



**Cour
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**International
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Court**

Le Bureau du Procureur

The Office of the Prosecutor

Strategic Plan 2019-2021

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International Criminal Court

Office of the Prosecutor

Strategic Plan | 2019 - 2021

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The Strategic Plan of the Office of the Prosecutor (“OTP” or “Office”) is complementary to the Strategic Plan of the International Criminal Court (“ICC” or “Court”) and focuses on OTP-specific goals and strategies. The ICC Strategic Plan deals with matters of common concern to all Organs of the Court and integrates the relevant parts of Organ-specific strategies.

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Executive summary

1. The mission of the Office of the Prosecutor (“OTP” or the “Office”) embraces the effective and efficient conduct of preliminary examinations, investigations and prosecution of perpetrators of genocide, crimes against humanity, war crimes, and the crime of aggression, in accordance with its mandate under the Rome Statute. This includes full respect for the Court’s jurisdictional regime and for the principle of complementarity. The Office will pursue this mission independently, impartially and objectively, consistent with its Core Values of *Dedication, Integrity, and Respect*.
2. The Strategic Plan for the period of 2019-2021 is prepared at a critical juncture for the Office and the Court more broadly. It marks the beginning of the last strategic period for the current Prosecutor. Ever since assuming office in 2012, under the leadership of the Prosecutor, a number of managerial, strategic and policy initiatives have been undertaken by the Office, intended to enhance effectiveness and efficiency in the exercise of its mandate, and in so doing, further strengthen public confidence in the OTP. Many of these initiatives are a matter of public record, and have resulted in internal institutional and operational enhancements and output. This latest Strategic Plan is a further contribution toward that aim, in the same spirit and driven by a candid commitment to continuous improvement, and to make adjustments where needed.
3. The Strategic Plan 2019-2021 also coincides with a period of mixed results in court as well as unprecedented external challenges. Despite a number of successes in court during 2016-2019 (e.g., *Al Mahdi* case, *Bemba et al.* case, and very recently, *the Ntaganda* case), and the best efforts of dedicated and able staff of the Office, there have also been significant setbacks (*Ruto & Sang* case, *Bemba main* case, and the *Gbagbo & Blé Goudé* case). Different factors have caused these unsatisfactory outcomes, including the residual effects of the Office’s previous strategy prior to 2012; the need to further strengthen the present strategy; cooperation and security challenges; and, finally, difficulties in appreciating applicable legal standards flowing from sometimes conflicting jurisprudence and practice. While some of the factors affecting performance are outside its control, the Office remains fully committed to learning from all its experiences, both in terms of successes and failures, and to taking all available measures within its control to improve its final outcomes in court. This Strategic Plan 2019-2021 is intended to mark the path toward that goal.
4. The Office has set six strategic goals for the period 2019-2021, organised around three major themes:

) **Improving performance in relation to the Office’s core activities**

Strategic goal 1: to achieve a high rate of success in court.

The Office will strengthen its existing strategy of conducting open-ended and in-depth investigations with the aim of being trial-ready as early as possible in the judicial proceedings. It will reinforce its strategy that aims for high quality in its core activities, by continuing to apply the highest recruitment standards, by further reviewing and

improving with partners its working methods and standards, by strengthening and refining its quality control mechanisms, by further promoting a culture of critical thinking, and by further rolling out its continuous improvement approach. In addition to the initiatives discussed under Strategic Goal 2, several of which will also reinforce Strategic Goal 1, the Office will further develop its ability to investigate in complex operating environments.

Strategic goal 2: to increase the speed, efficiency and effectiveness of preliminary examinations, investigations and prosecutions.

While continuing to systematically identify efficiency gains and cost savings, the Office will focus on optimising preliminary examinations, further prioritising amongst investigations and prosecutions, developing a clear completion strategy for situations under investigation, developing narrower cases as appropriate where the evidence requires it, preparing and advocating for more expeditious court proceedings, improving its business processes, and optimising cooperation with partners.

Strategic goal 3: to develop with States enhanced strategies and methodologies to increase the arrest rate of persons subject to outstanding ICC arrest warrants.

Next to keeping issues related to arrests high on the States' agenda, the Office will further streamline its internal planning and information sharing with regards to suspects and their support networks, as well as explore with States and relevant organisations the use of special investigative techniques and the creation of operational groups to assist with arrests.

Strategic goal 4: to refine and reinforce its approach to victims, in particular for victims of Sexual and Gender-Based Crimes ("SGBC") and crimes against or affecting children.

Working with the other Organs of the Court as well as external partners and stakeholders, the Office will contribute to the further development of victim participation in court proceedings and enhance its own decision-making, interaction, and communication regarding issues affecting victims and their communities. It will also continue to ensure a systematic application of its policies concerning traditionally underreported SGBC and those crimes against or affecting children over which the Rome Statute confers jurisdiction, and evaluate the implementation and effectiveness of these policies in practice.

Additionally, during the Strategic Plan 2019-2021, the Office will finalise its ongoing work toward the adoption of a comprehensive policy on the protection of cultural heritage¹ within the Rome Statute legal framework, which will also cover the important issue of victimisation in the context of such crimes.

¹ International Criminal Court Strategic Plan 2019-2021 ("ICCSP"), para. 21.

) **Ensuring good governance including sound management practices**

Strategic goal 5: to increase the Office's ability to manage its resources in an effective, responsible, and accountable manner.

The Office will continue to nurture a culture in which its Core Values of *Dedication, Integrity, and Respect* are omnipresent and central to all it does, where people are encouraged to think critically and take initiatives, and where continuous improvement is central to its functioning and institutional outlook. A specific program to consolidate its approach on continuous improvement will be developed as part of the implementation of this goal.

The Office will also focus on further developing its practices in the field of performance and risk management.

It will pay particular attention to leadership and internal governance, security and safety, information management, staff well-being, professional ethics and accountability, and adaptation to the changing scientific and technological environment.

The Office recognises the importance of timely and clear communications so as to maximize transparency and ensure that its stakeholders, including the victims and affected communities, and the general public have an accurate and up-to-date picture of the Office's actions and decisions, including the progress of its investigations and prosecutions when appropriate.

) **Increasing the effective functioning of the Rome Statute system**

Strategic goal 6: to strengthen the ability of the Office and of its partners to close the impunity gap.

The Office will aim to further strengthen its responsiveness to requests for information related to cases or its practices from partners, participate whenever appropriate in coordinated investigative efforts, share and discuss its standards and experiences, and direct requests for capacity building and technical assistance toward partners.

5. The implementation of the OTP Strategic Plan 2019-2021 will be ensured through the development and application of practical action plans. The link between this strategic plan and the budget proposal 2020 has been made. The monitoring of the implementation of the plan will be integrated into the OTP performance dashboard. The Office will use performance indicators to report to its stakeholders on the progress made and to perform an end-of-cycle evaluation of the plan in advance of the production of the next strategic plan for the 2022-2024 cycle.
6. The development of the OTP Strategic Plan 2019-2021 has been coordinated with the development of the ICC and Registry strategic plans for the same strategic cycle. The Court will further improve the process of development of these plans and align their format. | OTP

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OTP mission, vision and values

Mission

1. Complementary to national jurisdictions and in full respect of the jurisdictional regime, the mission of the Office of the Prosecutor embraces the effective and efficient conduct of preliminary examinations, investigations and prosecutions of the perpetrators of the crime of genocide, crimes against humanity, war crimes, and the crime of aggression, so as to help end impunity for the commission of such crimes, respond to the suffering of victims and communities affected by them, and thus contribute to their prevention in the future.

Vision

2. The Office of the Prosecutor will achieve its mission:
 - a. By acting independently, impartially and objectively, to ensure justice is done and is seen to be done;
 - b. While fully respecting the rights of victims, witnesses, suspects and accused persons, by paying particular attention to the security and well-being of victims and witnesses, those with whom it interacts, and the Office's staff;
 - c. While constantly striving toward excellence, by creating an environment in which its staff thrives; and
 - d. By making the best and most responsible use of the resources afforded to it to carry out the mandate conferred upon it by the Rome Statute.

Values

3. Values complete the mission and vision of the Office. They represent an essential element of the most intangible part of any organisation, namely its culture. In 2015, the Office defined its three Core Values: *Dedication*, *Integrity*, and *Respect*. The way in which they were presented in the Strategic Plan 2016-2018 remains valid:
 - a. **DEDICATION** captures the importance of striving toward excellence in our day-to-day work and our lives in general. It emphasises that the Office and its staff members do not settle for mediocrity, but rather strive to excel in everything they do. It underscores the reality that only a genuine commitment to the mandate of the Court and a powerful work ethic will allow the Office to fulfil its mission and achieve positive results for those who suffer the injustice of Rome Statute crimes.
 - b. **INTEGRITY** is the quality of acting honestly, transparently, and justly, in accordance with strong moral principles. This core value requires all members of the OTP not only to have strong moral principles, but to demonstrate these principles in their

daily activities, both in- and outside the office, and in our dealings with members of the Office, others in the Court, and all with whom we interact.

- c. **RESPECT** requires members of the OTP to have due regard for the feelings, wishes, and rights of others and to demonstrate this in their actions. It includes genuine respect for diversity and for gender in particular. It also requires them to uphold the values and rules of our organisation.

Strategic analysis

Performance of the Office 2016-2018

4. The Strategic Plan for the period of 2019-2021 is prepared at a critical juncture for the Office and the Court more broadly. It marks the beginning of the last strategic period for the current Prosecutor. Ever since assuming office in 2012, under the leadership of the Prosecutor, a number of managerial, strategic and policy initiatives have been undertaken by the Office, intended to enhance its effectiveness and efficiency in the exercise of its mandate, and in so doing, further strengthen public confidence in the OTP. Many of these initiatives are a matter of public record, and have resulted in internal institutional and operational enhancements and output. This latest Strategic Plan is a further contribution toward that aim, in the same spirit, and driven by a candid commitment to continuous improvement and to making adjustments where needed.
5. This Strategic Plan also coincides with a period of mixed performance in court as well as unprecedented external challenges for the Court's operations. While a separate detailed report on the performance of the Office in implementing its Strategic Plan 2016-2018 will be provided to the Committee on Budget and Finance of the Assembly of States Parties in due course, before its thirty-third session, the following points provide a summary of the main findings that the Office has made in relation to its performance; it serves as necessary context to this Strategic Plan 2019-2021:
 - a. With regard to prosecutions, the Office secured important convictions in the *Al Mahdi*, *the Bemba et al.*, and the *Ntaganda* cases during 2016-2019. All these cases were developed or enhanced following the prosecutorial strategy that was adopted by the Office in 2012, namely: (1) conducting in-depth, open-ended investigations; (2) being trial-ready as early as possible in the proceedings and no later than the confirmation of charges hearing; and (3) focusing on the most responsible perpetrators, if needed through a building upwards strategy.

A number of significant litigation successes and landmark decisions were also achieved, such as in the critical interlocutory trial and appellate decisions rendered in the *Ntaganda* case on the Court's jurisdiction over rape and sexual violence; the ruling made in the Myanmar/Bangladesh situation on the Court's jurisdiction over deportation, and the *Bashir* appellate ruling on head of state immunity, to name a

few. We must add to these achievements the recent landmark judgment delivered by Trial Chamber VI in the *Ntaganda* case, convicting the accused of all counts, including, for the first time at the ICC, the crime of sexual slavery as well as the crime of rape against women and men.

The Trial Judgment has resulted in conviction for SGBC in relation to men, women and children, attesting to the commitment of the Office to combat these serious and underreported crimes in accordance with its policies. Through this Trial Judgment, the Office has also been able to contribute to the emerging jurisprudence by extending the protective embrace of international humanitarian law to cover crimes committed by an armed group against members of their own group, including sexual violence against women and children.

However, those successes were partly overshadowed by unsatisfactory outcomes in the *Ruto & Sang* and *Gbagbo & Blé Goudé* cases, which were both terminated at the end of the prosecution case, and an acquittal on appeal in the *Bemba* case.

- b. With regard to investigations, a number of investigations led to the issuance of warrants for arrest by the Chambers of the Court. These cases will offer a further test of whether the strategies set forth in the previous two OTP strategic plans since 2012 will continue to be successful. At the same time, in large part due to limited resources, other investigations have not advanced as quickly as desired.
- c. With regard to preliminary examinations, the Office initiated five preliminary examinations and completed four, while advancing four others. Of the four preliminary examinations completed, the Office closed the situation in Gabon (without proceeding to an investigation) and received authorisation from the Pre-Trial Chamber to open an investigation in Burundi. Its application to open an investigation into the situation in Afghanistan was rejected by Pre-Trial Chamber II; the Office has requested leave to appeal this decision. In July 2019, the OTP has also requested authorisation to start an investigation into the situation related to Bangladesh/Myanmar.
- d. The Office launched a specific goal in its Strategic Plan 2016-2018, namely “to develop with partners a coordinated investigative and prosecutorial strategy to close the impunity gap”, in order to operationalise further its positive approach to complementarity. While still early in implementation, this goal is showing its potential: (1) new investigations have been started by countries, or their investigations progressed, based on information provided by the Office; (2) the increase in requests for assistance to the Office demonstrates the recognised need and the added value that the Office brings to investigations and prosecutions by others, in particular at the national level, and (3) investigative coordination between different countries and the Office around a specific situation country is increasing the ability of the Office and its partners to investigate respectively Rome Statute- and related crimes, jointly contributing to the aim of closing the impunity gap.

- e. Eight goals out of nine mentioned in the plan 2016-2018 have sufficiently progressed, except for Strategic Goal 5 which aimed at achieving a basic size that can respond to the demands placed on the Office with the required quality, effectiveness and efficiency.
6. The reasons for these various developments are complex, and they are the subject of ongoing reflection by the Office. Those cases that had unsatisfactory results in court in particular, resulted from a mixture of causes, including the residual effects of a previous strategy, a need to further strengthen the present strategy, cooperation and security challenges, and difficulties in appreciating applicable legal standards flowing from sometimes conflicting jurisprudence and practice. Some of these factors were outside the Office's direct control. However, the Office remains fully committed to learning from both its successes and failures, and to taking all steps within its power to improve its practices where required, with the aim of improving its final outcomes in court in cases in the 2019-2021 period and going forward. This Strategic Plan builds upon lessons learned in 2016-2018 and aims to mark a path toward greater success in 2019-2021.
 7. An end of term report will also be developed by the Prosecutor to take stock of the results achieved during her tenure and to present identified good practices and other insights that should ensure the continued proper functioning of the Office.

Environmental analysis

8. The ICC is a permanent international judicial institution which undertakes its mandate in a complex and dynamic contextual and operating environment. Since its conception, and throughout its operations, this has been and will no doubt remain a continuing feature defining the Court's external operating environment. Within the Court, owing to its specific mandate, the Office is often the first Organ to experience and address the consequences of this environment.
 - a. The lack of universality, given that not all States have joined the Rome Statute system, impacts the ability of the Office to operate where its work may otherwise be required due to the commission of Rome Statute crimes, but it lacks jurisdiction. It also impacts its legitimacy, as affected communities and members of the public often expect the Office to exercise jurisdiction in the most serious situations of conflict and criminality around the world, including situations where the Court has no jurisdiction. While the pursuit of universality is a primary responsibility of States, the Office can assist in this effort by demonstrating that it is delivering on its mandate in a professional, objective, independent, and impartial manner.
 - b. Conflicting national interests and political agendas of States and other international actors create shifting dynamics which may either create support or resistance toward the Office's activities. This also depends on the situations under investigation. Economic realities, political alliances, diverging views on

multilateralism and on how to tackle global problems, are just some of the factors determining the position taken by States in relation to the Office. While the Office acts in full independence and impartiality and strictly within the legal parameters of the Rome Statute, its operating environment is impacted by the surrounding political reality. To enhance its ability to exercise its mandate in this complex operating environment, the Office will, while remaining independent from national agendas, increase its focus on developing strategies and dialogue with all relevant actors in an effort to ensure that the required political and operational support will continue to be in place in the service of the Rome Statute.

- c. Threats to withdraw from the Rome Statute, and the two withdrawals that took place in the past strategic period following the opening of a preliminary examination by the Office, highlight the inherent tensions surrounding the exercise of the Office's mandate. Such tensions do not alter the Office's principled and fundamental approach to the exercise of its independent and impartial mandate.
9. Stakeholders expect the Office to deliver more and better results, preferably within a shorter timeframe and some expect this to be accomplished within the bounds of existing, or with even fewer resources. Yet in the coming years, the Office expects to face an increase in the number of situations under investigation as its ongoing preliminary examinations progress, while resources are unlikely to significantly increase. This growing tension between workload and resources has led the Office to explore different options for the way forward, including some of the strategies articulated in this strategic plan. At the same time, the Office is committed to engaging in open and frank dialogue with stakeholders regarding their expectations and the Office's operational reality given its resources. To support such dialogue, the Office will present a holistic view on the expected evolution of the workload, and of the measures that can be taken to respond to this growing need for the exercise of its jurisdiction. Next, to further increasing the efficient and flexible use of its resources, in full compliance with the Office's mandate, these measures will also look into the possibility of further prioritisation, and the development of completion strategies, without putting at risk the quality of the work done and the well-being of staff.
10. The timely execution of arrest warrants remains a weakness within the Rome Statute system. Too many suspects are still at large, depriving victims, affected communities, and other stakeholders of the Rome Statute system any return on the investment of significant time and resources put into cases involving suspects at large.
11. The challenging security and cooperation environment is expected to continue or become even more difficult in the coming years, when the Court moves into new and possibly more complex or sensitive situations. The Office will also increasingly face a lack of cooperation in some of its situations, and even an openly hostile approach toward it. The Office and the Court, jointly with partners, need to continue developing their methods to mitigate against these challenges and/or overcome them.

12. A key cross-cutting challenge for the Office is communication in an age of misinformation campaigns and an increasingly fragmented media and public information landscape. The Office will strengthen its ability to communicate more effectively to ensure that accurate information is available and reaches key stakeholders, including the victims and affected communities, and the public at large – working with the Registry and partners where appropriate.

Office strategy 2019-2021

13. Having assessed its general performance during 2016-2018 and the environmental factors outlined above, the Office will focus on six strategic goals during 2019-2021 to improve its performance and results. These goals can be grouped into three major themes:
- a. Improving performance in relation to the Office's core activities.
 - b. Enhancing good governance, including sound management practices.
 - c. Contributing to the effective functioning of the Rome Statute System.

Improving performance in relation to the Office's core activities

Strategic goal 1: to achieve a high rate of success in court

14. The most important goal of the Office remains to achieve a high rate of success in court, based on thoroughly investigated cases and with regard for a fair process that respects the needs and well-being of witnesses and victims, and the rights of suspects and accused persons. To accomplish this, a number of important initiatives from the two previous strategic plans will be continued or expanded upon in 2019-2021.
- a. Since 2012, the Office has made a radical shift in strategy away from focused (*a less broad evidentiary base*) and phased (*only ready for each phase in the proceedings*) investigations and prosecutions toward a strategy aimed at open-ended, in-depth investigations with a stronger evidence base and with the aim to be trial-ready as early as possible and in any event no later than the confirmation of charges hearing. All of this is done while respecting all the rights of victims, witnesses, suspects and accused persons. In light of the results in court where cases based on this shift in strategy are showing positive outcomes, the Office considers this approach to be more important than ever and will build upon and further strengthen this strategy in 2019-2021.
 - b. In recent years, the Office has endeavoured to collect evidence of a more diverse nature. This approach allows for better corroboration of the facts, a lesser reliance on witnesses, and a greater resilience in the face of security challenges or witness interference. The Office will continue and further enhance this practice in 2019-2021.

- c. The Office is continuously reviewing its standards in relation to the collection, factual and legal analysis, and presentation of evidence. It is training staff to apply these standards consistently, including taking into account the different legal traditions and the specific procedural and evidentiary requirements of the Rome Statute system. This task is by definition ongoing, and the Office will continue the internal development, refinement, and dissemination of best practices and other standards during 2019-2021. In addition, the Office will further develop its research, lessons learned, and evaluation agenda, so that it can continue to assess and improve its standards and practices, including with the assistance of external partners where deemed beneficial.
 - d. Quality control is currently done at various stages of proceedings through internal team review and peer review by OTP staff who are not part of the core integrated team. The Office will strengthen and refine its quality control mechanisms to ensure that all critical decisions and activities are consistently taken and properly conducted.
 - e. The Office is working to promote a culture of critical thinking, where all feel comfortable in expressing their opinions. Work remains to be done in this regard, and the Office considers the development and strengthening of such a culture to be a priority for 2019-2021.
15. Several new specific initiatives and approaches discussed below in the context of Strategic Goal 2 are directly relevant to improving the Office's success rate in court, and should be understood as equally contributing to Strategic Goal 1.
16. Additionally, the Office will further strengthen its ability to investigate in complex environments. The Office has already benefited greatly by hiring investigators, analysts, and prosecutors from different judicial systems and with diverse backgrounds. However, the investigative challenges which arise for cases at the ICC are significant, requiring operating initially in countries where no community network has been established, where cultural and linguistic differences come into play, where the working conditions are challenging, and where specialised investigative methods used in national contexts to penetrate criminal structures are not always available. During the period 2019-2021, the Office will review with partners from national investigative and prosecutorial agencies the challenges posed by these complex environments to identify adaptations that are needed to its investigative strategies and methods. The review will focus, for instance, on the areas of online investigations, financial investigations and the use of special investigative techniques. The Office highlights in particular the area of financial investigations where recent judicial decisions point toward the need to increase our efforts in this regards in coordination with the Registry. To strengthen its critical, regular review and to further broaden its competencies, the Office, in coordination and following consultations with the Registry, will aim to explore with States Parties the possibility of secondments and other similar options (e.g. staff exchange).

17. In essence, to achieve a high rate of success in court, the Office needs high quality investigations and prosecutions. This can only be achieved through regular review of our standards and practices, by ensuring that we have the right resources in terms of quality and quantity, and by reinforcing mechanisms to ensure that the actual collection and analysis of evidence is done thoroughly, including through independent reviews. The Office intends to report to its stakeholders in more detail on what is in place, as well as engage with other investigative and prosecutorial bodies to continuously improve its approach. Many lessons have already been learned and put into practice: i.e., the shift in prosecutorial strategy since 2012, which underlies the convictions obtained in the *Bemba et al*, *Al Mahdi* and *Ntaganda* cases, the strengthened focus on review of the investigative strategies and on the quality of the evidence, as well as the revision of our standards. While persuaded that it is on the right track, the Office will focus on the following measures in terms of further change: (1) review of its practices with partners; (2) reinforced quality control of its investigations and prosecutions; (3) further promoting the culture of critical thinking; and (4) a consolidation of its continuous improvement processes.

Strategic goal 2: to increase the speed, efficiency and effectiveness of preliminary examinations, investigations, and prosecutions²

18. International investigations and prosecutions take time – to understand the full scale of criminality and its actors, to connect with the country, to prepare operations in terms of languages, staffing, logistics, security, etc., to obtain cooperation, to adequately process information and evidence, and to build a viable case where warranted. At the same time, proceedings must be expeditious in order to respect and serve the rights and interests of victims and their communities, suspects and accused persons, and be responsive to the expectations of the broader stakeholders of the Rome Statute system. The Office is committed to an expeditious execution of its activities, which is a complex and challenging task not only because of the external factors impacting on it (e.g. cooperation, security, etc.) but also because the Office has to strike a difficult balance between different factors that affect its speed: (1) the need to prioritise, which creates tension with the necessity of a quick start of investigations to preserve evidence; (2) the limited resources the Office can assign to an investigation in light of concurring demands; (3) the efficiency gains the Office can make; and (4) the constant pressure on staff affecting their well-being and longer term productivity.

In light of these competing realities, namely the expected increase in workload in particular in the field of investigations and the expectation from stakeholders to see more results delivered faster and at a lower cost, the Office has worked systematically on identifying efficiency gains and savings, which it has reported about annually to the Assembly of States Parties. The Jurisdiction, Complementarity and Cooperation Division (“JCCD”), for instance, has developed methods to ensure the work done at the preliminary examination stage can be fully exploited by investigative teams and evidence is preserved during preliminary examinations. The Investigation Division (“ID”) has been working, by way of an example, on enhancing its field presence to increase situational awareness and reduce costs, and on

² ICCSP, page 11, goal 1.

developing new methods to reach more potential witnesses in a more efficient way. The Prosecution Division (“PD”) has developed, for instance, a procedure to optimise the review of filings within the Office, leading to a reduced cost and increased speed of processing. Shifts in workload across teams are absorbed by reallocating resources based on operational needs and opportunities, or the need to respond to judicial deadlines. Additionally, the Office has streamlined its information, knowledge and evidence management (“IKEM”) framework by centralizing its IKEM functions and operations in one section, thereby ensuring that information flows efficiently among the various components of the Office.

19. Those efforts to increase efficiency are critical and will be continued and further developed during 2019-2021. However, just as more must be done to achieve a high success rate in court, more is needed to ensure the speed, efficiency, and effectiveness of the Office’s core activities. To that end, the Office will implement the following strategies:

- a. Optimising preliminary examinations.
- b. Further prioritising amongst investigations and prosecutions.
- c. Developing a clear completion strategy for situations under investigation.³
- d. Developing narrower cases, where appropriate.
- e. Preparing and advocating for more expeditious court proceedings.
- f. Conducting further reviews of its working processes.
- g. Optimising cooperation with partners.

20. Two possible strategies to further increase the speed and efficiency of the work of the Office are discarded from the outset: reducing the quality of the work done, and further increasing the pressure on staff.

- a. The quality of the work is an essential element to effectively meet the Office’s mandate and for the long term legitimacy and credibility of the Office. If the Office needs to make a trade-off between the speed, the number of parallel investigations and the quality of the investigations, then it will prioritise the quality of its work. With the limited number of cases, it is essential to achieve a high rate of success in court if the Office is to succeed in fulfilling its mandate; the quality of the work done is the essential pre-condition to achieve this.
- b. The well-being of staff is another important factor that the Office needs to maintain. The analysis of PricewaterhouseCoopers (“PwC”) in 2013, as well as a study performed by the Organizational Health Unit of the ICC in 2017, indicates that the Office has a highly dedicated, hardworking and resilient staff. However, the constant pressure on staff can translate into sick leave, accrued leave days that cannot be taken due to work pressures, and general fatigue. These need to be managed. The Court-wide Well-being Framework initiative launched by the Court’s Principals is therefore fully supported by the Office.

³ ICCSP, para. 21.

21. Optimising preliminary examinations

Preliminary examinations, besides serving a necessary analytical function in determining whether there is reasonable basis to proceed with an investigation in a given situation, help to prepare the ground for future investigations, including by identifying potential cases, building cooperation networks, and gathering critical information and potential evidence. The Office will endeavour to further explore the synergies between preliminary examinations and investigations. Despite the limited resources available for preliminary examinations and the recurrent eruption of new situations requiring legal scrutiny, the Office will continue to seek a suitable “closure ratio” by aiming to complete, where possible, as many preliminary examinations as it opens over each three-year period, while respecting the natural fluctuations of the OTP’s work. Based on the Office’s practice and approach, no preliminary examination takes longer than is required to complete a thorough independent assessment of the statutory criteria. The Office will continue its efforts to expedite the conduct of preliminary examinations, and remains open to engaging with stakeholders on the various factors related to this issue.

With regard to the standards applied by the Office in its assessment of complementarity, the Court’s jurisprudence has to date focused largely on the first limb of complementarity assessment, which has examined the degree of sameness of the case in dispute in order to discern whether it concerns the same person for substantially the same conduct. Out of necessity, this has involved a relatively narrow test identifying whether (in the words of the Appeals Chamber) there is a “conflict of jurisdictions between the Court on the one hand and a national jurisdiction on the other.”⁴ At the preliminary examination stage, a similar (though relatively less strict) test is applied to the potential cases that the Office identifies. Future complementarity assessments may increasingly require the Office and the Chambers of the Court to also examine the second limb of the complementarity assessment in relation to whether the State concerned is unwilling or unable genuinely to investigate or prosecute. This would need to take into account how the competent domestic authorities have or are carrying out the proceedings in the context of their own domestic legal framework and practice. As such, it is likely that understanding and practice around complementarity and the assessment of ‘genuineness’ will evolve over the course of the current strategic plan.

The Office will continue to engage with stakeholders on this issue, and will look to see how best to provide further clarifications to address various issues that have been raised by stakeholders during the consultation, as this requires a more in depth consideration than what can be done in the context of this Strategic Plan (e.g., by way of an explanatory paper or adding to existing policies in practice to provide further clarifications).

⁴ *Prosecutor v. Ruto, Kosgey & Sang*, [Judgment on Admissibility Appeal](#), ICC-01/09-01/11-307 OA, 30 August 2011, para. 37; *Prosecutor v. Muthaura, Kenyatta & Ali*, [Judgment on Admissibility Appeal](#), ICC-01/09-02/11-274 OA, 30 August 2011, para. 36.

22. Further prioritising amongst investigations and prosecutions⁵

When considering prioritisation, two different scenarios need to be considered: the prioritisation of situations and the prioritisation of cases across situations in the context of opened investigations.

On the prioritisation of situations, the Office faces a difficult dilemma for which it will make proposals to its stakeholders in the context of the broader discussion on how to resolve the tension between its increasing workload and resource limitations. It is important to stress that once the Office reaches a finding that the conditions of article 53(1) are met, the Rome Statute requires the Prosecutor to open an investigation. At the same time, if multiple situations would reach this threshold at the same time, then it is, resource-wise, impossible to properly respond. Although it has been suggested to the Office to consider exit strategies for preliminary examinations where the evidence available at that stage does not support the timely and successful prosecution of Rome Statute crimes, such criterion is not contemplated by the Court's statutory framework. In this sense, it is important to bear in mind that the Office's discretion is limited by the principles and mechanisms enshrined in the Rome Statute.

On the prioritisation of cases across the different situations under investigation, the Office continues to apply its case selection and prioritisation policy officially adopted in 2016, which does foresee considerations in relation to the likelihood of success of an investigation.

Absent a significant increase in resources, the Office will need to exercise its prosecutorial discretion even more stringently to prioritise amongst the different cases identified within all the situations under investigation and in view of other situations that may progress into the investigation phase, applying the strategic and operational considerations set out in the Office's Policy Paper on Case Selection and Prioritisation (2016). This will inevitably result in the delay of some investigations and prosecutions. However, without additional resources, the Office considers that it cannot realistically build viable cases without making difficult decisions regarding prioritisation.

This dilemma requires further strategic thinking and analysis internally and engagement with States.

23. Developing a clear completion strategy for situations under investigation⁶

Up until now, the Office has not formally ended its involvement in any of the situations under investigation. With fugitives at large, and/or new crimes being committed in situations over which the Office is seized, it is difficult to close situations if no alternative solutions can be found to address the persisting impunity. Yet the Office acknowledges the need to consider, in a strategic manner, the conditions and process by which it can

⁵ ICCSP, paras. 20, 21, 28.

⁶ ICCSP, pages 11-12, goals 5 and 10.

eventually exit situations, also keeping in mind that even when the Office completes its activities, the Court through its different mandates might remain involved in the situation for an additional period of time.

During 2019-2021, the Office will prioritise the development of a policy on the completion of situations under investigation, which will be applied to both new and existing situations. Such a policy will cover multiple aspects already at the opening of a new situation, for example: (1) defining prosecutorial goals, if possible together with the situation country (notably where a lack of primary action by the State is due to inability rather than unwillingness to investigate), (2) coordinating work, if possible with the situation country, to increase the speed and efficiency of investigations, and (3) having partners assist, where needed, the situation country in building up its capacity to genuinely investigate and prosecute, which would allow the Office to reduce its list of pending cases requiring investigation. If successful, these steps could reduce the time that a situation remains under investigation by the Office and also increase the speed and impact of the Office's investigations. At the same time, knowledge and expertise in dealing with international criminal law cases can be transferred to the situation country, which may result in quicker achievement of the goals set in the completion strategy for the situation. Such an approach could be taken, for instance, upon request of the situation country. Such a strategy must also foresee situations where such interaction with the national authorities is not possible. The development of such a policy will also require consultation and collaboration with the Registry.

The completion strategy can be seen as part of the life cycle of the OTP's involvement in a situation under investigation. The Office will aim to identify a prosecutorial program to implement, which will allow it to assess its progress and the obstacles encountered during the implementation. The Office does not operate in a vacuum; it acknowledges the need for consultation with other actors and the international community, in light of their important role and responsibilities. This is particularly important in situations where there is pervasive impunity and national capacity building is required; which is a responsibility of others rather than the Office.

24. Where appropriate, pursuing narrower cases

The aim of the Office remains to prosecute the most responsible following the evidence that it can obtain from its independent investigations. This might take different forms: it could be a broad case representing the totality of the crimes for which the most responsible is held accountable, or a more narrow case in terms of crimes and criminal liability depending on where the evidence leads the Office. It might also imply a strategy of building upwards by focusing on mid-level or notorious perpetrators first, with the aim of reaching the level of the most responsible persons at a later stage.

As stated above in relation to Strategic Goal 1, the Office remains committed to conducting open-ended and in-depth investigations (as opposed to the past strategy of focused and phased investigations) leading to a full understanding of overall patterns of victimisation and

an evidence-based identification of those who bear individual criminal responsibility for the commission of crimes. However, building on the Strategic Plan 2016-2018 and its Policy Paper on Case Selection and Prioritisation, during 2019-2021 the Office will give increased consideration to the possibility of bringing cases to justice that are narrower in scope, insofar as they focus on key aspects of victimisation, particular incidents, areas, time periods, or a single accused. In particular, when appropriate, the Office will consider bringing cases against notorious or mid-level perpetrators who are directly involved in the commission of crimes, to provide deeper and broader accountability and also to ultimately have a better prospect of conviction in potential subsequent cases against higher-level accused. The Office will also emphasise evidential strength in its selection of suspects and charges, opting where appropriate for narrower but stronger cases over broader cases with higher risks of evidentiary weaknesses. While the scope of any particular case must always respond primarily to the available evidence, the Office will aim whenever possible to pursue sequenced cases that build toward a body of cases that fully represent victimisation and hold the most responsible perpetrators accountable in any given situation.

The Office anticipates that this pursuit of narrower cases will have numerous benefits, including: the charging and presentation of cases with the best chance of success at trial; deeper and broader accountability within situations with possibly more visible accountability, also in the affected communities; faster and more comprehensive development of procedural and substantive jurisprudence; and the creation of incentives to increase the overall efficiency of the Office and other Organs of the Court through an increase in the number of trials and other proceedings. At the same time, while the planned approach should normally reduce the time and other resources necessary for each case, its overall effect on resource requirements cannot be accurately predicted. The Office will also have to carefully evaluate how an increase in cases against notorious or mid-level perpetrators affects its timing to investigate and prosecute the most responsible. The Office also recognises that this approach may place increased demands on the other Organs of the Court, including for courtroom space. It also risks creating a temporary misperception that the Office is targeting only low-level perpetrators, even though the goal of the Office remains to prosecute the most responsible either directly or through a building upwards strategy. However, on balance, the Office considers such concerns to be outweighed by the potential benefits.

25. Preparing for and advocating for more expeditious court proceedings

The Office considers that trial and other court proceedings, in general, should be conducted and concluded more quickly. In line with the Court's overall strategic goal, the Office will increase its own efforts to be prepared for, and to advocate for, more expeditious proceedings.

The Office anticipates that several of the strategies set forth in this Plan will support more expeditious proceedings. For example, having cases trial-ready at the arrest warrant or confirmation stage minimises the possibility of delays in order for the Office to complete its investigative activity, to secure witnesses and evidence, or otherwise to prepare for

confirmation or trial proceedings. Narrower cases are also likely to result in shorter trials, as will cases that rely less heavily on witness based evidence. More cases will also lead to more judicial decisions and the development of procedural and substantive jurisprudence.

The Office will also continue to explore and implement time- and cost-saving procedures available under the existing Rules of Procedure and Evidence, such as has been done in the past with the presentation of prior recorded testimony and the use of video-conferencing technology to avoid the need for witnesses to travel to the seat of the Court, where possible. In addition to saving significant financial resources, these procedures can, when used judiciously, shorten proceedings without negatively impacting upon the quality of evidence or the rights of suspects and accused persons.

Although the circumstances of particular cases may differ, the Office believes that more expeditious proceedings generally benefit all parties, the Court as a whole, victims and victim communities, and the international community more broadly. Consequently, the Office will look for opportunities to advocate for greater expeditiousness whenever appropriate.

26. Conducting further reviews of its working processes

The Office intends to focus further on how it can improve its working processes within its divisions and sections, between them, as well as with the Registry. Work is already underway to see how to increase the speed of the investigations through a better integration between the phase of preliminary examination and investigations with regard to (1) preservation of evidence; (2) earlier start of the planning (including, *inter alia*, identification of staff profiles requirements, specific language support, security and logistics needs), and (3) better integration of the work products and resources from the preliminary examination into the investigation. ID, which has systematically identified efficiency gains and savings in the last years, will intensify its efforts to increase the speed and efficiency of its activities. Similarly, ID and PD will look into ways to optimise the factual and legal analysis they perform. PD has already started to standardize and improve the efficiency of its disclosure processes. The Information, Knowledge, and Evidence Management Section (IKEMS) will work with Registry to see if and how automation could free up more resources.

27. Optimising cooperation with partners

The Office can expedite its core activities through more strategic cooperation and coordination with partners, including first and early responders. Notably, the investigative landscape has been evolving in different ways: (1) more individuals and civil society actors are collecting relevant information as events unfold; (2) the awareness has grown that police and military contingents deployed by the international community may play a role in the preservation of evidence, and; (3) specific bodies and mechanisms are being created to work on the collection and preservation of evidence to support national and international jurisdictions. For instance, the OTP intends to continue to work cooperatively with UN mechanisms that have an investigative mandate for situations in which the ICC also has

jurisdiction (for example, the Independent Investigative Mechanism for Myanmar). Where possible, and while emphasising that such cooperation cannot replace actual investigations by the Office, the Office will enhance its interaction and cooperation with partners through a structured dialogue on matters relating to collection and preservation of evidence.

Strategic goal 3: to develop with States enhanced strategies and methodologies to increase the arrest rate of persons subject to outstanding ICC arrest warrants⁷

28. Without arrests there are no trials, and all the efforts up to that point by the Office and others, including cooperation partners and victims and witnesses, are effectively rendered nugatory. Thus far, the OTP has requested and obtained public arrest warrants or summonses to appear against 45 suspects. At this stage, 15 suspects in six different situations remain at large. From the Court's perspective, all these arrest warrants are important, and efforts at securing the arrest of suspects are ongoing.
29. However, the Court's ability to effect arrests is necessarily limited. Only if States increase the number of arrests and transfers, can there be more judicial proceedings. It is also through the arrest of suspects that States can signal the type of conduct that the international community is unwilling to accept and, in this way, help prevent future victimisation, bring justice to victims of past crimes, and strengthen the cause of deterrence.
30. In spite of its limited resources, which rule out some of the more ambitious means employed by the tracking units of other international criminal tribunals, the Office seeks to assume a more proactive role in relation to tracking and arrest of suspects. To this end, the Office will continue to work closely with the Registry to increase opportunities for arrests. Efforts will continue to enhance synergies and information processing and sharing, to build on lessons learned from past experiences and to develop and implement proactive strategies and advocacy campaigns with relevant stakeholders. The Office will also continue to raise awareness amongst States Parties of the need for timely arrests.
31. Several challenges relating to monitoring the whereabouts of suspects and fostering support for their arrest exist: crimes have been committed abroad, in remote areas, in complex, volatile and hostile environments; fugitives are in areas not controlled by central authorities or otherwise out of reach, and information about them is scattered and its reliability is difficult to ascertain. The Office, together with the Registry, has identified areas of improvement of relevance to its partners, including in terms of tracking efforts, identification of potential incentives and leverage as well as diversification of partners. It is actively seeking support from those States on whose territory the suspects are located. The Office will continue to liaise with relevant partners to improve their awareness and understanding of the challenges and the support needed.

⁷ ICCSP, page 11, goal 4.

32. In particular, during 2019-2021, the Office will increase its efforts in the following areas:
- a. Enhancing the streamlining of information flows to its task force of investigative and cooperation staff involved in tracking and arrest efforts and increasing responsiveness internally, so as to seize all opportunities in a timely manner.
 - b. Increasing our efforts to identify and affect the means, and the support networks, of potential or actual suspects so as to limit their ability to escape justice.
 - c. Exploring with States access to special investigative techniques.
 - d. Keeping arrest issues high on States' agenda despite conflicting priorities.
 - e. Exploring options to create operational groups of relevant States and organisations to exchange information and coordination on diplomatic and military efforts to secure arrests.

Strategic goal 4: to refine and reinforce its approach to victims, in particular as regards victims of SGBC and crimes against or affecting children⁸

33. The Office strongly believes that victims bring a unique and necessary perspective to the activities of the ICC and contribute to fair and efficient trials. Under the Rome Statute, victims are actors of international justice rather than its passive subjects. The Office's relationship with victims evolves from stage to stage of the Office's activities, from preliminary examinations to investigations and proceedings before the Court. Given the importance of this relationship, an honest reflection and dialogue is required to address areas of contention or misunderstanding, such as the inherent limitations of the Office's mandate and victims' legitimate expectations of justice for the harms they have suffered.
34. During over fifteen years of operations, the Office has developed experience in, and contributed to, the development of relevant practice relating to victim participation in court proceedings and their role more generally. The Assembly of States Parties at its last session asked the Court to review its strategy on victims, and the Office will actively contribute to this Court-wide exercise. Based on the experience acquired thus far, the Office will also review and strengthen its capacities regarding decision-making, its interaction with victims, its communications with victims and their communities, and management of expectations, as well as other victim-related issues throughout all of its activities, from preliminary examination and through to the end of its engagement in a situation country. A special attention will be paid to children and victims of SGBC in this regard.
35. In its policies, the Office pays particular attention to children and victims of SGBC, in order, *inter alia*, to stress the seriousness of these forms of victimisation, which frequently are overlooked and underestimated. Children, for instance, can be affected by crimes in various ways: as victims including through the inability to receive education or ((medical) care), as

⁸ ICCSP, page 11, goals 1, 2 and 3.

witnesses, or even as perpetrators. The Office will continue with this particular focus, including by ensuring the implementation of its policies and by evaluating their effectiveness.

36. The Office will also engage with the other Organs of the Court and the Trust Fund for Victims to identify synergies which could strengthen its common approach to victims, while respecting each other's independent mandates.
37. Additionally, during the Strategic Plan 2019-2021, the Office will finalise its ongoing work toward the adoption of a comprehensive policy on the protection of cultural heritage within the Rome Statute legal framework, which will also cover the important issue of victimisation in the context of such crimes.

Ensuring sound management

Strategic goal 5: to further increase the Office's ability to manage its resources in an effective, accountable, and responsible manner⁹

38. An organisation only functions well if it is able to get the maximum result from the resources at its disposal, and if it is able to prepare for long-term goals while ensuring results in the short term. The Office's vision is to be an organisation that is continuously fit for purpose and where staff members feel motivated to give the best of themselves.
 - a. To achieve this, the Office seeks to promote various key elements of workplace culture:
 - i. The Core Values of *Dedication, Integrity, and Respect*.
 - ii. An environment where people feel free and safe to communicate, where critical thinking is promoted and people feel empowered to take initiatives.
 - iii. An organisational design that does away with silos and nurtures the integration of the talents developed in the different divisions and sections.
 - b. The Office has introduced planning and control tools to ensure sound management and oversight, and has been at the forefront within the Court in the fields of strategic planning, performance management, and risk management.
 - c. The Office strives for continuous improvement through quick after-action reviews, lessons learned, peer review, and research with external partners in order to ensure high quality, efficiency, and adaptability to a new environment.
 - d. Through its financial, planning and control functions, the Office produces transparent budget proposals, makes flexible and efficient use of resources,¹⁰ and

⁹ ICCSP, pages 11-12, goals 6 and 9.

¹⁰ ICCSP, paras. 27-28.

ensures sound financial management. The Office is committed to continue the responsible and accountable stewardship of its resources.

- e. The Office offers many kinds of training to its staff, including training on the Office’s Code of Conduct adopted in 2013, and Core Values, management training, and a variety of professional skills training opportunities. A performance management framework is in place which ensures the monitoring of performance up to the highest levels within the Office.
- f. The Office has continued to strengthen its ethical framework and its standards throughout the period 2016-2018. Training has been provided to reinforce its Core Values within the Office, and on the heels of previous mandatory trainings on the Code of Conduct for the Office of the Prosecutor, new staff undergo similar trainings. Moreover, the Office takes a vigorous approach, as a matter of policy and practice, to ensure that there are no deviations from the applicable rules governing conduct by “Members of the Office”, within the meaning of the Code, in all spheres of activities, including external engagements and activities, and to take remedial action where warranted. Allegations of misconduct by staff or even former staff and officials are systematically looked into when they arise in accordance with the applicable legal framework at the Court; Court-wide efforts to further strengthen the regulatory framework are underway and suggestions have been made by the Office how States Parties can also contribute to this aim through their legislative mandate.¹¹

39. While organisations do not change overnight and a number of the points mentioned above remain work in progress, they are central to the proper functioning of the Office. In addition to further refining these elements of its organisation, the Office will pay particular attention to the following topics in the coming years:

- a. Strengthening leadership within the Office, including as part of the Court-wide Leadership Framework.
- b. Reviewing its internal governance structure.
- c. Further strengthening its approach to continuous improvement.¹²
- d. Further strengthening its approach toward safety and security.
- e. Improving its information and evidence management operations.
- f. Enhancing staff well-being, including as part of the Court-wide Well-Being Framework launched by the Court’s Principals.
- g. Continuing to adapt itself to the changing scientific and forensic environment.
- h. Developing and enhancing the Office’s communications with its stakeholders and the public.¹³

¹¹ ICCSP, paras. 29-30.

¹² ICCSP, page 12, goal 7.

¹³ ICCSP, para. 26.

In parallel, the Office will contribute to the important organisational goals which are set out in the ICC-wide strategic plan,¹⁴ such as improving gender and geographical balance.¹⁵

40. **Leadership** is vital to any organisation, and the Office will continue and increase its efforts to provide effective leadership at all levels. Members of the Office will continue to participate in management training offered by the Court, and the Office will actively shape and continue to actively participate in the leadership and management development of the Court and the Office, in particular in relation to female staff, and support related initiatives.¹⁶
41. Enhancing and streamlining **governance structure** is a critical challenge, particularly as the Office has grown and developed internally, and is facing an ever-growing workload and more severe external challenges. To respond to these challenges, the Office will further review and streamline its governance structure, by ensuring that decision-making on both operational and administrative matters is taken at an appropriate level, and that bottlenecks in decision-making are reduced or eliminated as much as possible without compromising the requisite checks and balances and quality control. Some measures that have already been taken in this regard will be further pursued and implemented, such as optimisation of integrated team functioning and autonomy, and delegated authority to the director of PD on certain legal filings. As a key decision-making body of the Office, the Executive Committee's ("ExCom") working methods will be reviewed and amended as necessary in line with the need for timely decision-making and enhanced internal communication.
42. **Continuous improvement** will be further strengthened within the Office through different measures: (1) ensuring that after each important step in the judicial process, stock is taken of what went well and what needs improvement; (2) improving the lessons learned database so that more information is made available and so that the monitoring of the level of activity in relation to lessons learned is well organised; (3) further creating the appropriate culture of openness and critical thinking through the roll-out of the leadership program; (4) identifying for each division and section one major objective in terms of continuous improvement per year. A process manager will be designated to drive this process. The performance in this regard will be measured through the implementation of milestones for each of the above steps.
43. **Security and safety** continue to be critical success factors in particular for investigations and prosecutions. The environments in which the Office operates are increasingly challenging, making it more difficult to protect staff and persons at risk on account of their interaction with the Office. Furthermore, more sophisticated threat actors have an interest in breaching the Office's information security systems, or damaging the Office in other ways. Such higher risk environments will not prevent the Office from pursuing its mandate. It does however imply that the Office will have to take more measures to ensure the safety and security of its staff, of persons on account of their interaction with the Office, and of its information. In

¹⁴ ICCSP, paras. 3-8.

¹⁵ ICCSP, para. 30, page 12, goal 8.

¹⁶ ICCSP, page 11, goal 6.

certain circumstances, complete mitigation of risk will be impossible and the Office will have to consider accepting some greater level of risk in order to accomplish its mission. Risk management strategies will have to be even more sophisticated, will become more costly, and will require more time to be implemented.¹⁷

44. **Information management** is a critical function within the Office. In addition to supporting the core operational activities of the Office, effective management of information also supports improvements in the corporate services area, namely: the HR, financial and administrative management of the Office and Court, rendering those processes more efficient, and assisting while increasing transparency and accountability. The Office, through its Services Section and its Human Resources Liaison Office of the Immediate Office, is working with the Registry to improve the Court's financial, administrative and HR systems and applications, so that enhanced information for reporting to internal management and external stakeholders can be produced. The Office is implementing with the Registry a five-year information technology plan for the Court. After a full review of its information management processes and systems, the Office has centralised its information and management processes through the creation of the IKEMS, which unites all of the information and evidence management units of the Office in one section.

45. The Office and the Court more broadly have identified **staff well-being** as a key component of their overall strategy. Staff well-being touches upon many aspects, as illustrated by the ICC staff well-being framework: physical environment, contractual agreements, organisational design, values, strategy, staff selection and development, leadership, work-life balance, occupational health. The Office intends to work closely with its staff, the Staff Union Council and the other Organs to respond to the most urgent areas identified in the ICC staff survey and this, with the aim of improving the well-being of staff and by doing so to ensure that staff are able and willing to continue to invest their time and energy in the organisation. The five Court-wide priorities set by the Principals in this regard are as follows:

- a. *Gender equity*: an important cross-cutting topic, which involves different areas such as values/respect, recruitment /development, leadership, *inter alia*.

The Office will continue its efforts on gender mainstreaming across the Office in all aspects of its work. It will work with the other organs to implement a Focal Point for women at the Court.¹⁸

- b. *Staff selection and development*: with a focus on recruitment and mobility.
- c. *Occupational health and work-life balance*: with a focus on stress reduction, secondary trauma prevention and flexible working arrangement.
- d. *Ethics/standards of conduct*: with a focus on harassment, and conflict resolution.

¹⁷ ICCSP, page 11, goal 1, page 12, goal 7.

¹⁸ ICCSP, page 12, goal 8.

- e. *Leadership at all levels*, including leadership and strategy of the Court.
46. **Science and technology** remain very important aspects to the work of the Office. Both the *Al Mahdi* and the *Al-Werfalli* cases have shown how online investigations combined with the right forensic approach can help to prove cases. Team requests for support by the Office's forensic team have increased considerably. The world of science and forensics covers, however, such a vast terrain, and evolves at such a high pace that the Office cannot master this on its own. In the 2016-2018 period, the Office has intensified its network, which could support it in being aware of the many opportunities and challenges that science and technology bring, and in knowing how to tackle them. To date, different partners have expressed and demonstrated their willingness to assist the Office: the Scientific Advisory Board, the Technology Advisory Board, the University of California Berkeley Human Rights Centre, the Carnegie Mellon University Centre for Human Rights Science, Europol, and Interpol, to name but a few. The Office will continue its present strategy with these partners so that it can develop a good understanding of how technology will influence its work and how to adapt itself to this new reality.
47. **Communication strategy** remains a key priority for the Office. This is especially important given the rise of social media in real-time reporting of events, an increasingly fragmented media and public information landscape, the use of misinformation campaigns against the Court and its activities, and the impact such campaigns may have on the operational environment. The Office will continue to develop its ability to effectively communicate with its stakeholders, with the victims and affected communities, and the general public. The Office recognises the importance of timely and clear communications so as to maximize transparency and ensure that its stakeholders and the public have an accurate and up-to-date picture of the Office's actions and decisions, including the progress of its investigations and prosecutions when appropriate. The Office intends to organise meetings twice a year with the States Parties to update them on situations and on the progress with the implementation of the strategic plan. This approach will be complemented with a yearly report on the overall performance of the Office, which will include its performance indicators. By further developing and enhancing its communications, the Office also aims to more effectively explain the challenges it faces and thereby help manage expectations. More generally, an effective communication strategy will reinforce the Office's image as a robust, dynamic and reliable institution in the international arena. The Office will collaborate with the Registry within respective and complementary mandates toward this aim.

Contributing to the effective functioning of the Rome Statute system

Strategic goal 6: to further strengthen the ability of the Office and its partners to close the impunity gap¹⁹

48. The jurisdiction of the Court is complementary to national judicial systems, and no one actor is able to fight impunity on its own. It is against this background that the Strategic Plan 2016-

¹⁹ ICCSP, para. 12 and page 11, goals 4 and 5.

2018 introduced Strategic Goal 9 that aimed at strengthening and deepening the positive approach to complementarity already initiated, and focused on how the impunity gap could be tackled by finding ways to improve the ability of the Office and other investigative and prosecutorial bodies to conduct their investigations and prosecutions.

49. What has been commonly referred to as “positive complementarity” can be seen as part of the Strategic Goal 6. It can help to progress the goal of closing the impunity gap as well promote a faster implementation of the completion strategy. In doing so, the Office seeks to both *maximise* the benefits of its engagement and *minimise* the need for its continuing role. There are however diverging views in relation to the concept of positive complementarity with some stakeholders supporting the idea while others seeing it as an expansion of the Office’s role. By further clarifying this particular aspect of complementarity through a position paper, the Office hopes to address concerns that might exist as well as to further engage with States Parties and other stakeholders as part of that process.
50. While the main aim of a preliminary examination remains always to determine in a timely manner whether the legal conditions are met that require the Office to start an investigation, the mere fact of engaging with national authorities can sometimes result in them taking further steps and thereby avoiding a costly investigation by the Office. Similarly at the investigative stage, the Office will assess the scope for national proceedings when making relevant case selection and prioritisation decisions.
51. Positive complementarity also implies that the Office will respond, where possible, to requests for information as provided for under the Rome Statute or share its lessons learned and best practices upon request. Although capacity building or technical assistance are important elements that can speed up the Office’s completion strategy in a given situation, the Office recalls that this is a role for development agencies and other actors; the Office’s role is more limited to encouraging engagement by such partners, to making its standards, lessons learned and best practices available for use, and to contributing participants, where possible and within its means, to the expert-level meetings, trainings and seminars organised by others. In the Office’s assessment, which it invites States to provide continuous feedback on, all these activities flow from the Statute and draw from the mutually-reinforcing cooperation framework it establishes. Moreover, such contributions from the Office are not resource intensive and are more often than not depending on the activity, budget neutral.
52. The Office will maintain this strategic goal in its Strategic Plan 2019-2021. Three different avenues will be pursued:
 - a. Ensure diligent processing of requests for assistance.

The Office has seen an increase in requests from States to access information pursuant to article 93(10) of the Statute as well as its experience and expertise, and considers this a positive evolution in which States Parties are obtaining an additional return on their investment in the Court from the Office. The Office is dedicating

efforts to enhance further its processing of such requests, and intends to seek ways to respond effectively and in a timely manner.

- b. Participating, where appropriate, in coordinated investigative efforts.

The coordinated investigative project that the Office and a number of countries are undertaking with the assistance of regional organisations such as Europol, each within its mandate and sphere of competence, is showing the potential benefit of combining the information and strengths of each partner to progress cases. If similar opportunities occur, then the Office will seek to participate within the limits of its resources and mandate.

- c. Contributing to the further development of a global network among investigative and prosecutorial bodies for sharing information and experience relating to genocide, crimes against humanity, war crimes, and related criminal conduct.

53. The Office has identified three areas of cooperation which can help all partners within the law enforcement community to increase their ability to contribute to investigating and prosecuting international and related crimes: (1) knowledge sharing; (2) preservation of evidence; and (3) information sharing.

54. In relation to the sharing of knowledge, different initiatives are being undertaken. For instance, civil society and the academic world have or are producing basic standards on how to produce and preserve photo/video evidence or to conduct online investigations; other organisations are trying to develop full manuals on investigation and prosecution of international crimes. The Eurojust network for investigation and prosecution of genocide, crimes against humanity, and war crimes has organized and is hosting a well-functioning network of prosecutors and law enforcement authorities that facilitates sharing of information and best practices and has already demonstrated its usefulness in several national cases. At the same time, while a wealth of practical experience exists within investigative and prosecutorial bodies around the world, this is still insufficiently shared within the global community. The Office is exploring with its national and international partners how such knowledge development could be taken forward, and how the Office can contribute.

55. The preservation of evidence is a second important area for cooperation. Often investigations of international crimes start quite some time after the crimes occurred. Less evidence is therefore available, or its quality has diminished over time. As indicated above, early responders and citizens are often in a position to preserve evidence, but do not always know how to do so in a way that ensures its integrity for use in court and that does not expose them to security risks. The basic standards that could be developed in relation to knowledge-sharing would support this process. The Office will also continue to interact with Internet Service Providers to identify possibilities to preserve online, publicly accessible information that is relevant for its investigations and prosecutions.

56. The third area for cooperation relates to the sharing of information that allows other investigative and prosecutorial bodies, when appropriate, to be aware of who is investigating what, and that allows them to see if there is relevant information for their own investigations and prosecutions in another country. Organisations like, for instance, Interpol, Europol or Eurojust are well placed and have taken up such a role. The OTP will contribute to this endeavour by sharing its information where possible, consistent with confidentiality requirements.

Implementing the Strategic Plan 2019-2021

Moving from strategic planning to implementation

57. The Strategic Plan 2019-2021 is a high-level document that defines the goals and underlying strategies that the Office will follow. It is not intended to include detailed objectives, action plans and related resources. To move from planning to implementation, the Office will be taking the following steps:

- a. The divisions, sections, and integrated teams will develop objectives and action plans so that the goals are translated into tangible milestones.
- b. The OTP performance dashboard will be updated to include reporting on the above-mentioned objectives and action plans.
- c. A yearly performance report will update stakeholders on the progress made. Streamlining with other reporting tools will be taken care of. An end-of-cycle evaluation of the strategy will be provided as a preparation toward the Strategic Plan 2022-2024.²⁰
- d. Research will be done into how national prosecutorial bodies make and present the link between their strategy, budget and indicators, so that a feasible, best practice can drive the continuous improvement of our management practices. States Parties are invited to assist the Office in this endeavour.

58. As interim measures, the following steps have already been taken:

- a. The Strategic Plan of the OTP has been linked to the budget proposal 2020 and its performance indicators, as shown hereunder and in more detail in annex A. To provide States Parties with a high level, relevant view, the Office presents in its budget proposal 2020 a set of revised indicators which will build upon those used in the past but which provide for a more focused, high level overall view. This will be further developed over time as part of continuous improvement.

²⁰ ICCSP, paras. 8, 31 and 32.

Division/Section	SG 1	SG 2	SG 3	SG 4	SG 5	SG 6
2110 - IOP/LAS						
2120 - Services Section						
2160 - IKEMS						
2200 - JCCD						
2300 - ID						
2400 - PD						

- b. Work on major goals mentioned within the Strategic Plan has already started earlier in the year (e.g., refining the strategy to ensure high quality; plans to increase efficiency; staff well-being).

Coordination with the ICC and Registry plans²¹

59. The Court has, through consultation, ensured a coordinated development of the ICC, Registry and OTP strategic plans. The existence of the three plans and their alignment in terms of content is an important achievement. Cross-references are made in each plan to show the actual integration. The visualisation hereunder illustrates the integration between the ICC and the OTP strategic plans.

Division/Section	SG 1	SG 2	SG 3	SG 4	SG 5	SG 6	SG 7	SG 8	SG 9	SG 10
2110 - IOP/LAS										
2120 - Services Section										
2160 - IKEMS										
2200 - JCCD										
2300 - ID										
2400 - PD										

²¹ ICCSP, para. 5.

Financial planning 2019-2021

60. The strategic plans for 2012-2015 and 2016-2018 each included a section on financial planning covering multiple years. The Office has concluded that preparing a separate financial forecast as a reflection of the strategic plans has not proven helpful to the Office or to States Parties. Instead, the Office will propose, at an appropriate time, a broader discussion with States Parties on the level of activity that the Office is expected to manage, and the results it can realistically produce within the resources available to it, taking into account the strategies included in this Strategic Plan 2019-2021. In the meantime, the Office makes the following observations:

- a. This Strategic Plan 2019-2021, while containing certain shifts in strategy to further strengthen the quality of its work, does not change the fundamentals of the Office's approach to its mandate. As such, the overall financial impact should not vary substantially. As per past practice, resource requests will always be evaluated with the strictest budgetary rigour and fully justified.
- b. The Office foresees an increase in situations and cases that will need to be translated into budgetary assumptions accompanied by the requisite justifications in the context of the annual budget cycle. However, this increase is not a result of prosecutorial strategy but primarily the consequences of the continued commission of crimes within the Court's jurisdiction and delays in execution of arrests warrants, both of which contribute to an ever-increasing backlog of investigations and prosecutions for the Office. As has been the case in the past, it is expected that States will assess these proposals on their merits, and not necessarily as a product of the OTP strategic plan, the role of which has been to rather inform and provide background to these discussions.
- c. The Office expects that some shifts in its strategy will, in fact, allow it to partially absorb increasing workload; for instance through improved and streamlined processes. At the same time, some measures, and the continued emphasis on quality, may also lead to increases in costs. While the process of continuously identifying efficiencies and savings is a key mechanism in trying to balance these two strands, there is a limit to the savings available through efficiency gains. At some point, the Office will simply be unable to take on additional work without additional resources.

Performance indicators

61. The Office presented in its Strategic Plan 2016-2018 a set of 14 performance indicators. These indicators reflected areas of performance over which the Office had sufficient control, namely (1) prosecutorial results, (2) operational excellence, (3) management excellence, and (4) innovation and learning.

62. A task force representing the Office's divisions and sections has moved this set of performance indicators from a conceptual design to a practical tool used by senior management during quarterly meetings. The 14 indicators have been broken down into 39 sub-indicators. The collection of data supporting the performance indicators has been organised; performance targets have been set; reporting to ExCom results in actions to achieve improved performance, where needed, being decided upon, monitored and evaluated.
63. A review of the 14 original performance indicators has been conducted to align them with this new Strategic Plan 2019-2021. The Office will focus on the following 11 indicators to evaluate its performance against the present Strategic Plan:
- | | |
|----------------------------|--|
| a. Prosecutorial results | 1. Persons presented/convicted |
| b. Operational excellence | 2. Compliance with quality standards |
| | 3. Efficiency gains and savings |
| | 4. Speed of core activities |
| | 5. Productivity of the Office |
| c. Management excellence | 6. Staff performance and development |
| | 7. Staff well-being |
| | 8. Gender and geographical balance |
| | 9. Budget implementation and compliance |
| d. Innovation and learning | 10. Lessons learned conducted |
| | 11. Research & evaluation agenda implemented |

Risk management

64. The Office is working closely with the other Organs to implement the risk management system of the Court. A risk management committee composed of representatives of the different Organs reports to the Coordinating Council. This committee is responsible for the roll-out of the risk management approach of the Court, regular updating of the risk register, and the provision of assurances on the implementation of the risk mitigation measures.
65. The Office focuses hereunder on strategic risks which could affect the implementation of this Strategic Plan 2019-2021. Relevant risks identified in the Court-wide risk register have been included in the list below:
- a. Budget constraints affecting the ability to carry out the Office's mandate.
 - b. A lack of cooperation (including withdrawal from the Statute) to support the investigations and prosecutions, and to ensure arrests.
 - c. A security environment that makes it extremely challenging for the Office to operate with an acceptable level of risk, whether it relates to persons at risk on account of their interaction with the Office, the Office's staff or its information.

- d. Insufficient quality management mechanisms in place.
- e. Time gap between the development of new jurisprudence and of cases impacting on the results in court.
- f. Constraints reducing the ability to increase speed and efficiency.
- g. (Deliberate creation of) misunderstanding or misperception affecting the support to and cooperation with the Office.
- h. Staff well-being affected due to constant work pressure, and due to risk of secondary traumatisation.

66. The Office has plotted the strategic risks in relation to the likelihood that they would occur as well as the impact that they would have. High level risks (coloured in red) require the Office to have strategies to try and reduce the risk to an acceptable level. Medium level risks (coloured in yellow) require to be monitored so that depending on their evolution a decision on further measures can be taken. Low level risks (coloured in green) are accepted as they are and require no further action.

Likelihood Impact	Low	Medium	High
High	Insufficient quality management mechanisms	Lack of cooperation Time gap between development of jurisprudence and of cases	Budget constraints Security Misunderstanding and misperception
Medium		Constraints to the ability to increase speed & efficiency	Staff well-being affected
Low			

Annex A: Link between the OTP Strategic Plan and the 2020 budget indicators

Strategic goal	Expected result	Performance measurement	Target	Entity
1. To achieve a high rate of success in court	Quality of investigations and prosecutions ensured	Results of quality controls	Any major quality problem identified and addressed	JCCD-ID-PD-IOP/LAS-
		Review project finalised	Report on investigations' review approved by ExCom	JCCD-ID-PD-IOP/LAS-
2. To increase the speed, efficiency and effectiveness of preliminary examinations, investigations and prosecutions	Timely finalisation of preliminary examinations, investigations and trials	Milestones achieved/planned	Any major delay due to OTP identified and addressed	JCCD-ID-PD
			Provision of finance/language services in timely and effective manner	SS
	Speed and efficiency of preliminary examinations, investigations and trials increased	Proposals finalised	Reports to optimise speed and efficiency of each core activity approved by ExCom	JCCD-ID-PD
			Report to improve match between workload and resources approved by ExCom	All
			Proposal for completion strategy developed	JCCD-ID-PD-IOP/LAS
	Efficiencies or savings made	1% efficiency gain or saving achieved	All	

Strategic goal	Expected result	Performance measurement	Target	Entity
3. To develop with States enhanced strategies and methodologies to increase the arrest rate of persons subject to outstanding ICC arrest warrants	Increased ability to locate and arrest suspects at large	Milestones achieved/planned	Improved internal functioning implemented on time	JCCD-ID-PD-IOP/LAS -
		Proposal on future arrest and tracking strategy and model with partners finalised	Report approved by ExCom	JCCD-ID-PD
4. To refine and reinforce its approach to victims, in particular for victims of Sexual and Gender-Based Crimes ("SGBC") and crimes against or affecting children	All preliminary examinations, investigations and prosecutions have a priority focus on SGBC and crimes against or affecting children	Systematic identification and review of these priority crimes done	All reporting on core activities show sufficient effort and findings on these priority crimes	JCCD-ID-PD-IOP/LAS-
	The policies on SGBC and crimes against and affecting children are fully implemented	Measures in place versus total foreseen in policy	100%	JCCD-ID-PD-IOP/LAS-
5. To increase the Office's ability to manage its resources in an effective, responsible and accountable manner	Responsible and accountable mgmt.	Compliance with financial rules and regulations	No major negative findings by auditors	SS
		Compliance with staff rules and regulations	No major negative findings in administrative appeals	IOP/LAS
		New performance reporting system implemented	Simplified, consolidated performance report shared with stakeholders	All
	Continuous improvement approach further implemented	Milestones achieved/planned	All milestones achieved	All

Strategic goal	Expected result	Performance measurement	Target	Entity
Goal 5 ctd.	Improved information mgmt.	Milestones achieved/planned for the priority projects	All milestones achieved	IKEMS
	Improved well-being	Milestones achieved/planned for the priority projects	All milestones achieved	All
	Improved communication to stakeholders	Proposal finalised & milestones of implementation met	Report on new communication strategy and model approved by ExCom	IOP/LAS
			All milestones achieved	IOP/LAS
	Improved gender/geo balance	Milestones of the gender/geo action plan achieved/planned	All milestones achieved	All
	Staff adequately trained to perform their duties	Staff trained/total staff	90% of staff followed mandatory training	All
6. To strengthen the ability of the Office and of its partners to close the impunity gap	Efforts of investigative and prosecutorial offices supported upon request	Timely response to request for approval of proposal	100% within three (3) weeks	IOP/LAS
		Timely response to request for information	100% within three (3) months (Y/N)	JCCD
	Reduced requirement for the OTP's intervention	High quality proposal finalised	80% within six (6) months (substance) Proposal for completion strategy defined for two (2) situations	ID-PD

