



24 May 2016

## International Criminal Court Retreat on Indicators Glion, Switzerland, 6 – 8 April 2016

### *Convenor's Summary*

#### Purpose, Objectives and Format of the Retreat

In 2014, the Assembly of States Parties to the Rome Statute (ASP) requested the International Criminal Court (ICC) 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>1</sup> It reaffirmed its interest in the following year.<sup>2</sup> To assist the Court in that complex exercise, the Federal Department of Foreign Affairs of Switzerland (FDFA), in cooperation with the ICC and the Open Society Justice Initiative (OSJI), convened a retreat on indicators in Glion, Switzerland, on 6-8 April 2016.

The objectives for the retreat were to...

- ... enable Court leadership and judges, along with representatives of States Parties and civil society, to develop a shared understanding of the value and purpose of Court-wide indicators;
- ... refine the scope and definition of specific categories of indicators as identified in the 2015 report of the Court to the ASP on the development of performance indicators<sup>3</sup>;
- ... discuss next steps in indicator development, including the roles of Court officials, States Parties and civil society.

During the first part of the retreat, the discussion took place among high-level representatives of the ICC, with the support of experts from the OSJI. For the second part, State Party and NGO representatives joined. The retreat was held in an informal and interactive setting, and under the Chatham House Rule. The agenda and the list of participants are attached. The discussion was based on the 2015 report of the Court.

This Convenor's Summary is the sole responsibility of the FDFA and does not intend to represent the agreed views of all the participants.

#### Outcomes

- **Benefits of performance indicators:** The Glion retreat led to greater understanding of the main benefits of court-wide performance indicators:
  - Externally, they serve as a tool to better explain how the Court is performing and developing over time. Enhancing the accountability of the institution *vis-à-vis* its stakeholders, performance indicators can foster trust, show the Court's successes, challenges and needs. They contribute to a constructive relationship, in particular between the Court and the ASP, by directing the attention on factors adequately reflecting the performance of the institution.
  - Internally, they provide an incentive and a reference framework for the efficient management and functioning of the institution. They encourage self-reflection and simplify the diagnosis.

- **Limits of performance indicators:** What is required is a modest approach aimed at a limited number of readily measurable indicators adequately reflecting the overall operational performance of the Court. Performance indicators cannot measure every aspect of the Court's work.
- **Scope of the assessment:** As a starting point, performance indicators should measure aspects which can be influenced by the Court itself. Identified already in the 2015 report of the Court, the following key goals are relevant for the development of indicators:
  - The Court's proceedings are expeditious, fair and transparent at every stage;
  - The ICC's leadership and management are effective;
  - The ICC ensures adequate security for its work, including protection of those at risk from involvement with the Court; and
  - Victims have adequate access to the Court.
- **Complexity of indicator selection:** In some areas the development of indicators comes more naturally (e.g. expeditiousness could be measured by the time for different phases of the judicial process). Other areas require greater efforts to identify relevant proxy values (e.g. fairness). Expeditiousness and fairness are also examples of potentially conflicting goals, reflecting the complexity of the exercise.
- **Existing resources:** The organs of the Court are already measuring many different aspects of the Court's work. The establishment of performance indicators would imply systematically sharing, linking and presenting data in a way to exploit its potential. Indicators developed for the organ-level<sup>4</sup> may provide inspiration for the development of court-wide indicators.
- **Leadership and inclusiveness:** As it knows its working practices best and in light of its prosecutorial and judicial independence, performance indicators should be developed by the Court. The result should be consulted with relevant stakeholders, in particular victims, defence, State Party and NGO representatives.
- **Process of development:** Developing performance indicators is an incremental process in which the Glion retreat was one step in a longer process. While greater conceptual clarity has been achieved, work remains to be done to define the specific performance indicators.
- **Testing and review:** Once established, performance indicators need to be applied, tested and reviewed if necessary.

### The Way Forward

The way forward is set out in the relevant ASP resolutions and the 2015 report of the Court. In the coming months, the ICC intends to further develop its performance indicators based on the work carried out so far as well as the discussions with stakeholders at the Glion retreat and beyond. It will share with the Study Group on Governance any update and report on progress to the 15<sup>th</sup> session of the ASP due to take place in November in The Hague. The Court's aim is to develop over time a comprehensive set of performance indicators. Initial data is planned to be made available in 2017.

### Annexes:

- Agenda
- List of participants

<sup>1</sup> ICC-ASP/13/Res.5, Annex I, para. 7(b), 17 December 2014.

<sup>2</sup> ICC-ASP/14/Res.4, para. 59 and Annex I, para. 8(b), 26 November 2015.

<sup>3</sup> Report of the Court on the development of performance indicators for the International Criminal Court, 12 November 2015.

<sup>4</sup> See Office of the Prosecutor, Strategic plan 2016-2018, paras. 103 ff.



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**AGENDA**

*All plenary sessions take place in "La Grande Salle" on the first floor of Hotel Victoria Glion. For the locations of the working group sessions, please refer to the agenda below. Time changes may be announced according to the progress of the discussions.*

**Wednesday, 6 April 2016**

**Afternoon/  
early evening**      **Arrival of ICC representatives and experts**

**18.00-19.00**      **Cocktail**

**19.00**      **Dinner and welcome**

**Welcoming remarks**

- Ambassador Jürg Lindenmann, Deputy Director, Directorate of International Law, Federal Department of Foreign Affairs
- Judge Silvia Fernández de Gurmendi, President, International Criminal Court
- James A. Goldston, Executive Director, Open Society Justice Initiative (OSJI)

**Thursday, 7 April 2016**

**From 07.00 Individual breakfast at the hotel**

**08.30-10.00 PLENARY – Framing the discussion**

*Goal of the session is to discuss what performance indicators are, to review steps undertaken so far and to plan for the next day and a half.*

- Introductory remarks by Silvia Fernández
- Moderator: James A. Goldston

**10.00-11.30 WORKING GROUPS**

*Goal of the session is to discuss performance as it relates to the activities of different organs, including their respective contributions to the court-wide indicators framework.*

Each group consists of the representatives of the respective organ(s). Experts will attend the common session with OTP and Registry.

- **Judiciary** (convene in „La Grande Salle“, first floor of hotel).  
Moderator: Silvia Fernández
- **OTP and Registry** (convene in "Le Salon Télé", first floor of hotel).  
Moderator: James A. Goldston

**11.30-11.45 Coffee break**

**11.45-12.00 PLENARY – Introduction to criterion a) of the Court report to the ASP**

- “The Court’s proceedings are expeditious, fair and transparent at every stage”
- Moderator: James A. Goldston

**12.00-13.15 WORKING GROUPS**

*Goal of the session is to identify the aspects of expeditiousness, fairness and transparency that are important to measure.*

Each group consists of representatives of all three organs, and has one moderator, one rapporteur and one or two experts of OSJI.

- **Working Group A, on the notion of “expeditiousness”** (convene in „La Grande Salle“, first floor of hotel).  
Moderator: Philippe Kirsch; rapporteur: Kimberly Prost

- **Working Group B, on the notion of “fairness”** (convene in "Le Salon Télé", first floor of hotel).  
Moderator: Håkan Friman; rapporteur: Philipp Ambach
- **Working Group C, on the notion of “transparency”** (convene in "La Grange", building adjacent to hotel).  
Moderator: Jürg Lindenmann; rapporteur: Osvaldo Zavala Giler

**13.15-14.30 Lunch break**

## **PLENARY**

**14.30-15.00 I. Reporting of previous session**

Presentation by rapporteurs reporting on the respective session on criterion a) followed by a brief discussion (immediate reactions)

- Moderator: James A. Goldston

**15.00-15.15 II. Introduction of criteria b) to d) of the Court report to the ASP**

- “The ICC’s leadership and management are effective”
- “The ICC ensures adequate security for its work, including protection of those at risk from involvement with the Court”
- “Victims have adequate access to the Court”

- Moderator: James A. Goldston

**15.15-16.30 WORKING GROUPS**

*Goal of the session is to identify the aspects that are important to measure under each of the criteria.*

Each group consists of representatives of all three organs, and has one moderator, one rapporteur and one or two experts from OSJI.

- **Working Group A, on the notion of “effective leadership and management”** (convene in „La Grande Salle“, first floor of hotel).  
Moderator: Philippe Kirsch; rapporteur: Kimberly Prost
- **Working Group B, on the notion of “the Court’s security and protection framework”** (convene in "Le Salon Télé", first floor of hotel).  
Moderator: Håkan Friman; rapporteur: Philipp Ambach
- **Working Group C, on the notion of “victims’ access to the Court”** (convene in "La Grange", building adjacent to hotel).  
Moderator: Jürg Lindenmann; rapporteur: Osvaldo Zavala Giler

**16.30-16.45 Coffee break**

**16.45-18.15**      **PLENARY – reporting of previous sessions and general discussion**

*Goal of session is to report on and discuss results of group sessions, to take stock of today's work and to identify the most important points to communicate the following morning.*

Presentation by rapporteurs reporting on their respective session on criteria b) –d), followed by general discussion on all criteria (including criterion a))

- Moderator: James A. Goldston
- Announcement regarding next day's schedule: Jürg Lindenmann

**Early evening**      **Arrival of State Party and NGO representatives**

**18.30-19.30**      **Cocktail**

**19.30**              **Dinner**

**Friday, 8 April 2016**

**From 07.00 Individual breakfast at the hotel**

**08.30-10.00 PLENARY  
I. Results of part I of the retreat**

*Goal of the session is to provide a brief outline of the work on day 1 of the retreat and to review the uses of indicators and the roles of external actors in their development.*

- Opening remarks and moderation by Jürg Lindenmann
- Report and reflections on the first day of the retreat by Silvia Fernández
- Observations by James A. Goldston
- Immediate reactions from States Parties and NGOs

**10.00-10.15 II. Dialogue on indicators from the ICC and from the stakeholders' perspective**

Introduction to working group exercise by James A. Goldston

**10.15-10.30 Coffee break**

**10.30-12.00 WORKING GROUPS**

*Goal of session is for each of the Working Groups to discuss the issues identified in the Plenary session.*

Each group consists of representatives of all groups of participants to the retreat, and has one moderator, one rapporteur and one or two experts from OSJI.

- **Working Group A** (convene in „La Grande Salle“, first floor of hotel).  
Moderator: Shehzad Charania; rapporteur: Miia Aro Sanchez
- **Working Group B** (convene in "Le Salon Télé", first floor of hotel).  
Moderator: Håkan Friman; rapporteur: Jörn Eiermann
- **Working Group C** (convene in "La Grange", building adjacent to hotel).  
Moderator: Jürg Lindenmann; rapporteur: Richard Dicker

**12.00-13.00 Lunch**

**13.00-14.00**      **PLENARY – Dialogue on indicators from the ICC and from the stakeholders' perspective**

Presentation by rapporteurs of their respective group sessions, followed by general discussion

- Moderator: James A. Goldston

**14.00-14.30**      **Coffee break**

**14.30-15.00**      **PLENARY – Concluding session: the way forward**

- Jürg Lindenmann
- James A. Goldston
- Silvia Fernández





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**LIST OF PARTICIPANTS**

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*Former President of the ICC*

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