Iceland	Mexico	Cambodia
Gambia	Italy	New Zealand	Cape Verde
Georgia	Jordan	Philippines	Central African Republic
Ireland	Lesotho	Poland	Chad
Kenya	Malawi	Sweden	Comoros
Mali	Mongolia	Switzerland	Cook Islands
Netherlands	Nigeria		Czech Republic
Niger	Palestinian Territory, Occupied	<b>Total 15</b>	Djibouti
Peru	Republic of Moldova		Dominica
Portugal	Venezuela		Dominican Republic
Romania			East Timor
Senegal	<b>Total 19</b>		Estonia
Serbia			Fiji
Sierra Leone			Gabon
South Africa			Grenada
Spain			Guatemala
Trinidad and Tobago			Guyana
Uganda			Honduras
United Kingdom			Hungary
United Republic of Tanzania			Latvia
<b>Total 29</b>			Liberia
			Liechtenstein
			Lithuania
			Luxembourg
			Madagascar
			Maldives
			Malta
			Marshall Islands
			Mauritius
			Montenegro
			Namibia
			Nauru
			Norway
			Panama
			Paraguay
			Republic of Korea
			Republic of Vanuatu
			Saint Lucia
			Saint Vincent and the Grenadines
			Samoa
			San Marino
			Seychelles
			Slovakia
			Slovenia
			St. Kitts and Nevis
			Suriname
			Tajikistan
			The Former Yugoslav Republic of Macedonia
			Tunisia
			Uruguay
			Zambia
			<b>Total 60</b>

Geographical Distribution as of 31 December 2014

Over represented	In balance	Under represented	Non-represented
Argentina	Albania	Austria	Afghanistan
Australia	Benin	Brazil	Andorra
Belgium	Bosnia and Herzegovina	Bulgaria	Antigua and Barbuda
Canada	Burkina Faso	Chile	Bangladesh
Colombia	Georgia	Congo, Democratic Republic of	Barbados
Croatia	Guinea	Costa Rica	Belize
Ecuador	Italy	Cote d'Ivoire	Bolivia
Finland	Jordan	Cyprus	Botswana
France	Lesotho	Denmark	Burundi
Gambia	Mauritius	Germany	Cambodia
Ireland	Mongolia	Ghana	Cape Verde
Kenya	New Zealand	Greece	Central African
Malawi	Spain	Japan	Chad
Mali	Venezuela	Mexico	Comoros
Netherlands	<b>Total 14</b>	Nigeria	Congo
Niger		Philippines	Cook Islands
Peru		Poland	Czech Republic
Portugal		Republic of Korea	Djibouti
Romania		Sweden	Dominica
Senegal		Switzerland	Dominican Republic
Serbia		Uganda	East Timor
Sierra Leone		<b>Total 21</b>	Estonia
South Africa			Fiji
Trinidad and Tobago			Gabon
United Kingdom			Grenada
United Republic of Tanzania			Guatemala
<b>Total 26</b>			Guyana
			Honduras
			Hungary
			Iceland
			Latvia
			Liberia
			Liechtenstein
			Lithuania
			Luxembourg
			Madagascar
			Maldives
			Malta
			Marshall Islands
			Montenegro
			Namibia
			Nauru
			Norway
			Panama
			Paraguay
			Republic of Moldova
			Republic of Vanuatu
			Saint Lucia
			Saint Vincent and the
			Samoa
			San Marino
			Seychelles
			Slovakia
			Slovenia
			St. Kitts and Nevis
			Suriname
			Tajikistan
			The Former Yugoslav
			Tunisia
			Uruguay
			Zambia
			<b>Total 61</b>

### 3. Range indicators regarding underrepresentation 2016

As of 2016, the ICC will be measuring range indicators (below) regarding underrepresented countries. Data has been sorted by largest gap per country. As it is mathematically challenging for smaller countries to be in range for 2016, only countries with a gap of 2 or more staff are shown.

Region	Country	Desirable Range		Representation	Target	No. of St.	gap in nr of staff required.
Asian	Japan	35.93	48.61	Under Represented	42	6	36
GRULAC	Brazil	16.13	21.82	Under Represented	19	1	18
WEOG	Germany	24.10	32.61	Under Represented	28	13	15
Asian	Republic of Korea	8.51	11.51	Non Represented	10	0	10
GRULAC	Mexico	7.18	9.71	Under Represented	8	2	6
WEOG	Norway	4.20	5.68	Non Represented	5	0	5
WEOG	Austria	3.78	5.11	Non Represented	4	0	4
WEOG	Sweden	4.61	6.24	Under Represented	5	1	4
WEOG	Italy	14.73	19.93	Under Represented	17	14	3
Eastern European	Poland	4.43	5.99	Under Represented	5	2	3
WEOG	Switzerland	5.24	7.09	Under Represented	6	3	3
Eastern European	Czech Republic	2.48	3.36	Non Represented	3	0	3
Asian	Bangladesh	2.46	3.32	Non Represented	3	0	3
WEOG	Denmark	3.28	4.44	Under Represented	4	1	3
GRULAC	Argentina	4.65	6.28	Under Represented	5	3	2
GRULAC	Chile	2.73	3.69	Under Represented	3	1	2
Eastern European	Hungary	1.84	2.49	Non Represented	2	0	2
Eastern European	Slovakia	1.80	2.44	Non Represented	2	0	2
Asian	Philippines	2.55	3.45	Under Represented	3	1	2
African	Nigeria	3.33	4.50	Under Represented	4	2	2
GRULAC	Uruguay	1.50	2.03	Non Represented	2	0	2
Eastern European	Lithuania	1.47	1.99	Non Represented	2	0	2
Asian	Afghanistan	1.47	1.99	Non Represented	2	0	2
WEOG	Canada	11.66	15.78	Under Represented	14	12	2
GRULAC	Dominican Republic	1.44	1.95	Non Represented	2	0	2
WEOG	Luxembourg	1.43	1.93	Non Represented	2	0	2
GRULAC	Guatemala	1.42	1.93	Non Represented	2	0	2
African	Madagascar	1.40	1.89	Non Represented	2	0	2
Eastern European	Latvia	1.39	1.88	Non Represented	2	0	2
African	Tunisia	1.39	1.87	Non Represented	2	0	2
GRULAC	Panama	1.35	1.83	Non Represented	2	0	2
Eastern European	Estonia	1.34	1.82	Non Represented	2	0	2
Asian	Cambodia	1.33	1.81	Non Represented	2	0	2
African	Chad	1.33	1.79	Non Represented	2	0	2
GRULAC	Bolivia	1.33	1.79	Non Represented	2	0	2
GRULAC	Paraguay	1.30	1.76	Non Represented	2	0	2
GRULAC	El Salvador	1.30	1.75	Non Represented	2	0	2
GRULAC	Honduras	1.29	1.75	Non Represented	2	0	2
African	Burundi	1.29	1.75	Non Represented	2	0	2
Asian	Tajikistan	1.28	1.73	Non Represented	2	0	2

## C. Procurement

Facilities Management reports to the Committee on Budget and Finance of the Assembly on a yearly basis relevant performance- and workload indicators. The table below indicates a) the number and value of purchase orders and requisitions versus the number and value of items that had to go through the Procurement Review Committee; b) these aggregated activities vs. the amount of staff carrying out these tasks.



Workload Indicators – activities for 2015 monthly

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total (year)
Number of Procurement Staff	7	7	7	7	7	7	7	7	7	7	7	7	7
<b>Procurement</b>													
<b>Purchase Orders</b>													
No of Pos	213	155	148	112	122	109	114	96	106	123	132	95	1,525
No of Pos previous year	356	260	200	147	147	147	130	113	151	176	206	146	2,179
Value of Pos	5724959	8752567	1.8E+07	1.3E+07	1.1E+07	3692474	9932198	7487919	2676295	3634079	3520365	3633519	91,414,778
Value of Pos previous year	5111927	103636284	1447824	1675611	1280431	1901048	1762093	2689314	1305111	1838703	1739892	30080516	154,468,754
<b>Requisitions</b>													
No of Requisitions	357	172	146	134	131	128	113	110	132	181	203	188	1,995
Previous year	298	161	141	126	122	112	123	100	153	218	244	167	1,965
<b>PRC</b>													
No of PRC	1	1	1	4	1	3	6	6	1	4	5	0	33
No of PRC previous year	3	1	0	3	1	1	7	1	2	5	2	4	30
Value of PRC	2100000	223580	95400	361700	75000	737308	2359287	1427128	98400	4942318	784401	0	13,204,522
Value of PRC previous year	1208717	1540000	0	599742	65000	1105160	1474668	100200	4746800	645367	385719	1447797	13,319,170

Workload Indicators – activities 2014 monthly

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total (year)
Number of Procurement Staff	7	7	7	7	7	7	7	7	7	7	7	7	7
<b>Procurement</b>													
<b>Purchase Orders</b>													
No of Pos	356	260	200	147	147	147	130	113	151	176	206	146	2,179
No of Pos previous year	244	142	134	109	112	103	101	74	114	162	197	139	1,631
Value of Pos	5111927	103636284	1447824	1675611	1280431	1901048	1762093	2689314	1305111	1838703	1739892	30080516	154,468,754
Value of Pos previous year	47525307	1795962	2415781	2950898	1303056	1937376	1103984	508109	1237013	4347900	1949827	4577189	71,652,402
<b>Requisitions</b>													
No of Requisitions	357	172	146	134	131	128	113	110	132	181	203	188	1,995
Previous year	298	161	141	126	122	112	123	100	153	218	244	167	1,965
<b>PRC</b>													
No of PRC	3	1	0	3	1	1	7	1	2	5	2	4	30
No of PRC previous year	1	2	4	2	10	6	2	1	3	5	7	6	49
Value of PRC	1208717	1540000	0	599742	65000	1105160	1474668	100200	4746800	645367	385719	1447797	13,319,170
Value of PRC previous year	500000	500777	2615533	90000	2047479	3215000	83000	1E+07	484500	458115	943047	1848000	22,985,451

## Annex III

Goal III – The ICC ensures adequate security for its work, including protection of those at risk from involvement with the Court

### A. Physical and asset security (in the field and at Headquarters)

#### I. Has the Court implemented an appropriate/proportionate threat management programme?

#### 1. Adequacy and intervals of training of security personnel

Table 1

	Amount of security trainings	Topic of training*	Implementation
2016	60 Security Officers (Ongoing) 1 ICC security officers 0 ICC Security field staff	Mandatory training Extra training <sup>1</sup> Field training	100% 100 % N/A <sup>2</sup>
2015	13 Security pioneer group for Permanent Premises 45 Security officers at Interim Premises 53 ICC Security officers <sup>3</sup> 07 ICC Security field staff <sup>4</sup>	Mandatory training Mandatory training Extra training Field training	100% 93% 100% 66%
2014	47 Security Officers 10 ICC security staff <sup>5</sup> 11 ICC Security field staff <sup>4</sup>	Mandatory training Extra training Field training	86% 100% 57%

\* Explanation of mandatory Induction-Refresher, extra and field training (See attached document)

- 1) Train the trainer (ToT) for the Safe and Secure approaches in field environment training (SSAFE).
- 2) All ICC Field Security Personnel have received the basic training in their current functions. For additional training, field security personnel have access to the UN online organised training courses. Other specialist training, such as firearms training, is to be sought locally with the UNSMS partners.
- 3) 2 Emergency Trauma bag training, 5 ToT for Arrest and Restraint training, 2 Security Certification Program (UN course for field security personnel), 1 Intermediate Training Program (UN course for senior field security personnel), 1 Firearms Training Officer Course and 42 Briefing by the Dutch Security authorities.
- 4) Firearms training for field security personnel at headquarters. The ICC Field Security personnel are not armed and the training has been maintained as a contingency measure.
- 5) 2 UN Close protection training, 2 Security Certification Program (UN course for field security personnel), 2 Firearms Training Officer Course, 1 ToT SSAFE, 2 SSAFE in the field and 1 UN Hostage Incident Management course.

#### 2. Mission-specific indicators

Both the OTP and the Registry carry out missions in the field. Common indicators are as follows:

- Has there been a mission briefing?
- When engaging with external actors, has regular protocol been followed?

Table 2 measures Registry field missions:

Table 2

	Overall amount of missions**	Missions with previous briefing***	with full	Implementation %	Comments****
2016*	278	264-278		95-100%	See comments below ****
2015	608	578-608		95-100%	
2014	538	511-538		95-100%	
2013	515	489-515		95-100%	
2012	505	480-505		95-100%	
2011	539	512-539		95-100%	
2010	414	393-414		95-100%	

\*Up to 18 October 2016

\*\* Number of Registry Missions. One mission can include several travellers.

\*\*\*This data is based on estimations from the Field Offices (FO). 95 to 100% of the Registry staff attend the security briefing upon arrival.

\*\*\*\* All ICC staff, including Registry staff, must attend the security briefing upon arrival and a wide range of strategies are used by the FOs to ensure their attendance to said compulsory security briefings. On an exceptional basis, in-country security briefings may be cancelled or re-scheduled by the Security Officer due to circumstances beyond their control. When such cases happen, the Security Officers make relevant security arrangements with the UN. The occasions when/where security briefings are not provided to staff are an exception. By way of mitigating measures, through established mission planning processes, staff are provided with the contact details of the Security Officer and Field Office personnel in-country.

For reasons of protection of individuals and requirements of confidentiality, figures as to the absolute number of potential witnesses reached out to by the OTP per year/situation cannot be disclosed. Not all OTP missions relate to witness contact; those that do have 100% implementation as regards the observance of witness protocol.

### 3. Substantive security and safety related incidents 2014-16

Table 3

Incident	2014		2015		2016	
	HQ	Field	HQ	Field	HQ	Field
Death of Staff	0	0	0	0	0	0
Arrest of Staff	0	3	0	1	0	0
Assault	1	0	0	2	1	0
Burglary	1	0	0	0	0	0
Fire Alarm	0	0	1	1	0	0

Lost Property	9	1	13	7	3	4
Physical Security Breach	0	0	0	0	0	0
Property Damage	3	3	2	2	3	3
Robbery	0	0	0	0	0	0
Suspicious Incident	2	2	8	1	1	1
Theft	4	0	2	1	0	0
Traffic Accident	1	12	7	2	3	2

\* no injuries or harm to ICC personnel or others, only damage to vehicle(s)

## II. When a risk manifests itself, has the Court's security framework proven adequate in the circumstances?

	Number of security incidents that that led to harm due to the Court's error	Number of these incidents where a 'lesson learnt' assessment followed	Comments
2016	0	N/A	Relevant data collection has commenced in 2016

### B. IT security (in the field and at Headquarters)

#### I. Threat level

The table below indicates the number of substantive incidents<sup>1</sup> that have occurred during the period 2014-2016. These performance indicators provide only a limited perspective of the effectiveness of the information security program as they do not provide an indication of the efficiency obtained against a backdrop of continuous and persistent attacks.

Table 1

	2014	2015	2016
<b>Denial of service</b>	1	2	2
<b>Malware infection</b>	1	1	1
<b>Storage media theft/loss</b>	3	3	2
<b>Unauthorised data access</b>	4	4	2
<b>Unauthorised disclosure</b>	5	4	2

Placing the above data into context, the following table includes an indication of the number of attacks that are detected and stopped by the Court prior to being successful and causing a substantive incident.

<sup>1</sup> Substantive incidents are defined as those where there has been a discernible non-trivial adverse impact upon the information security goals and objectives of the Court or its Organs and Sections, either collectively or individually, caused by an act or omission of any party.

Table 2

	<b>Per month (2016)</b>
<b>Scans and probes</b>	1,000,000
<b>Spam / phishing /malicious email</b>	10,000
<b>Malware infection</b>	600
<b>Document handling errors</b>	10

## ***II. Has the Court implemented an adequate/proportional information security program?***

To counter the cyber-threats facing the Court's wide and distributed IT infrastructure, the Court deploys, in accordance with the assessed risks, numerous defensive, detective and awareness controls configured to achieve a defence-in-depth. However, cyber security is a rapidly evolving realm, requiring new and sometimes innovative methods to identify and counter the ever-increasing range and sophistication of attack methods. In this regard, and although the Court has equipped its new Headquarters with a new, security-centric, strengthened network architecture, and has additionally invested (EUR 160k) in its cyber-security capacity during 2016, it must be emphasised that only with continuing strategic investment and improvement through 2017 and beyond will an adequate level of sustained protection be possible. Thus, Information Security is a strategic theme for investment throughout the Information Management/Information Technology five-year strategy and roadmap, which is currently under development with targeted completion for the first quarter of 2017.

Table 1

	<b>Number of relevant software updates detected<sup>2</sup></b>	<b>Number of relevant software updates carried out</b>	<b>Implementation</b>	<b>Comments</b>
<b>2016<sup>3</sup></b>	Microsoft – 116 Other - 187	Microsoft – 116 Other - 187	100%	Software patches are made available to the ICC by software vendors and are implemented each month by ICC
<b>2015</b>	Microsoft – 135 Other - 204	Microsoft – 135 Other - 204	100%	
<b>2014</b>	Microsoft – 85 Other - 115	Microsoft – 85 Other - 115	100%	

<sup>2</sup> This table shows whether or not the software patch management process is operating adequately

<sup>3</sup> As at September 2016.

**III. When a risk manifests itself, has the Court's security framework proven adequate in the circumstances?**

Table 2

	Number of substantive incidents <sup>4</sup>	Number of incidents leading to harm	Immediate counter measures taken	Lessons learnt process carried out <sup>5</sup>	Implementation / Comments
<b>2016<sup>6</sup></b>	9	9	9	9	100%
<b>2015</b>	14	14	14	14	100%
<b>2014</b>	14	14	14	14	100%

It should be noted that the substantive incidents indicated above are those where a discernible non-trivial adverse impact occurred, affecting the information security goals and objectives of the Court or its Organs and Sections, either collectively or individually, caused by an act or omission of any party. The number of substantive incidents occurring each year represents a very small percentage (approximately 0.001%) of the number of events and potential incidents that are detected.<sup>7</sup>

As a result of the 2016 lessons learnt efforts, the nature of the evolving cyber-threat facing the Court has been assessed. There is an increasing likelihood that the Court will suffer adverse impact from highly sophisticated and targeted attacks due to its investigative approaches into or concerning developed countries and regimes. Criminal actors have easy access to highly effective cyber-attack tools to enable them to attack the Court and impact upon its operations with anonymity. The Information Security Unit continues to monitor and has detected an increase in targeted attacks on the Court, and has also noted the increasingly dispersed origins of such attacks and agility of the attackers. In this evolving scenario, it is critical to rapidly develop and evolve a proactive response to threats, as the more conventional defensive-only postures are less and less effective.

<sup>4</sup> E.g. denial of service, malware infection, storage media theft/loss, unauthorised data access, unauthorised disclosure.

<sup>5</sup> See ultimate paragraph below.

<sup>6</sup> As at September 2016.

<sup>7</sup> See in this Annex, Section B. I., Table 2.

## Annex IV

### Goal IV – Victims have access to the Court

#### A. Meaningful victim participation (information, application, legal representation, and modalities of participation)

#### I. Indicators per phase of a case - number of victims participating by phase of proceedings as at 2016

Number of victims participating by phase of proceedings*	Pre-Trial Phase	Trial Phase	Appeals Phase	Reparations
Lubanga Case – ICC-01/04-01/06	7	129	151	In process
Katanga Case – ICC-01/04-01/07	57	364	0	In process
Ntaganda Case – ICC-01/04-02/06	1120	2137	N/A	N/A
Bemba Case – ICC-01/05-01/08	54	5229	In process	In process
Gbagbo and Blé Goudé Case – ICC-02/11-01/15	N/A***	726	N/A	N/A
Ongwen Case – ICC-02/04-01/15	2026	In process	N/A	N/A
Al-Mahdi Case – ICC/01/15-01/15	0	8	N/A	In process

\* The figure provided for each phase accounts for the total number of participants at that point in time; thus not cumulative. The column entitled “In 2016” indicates the current number of participants.

\*\* Lower figure at a later phase is due to the withdrawal of victims from the procedure or a request by the Legal Representative to withdraw their representation mandate from applicants. This figure accounts for victims seeking reparations; no decision issued to this day.

\*\*\* The Gbagbo case and the Blé Goudé case were joined after the confirmation of charges in each case; thus no Pre-Trial phase in the joint case.

**II. Victim legal representation - number of victims represented by the OPCV and/or external victims' representatives per case at trial as at August 2016**

Case	Number of Victims Represented by the OPCV	Number of Victims Represented by External Victims' Representatives	Total
Lubanga Case – ICC-01/04-01/06	0	151	151
Katanga Case – ICC-01/04-01/07	0	304	304
Ntaganda Case – ICC-01/04-02/06	2137	0	2137
Bemba Case – ICC-01/05-01/08	698*	5229	5927
Gbagbo and Blé Goudé Case – ICC-02/11-01/15	726	0	726
Ongwen Case – ICC-02/04-01/15	592	1434	2026
Al-Madhi Case – ICC-01/12-01/15	0	8	8

\* The OPCV has been appointed as the legal representative of non-participating applicants seeking reparations only.

**IV. Number of field trips of Court-appointed legal representatives of victims**

Cases	Number of field trips of Court-appointed legal representatives of victims			Comments
	2016	2015	2014	
Ongwen	N/A	N/A	N/A	The cost of the travel of the Field Counsel operating under the Common Legal Representative ( OPCV) was borne by the OPCV until June 2016. Thereafter the OPCV assumed all costs, including legal fees. The second team is not legal aid funded
Al Mahdi	2	N/A	N/A	So far 2 trips of Legal Representative since appointment in June 2016. The second trip shall commence in early November.
Gbagbo & Blé Goudé	N/A	N/A	1	The legal assistant based in the field –appointed to assist OPCV (legal representative) travelled to the Hague on two occasions and the costs of those trips were assumed by the legal aid. Since 2014, all costs have been assumed by the OPCV
Ntaganda	N/A	N/A	10	10 local trips of two Field Counsels in 2014 (within DRC), thereafter the OPCV assumed all costs of Field Counsels
Bemba	5	4	4	The case had two teams until Jan 2014. Counsels were mainly based in the field most trips were travel between The Hague and CAR.
Katanga	3	5	10	Counsel sometimes sends legal assistant based in the field on missions or conducts missions with team members based in The Hague



<b>Ngudjolo</b>	N/A	N/A	1	
<b>Lubanga</b>	10	10	6	Three counsels in one team and two counsels in another team. Most counsels based in the DRC – these were mainly trips between the Hague and DRC.

**V. Number of appointments and missions undertaken by Duty/ad hoc Counsel/ and Rule 74 Counsel 2012-2016:**

			<i>Situation breakdown</i>							
<b>Year</b>	<b>Appointments</b>	<b>Trips to the field</b>	<b>CIV</b>	<b>DRC</b>	<b>CAR</b>	<b>MLI</b>	<b>UGA</b>	<b>Appointment to counsel in the field</b>	<b>% of trips required for appointments</b>	<b>Comments</b>
2012	25	24	5	11	4	0	0	1	96%	The lower the percentage, the less field trips have become necessary due to appointment of counsel in the field for relevant assignments
2013	45	22	5	9	8	0	0	23	47%	
2014	44	28	9	6	2	6	0	16	60%	
2015	59	34	13	5	9	2	2	25	54%	
2016	37	17	5	4	0	7	0	20	40%	

**B. Reparations and assistance**

**I. Number of victims for each case benefitting from reparations projects during the reporting period**

None.

**II. Number of victims benefitting from assistance mandate-related TFV projects vs. overall number of victims**

<b>DRC / Uganda</b>	<b>Until 2016</b>	<b>Comments</b>
<b># of victims benefitting directly</b>	70,667	There is no comparator available as to the total number of victims potentially eligible for assistance in the northern Uganda and DRC situations
<b># of victims benefitting indirectly</b>	230,641	

<b>Relevant comparator</b>	<b>Relevant value</b>	<b>Comments</b>
Number of locally based TFV implementing partners 2008-2016	31	In the DRC and Uganda situations

Amount of financial resources available at the TFV in 2016	€12.7 million	
Amount of TFV reparations reserve of the TFV in 2016	€5 million	
Amount of TFV complement to payment of reparations awards	€1 million	Lubanga case; allocated from reparations reserve; not yet spent pending approval of DIP
Amount of TFV non-obligated TFV resources	€725,000	As at October 2016

### C. ICC field presence

Number of ICC situations in which the Court has established a field office (either in-country or nearby when country option is not possible due to security concerns)

		2016	2015	2014	2013	2012	2011	2010	2009	2008	2007
DRC <sup>1</sup>	Field Office	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Field Forward Office (Bunia)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Uganda	Field Office	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Field Forward Office										
Cote d'Ivoire	Field Office	Yes	Yes	Yes	Yes	Yes					
	Field Forward Office										
CAR	Field Office	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	Field Forward Office										
Kenya	Field Office	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
	Field Forward Office										
Sudan (From Chad) <sup>2</sup>	Field Office (Abeche)						Yes	Yes	Yes	Yes	Yes
	Field Forward Office						Yes	Yes	Yes	Yes	Yes

	(N'Djamena)											
Libya	Field Office											
	Field Forward Office											
Mali (Low footprint)	Field Office	Yes	Yes									
	Field Forward Office											
Georgia (2017) (low footprint)	Field Office											
	Field Forward Office											

<sup>[1]</sup> There are two Field Offices : Kinshasa since 2005 and Bunia since 2006.

<sup>2</sup> Established presence in Chad. The main Field Office opened in Abeche in 2005. In 2006 the Court opened a smaller forward field office in N'Djamena. The Court remained in country until December 2011.

#### D. In-country outreach and public information

##### **2016 (January - 30 August)**

Situation country	Number of events organized by the Court's Outreach Unit, and the level of participation	Number of hours of radio and TV broadcasts of audio-visual productions on the ICC	Estimated population reached through radio and television	Number of interviews given to local media
<b>DRC</b>	58 events Population reached directly: 2345	67,5 hours	No of projections of video programmes: 31	232 interviews
<b>Uganda</b>	84 events Population reached directly: 29509	104 hours	No of projections of video programmes: 25	85 interviews
<b>CAR</b>	14 events Population reached directly: 1108	133 hours	No of projections of video programmes: 29	122 interviews
<b>Côte</b>	0 events	0 hours	No of projections of video	0 interviews

<b>d'Ivoire</b>	Population reached directly: 0		programmes: 0	
<b>Kenya</b>	5 events Population reached directly: 169	3 hours	No of projections of video programmes: 0	40 interviews
<b>Mali</b>	N/A	N/A	N/A	N/A
<b>Libya</b>	N/A	N/A	N/A	N/A
<b>Georgia</b>	10 events Population reached directly: 165	0 hours	No of projections of video programmes: 0	8 interviews

## 2015

<b>Situation country</b>	<b>Number of events organized by the Court's Outreach Unit, and the level of participation</b>	<b>Number of hours of radio and TV broadcasts of audio-visual productions on the ICC</b>	<b>Estimated population reached through radio and television</b>	<b>Number of interviews given to local media</b>
<b>DRC</b>	126 events Population reached directly: 7802	42 hours	No of projections of video programmes: 71	217 interviews
<b>Uganda</b>	136 events Population reached directly: 9850	100 hours	No of projections of video programmes: 6	186 interviews
<b>CAR</b>	14 events Population reached directly: 554	146 hours	No of projections of video programmes: 26	55 interviews
<b>Cote d'Ivoire</b>	136 events Population reached directly: 1313	25 hours	No of projections of video programmes: 19	54 interviews
<b>Kenya</b>	7 events Population reached directly: 101	2 hours	No of projections of video programmes: 10	36 interviews

<b>Mali</b>	N/A	N/A	N/A	N/A
<b>Libya</b>	N/A	N/A	N/A	N/A
<b>Georgia</b>	N/A	N/A	N/A	N/A

**2014**

<b>Situation country</b>	<b>Number of events organized by the Court's Outreach Unit, and the level of participation</b>	<b>Number of hours of radio and TV broadcasts of audio-visual productions on the ICC</b>	<b>Estimated population reached through radio and television</b>	<b>Number of interviews given to local media</b>
<b>DRC</b>	192 events Population reached directly: 15818	182 hours	No of projections of video programmes: 107	417 interviews
<b>Uganda</b>	60 events Population reached directly: 1150	88 hours	No of projections of video programmes: 0	4 interviews
<b>CAR</b>	1 event Population reached directly: 22	19 hours	No of projections of video programmes: 2	15 interviews
<b>Cote d'Ivoire</b>	6 events Population reached directly: 266	2,5 hours	No of projections of video programmes: 8	21 interviews
<b>Kenya</b>	31 events Population reached directly: 1125	29 hours	No of projections of video programmes: 31	221 interviews
<b>Mali</b>	N/A	N/A	N/A	N/A
<b>Libya</b>	N/A	N/A	N/A	N/A
<b>Georgia</b>	N/A	N/A	N/A	N/A