

Coalition for the International Criminal Court

Questionnaire to Candidates for the Position of Registrar of the International Criminal Court

Conscious of the critical importance of the Registrar of the ICC role, we have prepared the following as a Questionnaire for candidates for this position.

Please reply to some or all the following questions as comprehensively or concisely as you wish

Name: **Daniel Didier Preira**

Nationality: **Senegalese and French**

Vision for the ICC and Registry:

1. What is your vision for the ICC and how would your leadership of the Registry contribute to that vision for the Court?

Bearing in mind the laudable principles and goals of the International Criminal Court (ICC) as expressed in the Preamble of the Rome Statute, my vision for the ICC is to have in place a model of public administration, facilitating the delivery of world-class quality justice in the fight against impunity for the most serious crimes of concern to the international community – an independent and robust international judicial institution that is widely recognized and respected and which benefits from worldwide support.

Credibility is not gifted, but earned. The Registry's role in helping the ICC achieve its challenging mandate in an effective manner is key, as the organ's core business is to facilitate the all-too important activities mandated by the Rome Statute and the rest of the Court's legal instruments. In order to achieve this, my philosophy is that the Registry must adopt open and effective communication and a collaborative management style, seek meaningful consultation, promote teamwork and greater inter-organ dialogue, and remove any ineffective or rigid approaches to management, so as to enable the Registry to make a positive contribution to the realization of the Court's core mandate in line with its Strategic Plan.

2. How would you evaluate the performance of the ICC Registry to date?

The Registry is responsible for servicing the Court and for providing common services to the organisation, and should be evaluated mainly as a service provider. When evaluating the performance of the ICC Registry, one should bear in mind the fact that in the span of 10 years, the Registry as an organ evolved from merely a concept on paper to a multifaceted and complex operational structure at the HQ in The Hague and in the field, responsible for a myriad of functions and service-support.

A qualitative indication of the Registry's performance can be obtained by taking a look at the policies, decisions and practices of the Registry in all aspects of its mandate. An objective and careful assessment

will surely impress. Moreover, if we look at the evolution in complaints between the organs, a promising move in the right direction can be seen. Listening to my colleagues in the OTP, for instance, I have been regularly told that improvements in the work and services provided by the Registry have been noted from the organ's inception over time to the present; this has been acknowledged in the CoCo. This does not mean, of course, that everything is functioning as we would like. There are many areas in need of improvement. All in all however, I still believe that the Registry is performing effectively to support the Court's judicial activities and is furnishing the required support and services to its end-users. From this point of view, the performance of the Registry can be evaluated as very satisfying. Processes have been put in place which adequately support the Court's judicial activities and provide room for adaptability and policy reformulation in response to evolving needs and demands.

In particular, the implementation of an e-Court system at the ICC can be commended. Important achievements in the areas of victim/witness protection, security, counsel matters (see answer to question 19, below), field operations, and outreach have to be highlighted as well. While challenges remain, tremendous work has been undertaken in these areas.

In the area of administration (common services), much can always be done to increase efficiency, but, in principle, all activities are supported adequately.

The Management Control System (MCS) that is being implemented under my guidance will not only improve management within the organ – resulting in enhanced service-delivery – but will allow us to measure the performance of the Registry in more concrete terms. For instance, the System will help evaluate whether work plans are advancing as scheduled or the performance objectives mentioned in the budget are being achieved. Ideally, I would like to institute a Management Control System that gives an overview of the productivity (volume of services), the quality (satisfaction of service users) and efficiency (can we do more with the same or less).

In some areas such as outreach, public information and victims' participation, the Registry could be much more effective if it had at its disposal additional resources to increase its activities and, in turn, impact. These provide good examples of areas where the search for efficiency by reducing financial resources is impacting the effectiveness of the organization in meeting its goals. A more appropriate approach towards efficiency would be to actually allow the Court to increase its resources (slightly) in order to increase its effectiveness. I see two compatible solutions to achieving this: either States grant the Court additional funds, or we go much further in rethinking how the Registry is organized: for instance, by exploring how we can simplify a number of processes (e.g. travel claims; recruitment) we might be able to do more with less. I would think both approaches are required.

The level of shared information and internal communication within the Registry has improved as of late and much more should be done in this area. Regular communication of visions, goals, ideas, activities and intentions would increase staff buy-in, motivation and commitment, and better coordination would eliminate some level of duplication of effort and increase efficiency.

I further believe that the financial performance of the Registry could be improved so as to ensure better implementation at the end of the year.

The ICC Registry has many dedicated and assiduous managers who consistently perform well. I believe there is a need for more interaction between these managers as a group, to enhance team spirit, the building of relations, information exchange, etc. – this will also translate into enhanced efficiency and better service delivery.

Lastly, the detention of four ICC staff in Zintan, Libya in June 2012, despite its successful management by an ad hoc Crisis Committee which I chaired under the guidance of the President, has shown that the Registry-and the Court as a whole could benefit from additional institutional expertise and resources to deal with crises of this nature that may arise in the future.

3. What are its principal achievements and how would you build on them? What do you believe are some of the current challenges the Registry faces and how would you address them?

As mentioned above, despite having its own areas of responsibility, the ICC Registry is not the leading organ of the Court (Presidency/Judiciary and OTP are), but, as a support provider, it can excel in providing the right service at the right time. The creation of the corporate governance framework has contributed greatly to better inter-organ interaction and collaboration and has resulted in reducing the tension that previously existed during the teething phase of the Court's development.

The core services to be provided by the Registry have already been put in place (see response to question 2), so the challenge is now for Registry to be able to improve on these services. In my opinion, the main current challenge for the Registry therefore is to be able to improve its understanding of the needs it supports, and improve its performance in meeting these needs. In other words, the Registry needs to further enhance its service oriented culture, be more flexible and open to change, and able to react quickly and transparently to any new request from its 'clients'. In some areas, this culture is already present. Our colleagues in the OTP for instance have confirmed to me that they appreciate the efforts that the VWU is making to follow the pace of their operations. Travel and general services are seen as very client-oriented. In other areas a shift in culture might still be required. I see three main goals that will help us to further improve service delivery:

- Having a system that better defines the services needed, the cost of those services and the performance in delivering them. We already have such an approach with the OTP but we should expand it to all parts of the Court. It shouldn't become a rigid system that loses flexibility when something has not been foreseen because it couldn't be foreseen, but a tool to take common decisions on how to get the best value for money.*
- Rendering the Registry more efficient. We can compare HR, IT, Finance, etc. to other benchmark organizations and see what resources they need to perform their functions. By being smart about how we organize ourselves, we can do more with the same resources. Consultation with the other organs is key for this.*
- Adopting a client-oriented culture as a central component of the Registry's functioning.*

Moving towards a service orientated culture requires effective change in management and there are five key components that need to be put in place:

First, the top-level manager of the Registry, that is the Registrar, must fully appreciate the existing challenges and clearly articulate what needs to change in order to create a new service orientated culture. In addition, the Registrar needs to commit the resources necessary for that required change to occur. Whilst financial resources are an important component, it is equally important that the Registrar supports the change by dedicating time to personally participate in a broad range of change related activities.

Second, we need to support our managers who are sufficiently skilled in the behaviours needed to make change happen from the ground up. Achieving this requires a systematic, disciplined approach and it is here that the Registrar needs to dedicate the time required to participate in change related activities so

that clear expectations are set for all those who are currently in management positions and for those who join the Court in the future.

Third, we need a performance appraisal system that supports the desired change. If we want people to adapt and hone constructive behaviours and approaches, then that message needs to be reinforced through the Court's performance appraisal system. For example, if the only performance that is appraised is achieving short term results, then that is what will get done.

Fourth, we need more effective measurement systems. In order for the Registry/Court to improve its performance, the measurement systems it uses to measure its progress must include measures that focus on the desired change. In this light, the Court's Management Control System (MCS) project mentioned above and only now being implemented will not only assist in improving the Registry's performance in financial and project/work management, but will also measure the Registry's managers in relation to their management of their staff and their progress on implementing the changes required to create the desired service orientated culture.

Fifth, we need an HR strategy that supports the above. Enhanced and constructive change can also be precipitated through the recruitment of staff who not only have the requisite skills, but also the desired attitude and approach to work-place environment. As a result, HR has a critical role to play in terms of measuring behaviours and providing HR development programmes that focuses on behavioural development aligned with creating the required cultural change.

In addition to the shift towards a service oriented culture, the Registry performance must also be improved by changing specific management and organizational practices. For instance, the duties and responsibilities delegated to the Deputy Registrar must be done with a view to provide maximum support to the Registrar and the organ.

The Registry can benefit from new thinking and the re-engineering of the management environment so that a more effective delegation of responsibilities is in place to enable senior level managers (D1s and P5s) to broaden their decision making authority whilst being held to account for performance outcomes. With this as a foundation, middle managers such as P4s and P3s need to be developed and held responsible for creating well defined work processes and conditions that support high performance. As with changing culture, these changes in management practices need to be measured over time, and effectively, with the active participation of the Registrar.

Another real challenge for the Registry is the position of States Parties with respect to the budget of the Court in light of the current economic climate— in short, at a time when there is increasing pressure to reduce the ICC budget, the Court's activities are intensifying and demands on the institution increase year after year. These opposites create great tensions and restrict the ability of the Court to exhibit its potential, with adverse consequences for the institution's service-delivery (see response to question 9 below).

4. Article 43 of the Rome Statute states that the Registrar shall be a person of high moral character, be highly competent and have an excellent knowledge of and be fluent in at least one of the working languages of the ICC (French and English). Please describe briefly how you meet these criteria.

I have over 27 years of professional experience working at the national and international levels in various capacities: as a lawyer, and later partner at a law firm in private practice, and then as Registry senior manager at the UN International Criminal Tribunal for Rwanda and the ICC. By virtue of these experiences, I have acquired a deep knowledge and expertise in court and registry management and the

inner-workings of the Registry. Since 1999, I have contributed directly to the management of an international criminal judicial system both inside and outside of the United Nations system. I have always taken my work and responsibilities seriously and take pride in my work-product. During the course of my career, my competence or performance has never been challenged.

The position of Deputy Registrar I currently occupy requires being a person of high moral character (see Article 43.3 of the Rome Statute). In addition to technocratic expertise, what is of utmost importance to me is one's character traits. For me, integrity, competence, commitment, professionalism and a firm belief in the need to respect others and be respected must form integral parts of the profile of an ideal ICC staff. My philosophy is to hold myself to this standard day in and day out.

My multifaceted tenures at the UN-ICTR and the ICC have further strengthened my skills in communication, strategic planning, organizing, judgment and decision making processes, and equipped me with the necessary know-how to do more with less in administering human, financial and other resources allocated to any judicial institution. I can therefore affirm that my proven managerial leadership, technical capability and diplomatic skills perfectly match with the job requirements.

Article 50.2 of the Rome Statute stipulates that the working languages of the Court are English and French. I am fluent in both and I have assumed my responsibilities at both the UN-ICTR and at the ICC using both languages.

5. All Court officials must perform their functions with full independence and should not act under the instruction of any country or external actor. How would you ensure independence in the functioning of the Registry?

For a myriad of reasons, not least because of the need to safeguard independence and impartiality and to achieve and further cultivate public confidence in the institution, the responsibilities of staff and elected officials of the Court, including the Registrar, must be – rightfully – to the institution only. ICC officials and staff must act in full independence and free from interference from outside influences. This is not only a principle and conviction I firmly hold, but is an obligation clearly entrenched in the Staff Rules and Regulations governing ICC staff as well as the regulatory framework governing the conduct of elected officials of the Court. As Registrar, my allegiance is to the Court and its interests only. ICC staff and all Court officials must conduct themselves in full conformity with the duties and obligations expected and placed upon them by the relevant legal provision. Failing to abide by the clear obligations of these provisions on the need to respect and safeguard independence can amount to misconduct. (See e.g. Article 46 of the Statute and Rule 101.3 of the Staff Rules).

6. Please describe any specific expertise of relevance to the work of the ICC you may have, including, but not limited to, gender equality and violence against women or children.

I have been working for the ICC Registry for the last eight years at the executive level. In my previous capacity as Head of the Division of Victims and Counsel, I was in charge of victims and counsel issues. In my current capacity as Deputy Registrar, I assist and advise the Registrar in all areas of her responsibilities, and act as Registrar in her absence.

These responsibilities and pertinent experiences have made me professionally well-versed in judicial administration in general, and specific questions including, inter alia, victim participation/reparations/protection, witness protection, gender equality and violence against women or

children, legal aid, counsel issues, administration (budget/finance/ human resources), cooperation issues, and the permanent premises project.

7. The Registrar will manage a large number of staff, divided into various units, sections and field offices, dealing with a broad range of responsibilities. How would you describe your management abilities and experience, and how are those qualities relevant to the management of the ICC Registry?

I believe that I possess a range of skills that are very relevant to the post of Registrar of the ICC and are also identified as core competences required of all ICC managers. These include professionalism, commitment, loyalty, dedication, respect of diversity managing performance and continuous learning abilities and integrity. I also believe I have been able to demonstrate skills in areas that will be absolutely key to effectively carrying out the functions of Registrar such as leadership, vision, communication, planning/organizing, judgment/decision making, client orientation, accountability, and empowerment of others.

In terms of actual experience, I will not repeat the details I have provided as part of my candidacy, but will only highlight that I am the incumbent Deputy Registrar of the ICC, and that prior to this post, I served both the ICC and the UN-ICTR as a senior level manager for more than a decade.

8. Please describe your experience preparing and being responsible for a large budget. Have you had experience in working with results based budgeting systems? What strategies would you undertake in relation to the preparation, submission and examination of the ICC budget to ensure support by the Committee on Budget and Finance and states parties?

I received specific training on Result Based Budgeting (RBB) when I was a senior manager within the United Nations system and in charge of what was, in terms of reputational risk, one of the most critical budgets of the UN-ICTR (the legal aid budget). Applying that budgeting approach, I managed to keep the budget of the legal aid system of the ICTR within the allocated resources -- an achievement which was a 'first' in the ICTR.

At the ICC, the RBB has been implemented since 2004 and, as a senior program manager I have prepared sub-program budgets and directly assisted in the Court's overall budget preparation and examination. The Court's approach towards budgeting can be described as reactive and bottom-up. It might be appropriate to try to turn around the budget process to a more top-down approach with pro-active directions from senior management on bottom-line and budget strategy before starting the process. This top-down approach can only function if the Court manages to incorporate all organizational processes in a coherent cycle, combining risk management, setting of strategic priorities, budget preparation, section work plans, performance appraisals and training cycles. These processes are independent but should inter-relate in a consistent manner, for example based on quality management processes.

Moreover, additional efforts should be made to improve the reliability and accuracy of the budget assumptions, make more meaningful the performance indicators, and further develop the reporting and forecasting system. The Court will need to improve its ability to demonstrate that its resources are managed efficiently and that there is a genuine increase in its activities. Ensuring that we have reliable data demonstrating that we are making the best use of our resources will build and reinforce the trust of the CBF and ASP in the Court's budget submissions, which is essential.

9. Recognizing the current budget pressures on the growing Court represents a significant challenge for the institution. As Registrar how will you respond to this situation and ensure that the Court is adequately funded?

To ensure support from the CBF and the ASP for adequate funding, the Court needs to improve its image by showing that it is in control of its spending and ensuring the States have reason to be confident they are receiving all the information they require. Currently, the Court develops common messages to communicate to the States Parties for each individual event in the budget cycle. A communication strategy that is designed to best present the Court's budget to the States Parties over the course of the entire year leading up to the ASP would be a step in the right direction. This would allow for a more consistent and coherent communication with the CBF and the ASP, which, in turn, could result in financial support from the ASP that is calibrated to the Court's needs. The budget is something that we must advocate for before our decision makers.

The ICC, with its permanent status, is a first in history, which requires appropriate funding to accomplish its important mandate. We must of course address the concerns and needs of our States Parties, yet we equally have a duty to ensure that they fully appreciate the objectively founded financial needs of the Court and the ramifications of not providing the funds needed. Further, demonstrating the important added value the Court brings to the international community by being an agent of peace, security and accountability for mass crimes and showing – through practice – that we are effective and efficient in how we operate, and that there are mandatory steps we have to go through to ensure a fair yet expeditious process, are all critical elements to present to the States in the Court's attempt at seeking adequate funding for its operations. I believe the Registry can potentially do more in this regard, and as Registrar, I would see to it that this happens.

10. The Registrar oversees the staff recruitment for the Court, based on principles of qualification, geographical representation and gender balance. What strategies would you employ to effectively manage the human resources of the ICC, including hiring, retaining highly qualified staff and ensuring their satisfactory performance?

The ICC invests 70 percent of its regular budget on its staff and from this perspective, managers often state that staff are the organisation's most important resource. Yet, this perspective places the focus on cost and this mind-set can limit the Court's ability to implement human resources management (HRM) strategies that maximise staff performance and the ICC's ability to achieve the best results. In this regard, my first step, should I be appointed as Registrar, would be to work directly with the Court's HRM specialists to identify a practical method for measuring HRM practices within the Court – things like leadership development, well defined work processes, job related information sharing, recruitment practices, performance management, training, etc. In this light, it is important to note the role of HRM specialists in contrast to the managers of the Court.

With HRM measurement systems in place, I would play a central role in developing a culture with my Registry managers that openly and transparently identifies both positive and negative aspects of the Court's HRM practices. With this as a foundation, I would provide internal HRM specialists with the resources they need to take on a strategic role in measuring HRM, including monitoring managers and their individual efforts to implement effective HRM practices. In addition, I would also provide managers with the support they need to develop new HRM practices within their divisions and sections and improve the overall understanding of the links between HRM practices and the overall performance of the ICC.

Within the above mentioned framework, responsibility for HRM would be equally split between the HRM specialists within the HR Section and the managers of the various divisions, sections and units. Pending the results from the HRM measurement systems, HRM improvements may be needed in a number of areas including hiring practices, retention and performance management.

Hiring Practices

If hiring practices are to be changed or improved, I would first work with internal HRM specialists and managers alike to evaluate the following seven key areas:

- 1. determining the best strategies for sourcing candidates;*
- 2. reviewing (screening) resumes;*
- 3. coordinating effective face-to-face interviews (role of the HRM specialist);*
- 4. conducting effective face-to-face interviews (responsibility of the hiring manager);*
- 5. conducting reference checks, background check and candidate testing;*
- 6. processes for making hiring decisions and extending offers to candidates; and*
- 7. developing and implementing new staff orientation programmes.*

As outlined in the Retention area below, I would place an emphasis on clearly defining problems, diagnosing causes and prioritising solutions based on forecasted cost versus forecasted return.

Retention

I would adopt a strategic approach for improved retention practice based on the following areas, with an emphasis on accountability and performance improvement:

- 1. measurement and monitoring of turnover data. Identifying challenges relating to retention issues by assessing whether the turnover is high across the board or whether high turnover is only limited to specific sections;*
- 2. develop a detailed plan for better comprehension and control of all the costs associated with turnover to ensure that this information is reported at senior level management meetings. For example, expenses need to include those incurred when a staff member leaves as well as costs associated with the effect that turnover has on a section's ability to achieve its objectives (exit expenses, recruiting expenses, temporary replacement expense, lost opportunities to achieve objectives, loss of expertise and knowledge, loss of management time, etc.);*
- 3. diagnose the roots causes of retention problems, so as to ensure that projects designed to improve the situation lead to actual improvement. In this regard it would be crucial to involve a broad range of stakeholders and ensure that they have the support and skills required to identify root causes;and*
- 4. explore a broad range of solutions including those typically associated with turnover issues such as:*
 - Ensuring that the ICC entitlements and benefits package is equal to other UN type organisations.*
 - Building a conducive working environment which aligns with the above mentioned need to measure individual managers in their implementation of effective HRM practices such as creating environments that foster team work and their ability to remove unnecessary barriers to getting work done.*
 - Providing development opportunities through training, work design and career path management.*

Performance

Whilst a robust performance management system plays its part in improving performance, it is important that all managers understand the broad range of HRM factors that influence a staff member's performance. As Registrar, I would play a central role in working with managers and non-managerial staff alike to develop an ICC culture that openly explores how to improve the following HRM practices that ultimately determine performance:

1. Leadership Practices:

- Open and effective communication with all internal and external stakeholders.*
- Promoting collaborative styles and removing ineffective command and control styles.*
- Eliminating barriers to efficiency and improving feedback.*

2. Engagement:

- Managers know how to organise work well.*
- Jobs are secure and the use of GTA type contracts are minimised.*
- Workloads are monitored and allow staff to do jobs well.*
- Staff engagement is continuously evaluated.*

3. Access to Knowledge:

- Job related information and training is readily available.*
- Team work is enabled by staff and managers.*
- Good working practices are shared amongst units, sections and divisions.*

4. Optimising Staff Performance:

- Work processes are well defined and training is effective.*
- Working conditions such as performance management systems support high performance from senior management level through to the operational levels.*
- Managers and their staff work in an environment where they feel accountable for high performance.*

5. Organisational Learning:

- An environment is created where new ideas are welcome.*
- Training is practical and supports ICC goals.*
- Managers demonstrate that learning is valued.*

Challenges for the ICC:

11. One of the core challenges identified for the Court is obtaining a positive response to its requests for cooperation with the Court. Given that the Registrar is responsible for disseminating

cooperation requests, what are the challenges you see currently for states parties to abide cooperation requests? How would you address those challenges?

In my view there are two main challenges for States Parties in complying with cooperation request: the lack of political will and interest, and the quality of communications with States.

To address the first challenge, it is important for the ASP to ensure full and effective implementation of the non-cooperation measures it adopted during its 10th session and secure the full support of the UNSC especially for situations referred by the latter. From the Court's side, it will be important that it raises awareness and fosters a better and more accurate understanding of the role and mandate of the ICC worldwide, including the rights afforded to victims and suspects and accused persons. Similarly, it is important to strengthen the working relationships with the major external stakeholders including civil society and the NGOs to promote ratification of the Statute and its implementation through enactment of enabling legislation and development of practice, with a view to enabling and fostering cooperation with the Court in the investigation and prosecution of crimes including the arrest and surrender of suspects.

To improve the quality of communications with States Parties, it would be important to streamline the channels of communication, encourage States Parties to establish internal guidelines for handling cooperation requests, identify key focal points or institutions with whom to meet on regular basis to address emerging or pending critical issues, or hold brainstorming sessions (such as the seminar on freezing of assets organised by Norway in October, 2012, UN roundtables etc.;) and strengthen partnership and existing networks (CARIN, Interpol, etc.).

Relations with stakeholders:

12. Article 112(2)(b) of the Rome Statute indicates that the ASP provides management oversight of the Registrar. Additionally, the Registrar shall exercise her or his functions under the authority of the President of the Court, how would you describe the relationship between the Registrar and the ASP, as well as the President? How would you describe the relationship between the Registrar and the Office of the Prosecutor and Chambers?

The ASP is the legislative and political body in the Rome Statute system. It is essential that the Court maintains its independence – actual and perceived. In exercising its management oversight on the principal administrative officer of the Court – i.e. the Registrar – to facilitate efficiency, the ASP or its subsidiary bodies should refrain from micromanaging the Court.

On the relationship between the President of the Court, the Registrar should establish close and effective relations with him/her, as the leader of the Presidency, to enable the latter to discharge its overall responsibility for the Court's administration as described in Article 43(2) of the Rome Statute, and support the Registrar's position whenever appropriate. I believe a sound and effective approach is for the President to operate not as a directive policy maker, but rather as a provider of strategic guidance to the Registrar who is in charge of the day to day management of the non-judicial administration of the Court.

As mentioned previously, the Court is foremost a judicial institution and as such, it is essential that courtroom activities function flawlessly. The Registrar should maintain regular direct or indirect contacts with Chambers to make sure that the Registry does everything possible to make

this happen and to prevent obstacles that may arise in the way of expeditious trials. Closer Registry-Chamber communication will also enable the Chambers to better appreciate the policies, legal framework and budget limitations that govern the work of the Registry. This will ultimately result in fully informed judicial review decisions.

So far as the Office of the Prosecutor is concerned, taking into consideration the independence of this Office and the authority of the Prosecutor over her staff as well as the responsibilities of the Registrar to ensure coherent implementation of instruments for which the Registrar is accountable, there is a need to establish channels that will enable effective consultation and coordination between the Prosecutor and the Registrar to prevent and avoid any prejudice to the functions of the former as set forth in Article 42 of the Rome Statute. As Registrar, I would therefore aim to strengthen the relationship between the two organs with a view to enhancing service delivery and the execution of both organs' functions in the overall interests of the ICC.

13. The Registrar has a special mandate vis-à-vis the outreach activities of the Court, especially as regards victims and affected communities. Please elaborate on any experience relevant to fulfilling this mandate as well as your philosophy regarding the role of the ICC field presence.

Over the last eight years at the ICC, I have demonstrated sensitivity to and full understanding and appreciation of the contexts faced by the Court in the field and have personally undertaken several field missions with a view to better understanding the realities on the ground. I am strongly convinced that outreach and field presence are critical for the success of the Court. My philosophy regarding the role of the ICC field presence is, in general, that it must enable the Court to establish logistical bases for its work – including, critically, outreach – in the field and to serve as the public face of the Court in Situation countries. I believe that the ICC field presence is needed for the following purposes:

a) to ensure that all parties and participants in the judicial process of the Court, namely OTP, defence and victim's counsel, can perform their functions effectively and efficiently while minimizing risks. To guarantee that these functions are performed an interdisciplinary team from the Registry is needed. The team should provide, inter alia, public relations, logistics, administrative and financial support for the conduct of operations; prepare accurate security assessments and implement strategies based on these to ensure safe conditions for ICC staff and their interlocutors;

b) to ensure that witnesses called to testify before the Court will be able to give testimony in a sound and safe environment, and to take the necessary precautions to ensure witnesses are not traumatized – through the expert support of an effective and efficient Protection Programme. People that might be at risk due to their interaction with the Court should also be covered by the Programme. Proper assessments and actions on a case by case basis shall be done promptly; and

c) to facilitate the Court's ability to make its mandate understood by affected communities and to allow victims to take advantage of the full set of rights they have under the Statute. This requires close interaction with a variety of stakeholders in Situation countries including State authorities, judiciary, legal communities, parliamentarians, diplomatic corps, intergovernmental organisations, reliable international and national non-governmental organizations, schools, universities and journalists. Through public relations, public information and outreach activities in the field, the Registry can ensure that its work is understood and supported. Through outreach activities in the field the Court can ensure that communities most affected can access and understand judicial proceedings; that their questions are answered and concerns addressed properly, and that unrealistic expectations from the Court are corrected with accurate information. The Registry's active presence in the field is also

required to engage with victim communities and train and support intermediaries who will play a role in relation to participation of victims in the proceedings and any processes relating to reparations.

14. Taking into account the important role of field presence in different situations of the ICC, how do you envision the role of the Registry on issues such as exit strategies and legacy once cases are finalised and investigations in specific situations are closed?

The presence of the Court in Situation related countries is temporary and I believe that it is important that for each situation country an exit strategy be designed as early as possible and as soon as the ICC starts its operation in a country, which can then be refined as the judicial activities evolve. The Registry can play a continuing and needed role in residual issues such as witness protection and archives/documentation. The role of the Registry in terms of legacy will be limited by the fact that the Court does not have a capacity building mandate. However, despite this lack of statutory mandate, the Registry's role in the Court's legacy in Situation countries can take into account the following considerations:

- a) whenever there is a need for selecting partners to carry out Court related activities, the criteria used for selection should include that of self-sustainability, so as to meet the need to leave a legacy behind; and*
- b) when and where possible, certain Registry functions could be complemented through projects that are under Registry supervision but implemented through local partners. For instance, training journalists as early as possible on how to cover ICC judicial processes can have an important impact on legacy building. Creating a corpus of well trained local journalists will also impact the quality of national coverage of justice and accountability related issues. This also applies to other local professionals such as lawyers and magistrates, not to mention the constructive impact the training of this group of professionals can have on the quality of national criminal proceedings in the context of complementarity.*

15. How do you see the Court developing its outreach activities taking into account the complex challenges it continues to face?

Indeed there are many complex challenges that the Court's outreach programme faces. I would divide these into challenges of a political, legal, economic and institutional nature. A number of strategies to overcome such challenges have been developed and some are already being implemented.

Regarding the challenges of a political and/or legal nature, it is well known that the ICC has, from the very beginning, defended the principle that outreach activities are core functions of the Court. The Rome Statute did not include a specific provision on outreach but the Court has always, and in my view rightly so, linked outreach with the right to have public and fair proceedings. The Court further stressed the importance of outreach to the building of credibility for the institution and achieving universality. Other strategies that have been implemented to some extent, but that require further development, are related to cooperation from states, in particular when signing agreements with states that are hosting ICC operations in Situation related countries. In such agreements, the Registry can consider including provisions related to the work of outreach, including collaboration with national public media free of cost to the Court, so long as this is with full respect for the independence of the institution and the accuracy of the information disseminated.

To overcome challenges of an economic nature, it would be worth considering narrowing the scope of the outreach programme to prioritize the groups most affected by the crimes, in specific locations. Realistic objectives have to be defined in all plans. When and where possible the Court's outreach programme should work through implementing partners; it should also coordinate with and catalyze efforts made by others to enhance the impact of all outreach activities. There is a need to have a flexible approach to the use of the Registry's resources, enhancing and downsizing teams as needed bearing in mind the stage of the proceedings. At the same time, the Registry must be firm in its defence of the importance of the Court's outreach program and include in its annual budget requests – comprehensively and objectively justified – for adequate funding so that its relevant services can carry out the so essential outreach functions of the Court.

In connection with challenges of an institutional nature, there have been important developments that help coordination on the issue of outreach, including the preparation of principles and guidelines for intermediaries and the revision of the Court's victims' strategy. The Court's work has minimal impact when victims and affected communities are not engaged in the process, and if the gap between The Hague and Situation related countries is not effectively narrowed. There is still room for improvement and in this new decade we will need to improve coordination amongst the organs, including on the Court's outreach efforts. Timely sharing of information with the Registry and support for its outreach activities by all the organs will help the Registry become more effective and efficient in this critical aspect of its work for the benefit of the institution as a whole, and more importantly, for the benefit of all those who have a stake in and/or are affected by the Court's work.

16. How would you ensure that women and children have access to justice and are cognisant of what the Rome Statute is seeking to achieve.

This issue presents a particular challenge and requires efforts firstly to communicate in local languages and to use different types of media and methods of communication that will effectively reach these important target groups. I will take steps to ensure that the Registry makes every effort to identify intermediaries who can best assist in reaching those communities, e.g. women's organizations, child protection agencies, respected local personalities, etc. It is to be noted that the Public Information and Documentation Section of the Registry already targets schools and universities; more of these efforts are needed, while the target venues should be expanded to include local community gatherings, etc.

17. The ICC has established constructive and long term relationships with non-governmental organisations (NGOs). Please describe any previous experience you have working with NGOs. What do you think the role of NGOs should be in the Rome Statute system?

If I may, I can humbly claim some level of contribution to the establishment of the constructive relationship that currently exists between the Court and the NGOs. Since I joined the Court in 2004, I have interacted closely with NGOs on matters related to the Court and have always been a strong supporter of the critical need to maintain and strengthen the link between the Court and civil society. I believe that NGOs have played an instrumental role in the establishment of the ICC, and continue to play a fundamental role in the promotion and strengthening of the Court. As regards what role NGOs should play, I believe that they can make an important contribution in expanding ratification/accession and cooperation with the Court, and view their worldwide campaigns in these areas as very important. I sincerely hope that NGOs will also continue to work in partnership with the Court, as they do so effectively already, in combating misperceptions and opposition to the Court through raising awareness and helping to explain and clarify the Court's role, and in reaching and interacting meaningfully with victims and affected communities. As Registrar, I hope to build on the existing and beneficial relationship the Court currently enjoys with the NGO community.

18. How would you manage the Registry's role to ensure that the statutory right of victims to participate in proceedings is achieved in the most meaningful manner whilst ensuring efficiency and expediency?

As head of the Division of Victims and Counsel, I was closely involved in the Court's early efforts to make the rights afforded to victims in the Statute effective, both for the Court and for the victims themselves. Through that experience, I came to understand the considerable challenges involved in this endeavour.

In 2013, it will be important for the Registry to engage with the Judges in the lessons-learnt exercise in relation to this issue, and to bring its practical experience to the table in order to help ensure that whatever is ultimately decided is feasible and efficient and in accordance with the rights of victims as enshrined in the Court's legal instruments. I would also want to make sure that the Registry continues to engage closely with NGOs in order to seek their input in establishing the best ways to make the participation of victims as meaningful as possible. In seeking to achieve the two goals set out in this question, I would seek to ensure that the Registry will:

- continue to engage with the States Parties with the same goal in mind, as well as to ensure complete and accurate information is provided on all judicial and administrative ramifications of victims' participation;*
- carry out its own lessons-learnt exercise, as it now has the experience of implementing several different types of systems (individual, partly collective application systems and registration as ordered in the Kenya decisions), so that this can be considered in decision making;*
- continue to review its own systems for managing victims' applications and take every opportunity to improve efficiency and develop the existing modus operandi;*
- continue to work on improving the organisation of common legal representation) for victims, as the selection of competent counsel is crucial for making participation meaningful for victims;*
- continue to explore a tailored legal aid policy that meets the needs of victims' participation in ICC proceedings ;and*
- continue to explore other possible ways to enhance the participation of victims in the proceedings.*

19. The ICC Registrar is responsible for establishing the eligibility and qualifications of defence counsel, providing support to them, and working with the Court to promote the rights of the defence. What would you do to ensure adequate representation of accused persons, and in particular how would you ensure that the defence have equal facilities, resources and access ('equality of arms') in proceedings?

As a person who has served the Court since 2004, and for the first five years having been in charge of the division responsible for counsel at the ICC, I have contributed first-hand to the implementation of the Court's strategic goal to deliver quality justice, by ensuring, inter alia, that the rights of the defence are fully respected from the Court's inception.

I am aware that one of most recurring external criticisms of international criminal institutions is based on the perceived, or actual, vulnerable position of the defence vis-à-vis the prosecution. Countering such distrust through concrete actions must remain an underlying objective of the Registry in its efforts to increase support and credibility for the Court, and to enable the institution to conduct fair trials in conformity with the highest legal standards.

I am fully aware that in accordance with Rule 20 of the Rules of Procedure and Evidence, the Registrar has a positive obligation to promote the rights of the defence consistent with the principles of a fair trial.

During my tenure as the Head of the Division of Victims and Counsel, and subsequently, as the Deputy Registrar of the Court, many positive steps have been taken and will continue to be taken to 'institutionalise'/integrate the defence and to ensure that the guarantees afforded to the defence as entrenched in the Court's legal instruments are given tangible expression in practice. I am proud to have played my role in these achievements.

The countless examples of policies and practices now in place to support the defence are beyond the scope of this questionnaire. A few examples of interest include the establishment of the Counsel Support Section (previously, the Defence Support Section), which serves in essence as the 'to-go' office for the bulk of the assistance defence counsel and their team members require in order to carry out their work in ICC proceedings. In addition, the Registry facilitated the establishment of the Office of Public Counsel for the Defence (OPCD), enabling the defence to benefit from the services provided by the Office within the limits of its mandate as outlined in Regulation 77 of the Regulations of the Court. The Registry further helped establish a peer review disciplinary organ, charged with investigating and deciding on complaints of misconduct in violation of the Code of Professional Conduct for counsel (after several years of operational practice, a review of the Code with a view to propose potential amendments is due). Additionally, the Registry extended security services in the field to the defence. Accords on privileges and immunities entered into between the Court, the host state, and the States Parties also contain specific provisions dealing with the rights to be afforded to defence counsel and persons assisting them. The Registry issues certificates to defence team members and liaises with the relevant national authorities to ensure that these rights are respected. The annual seminar and training program for counsel is also worthy of mention – through these annual events, the Registry has created a continuous platform for dialogue and expertise exchange with the members of the Court's List of Counsel and counsel with mandates in proceedings before the Court. The Court's List of Counsel created by the Registry now boasts more than 430 lawyers, representing different legal systems of the world. In addition, lists for Assistants who can assist counsel in the representation of their cases before the Court and professional investigations have also been created by the Registry in accordance with Regulations 124 and 139 of the Regulations of the Registry, respectively.

The Registry has also in place a carefully designed legal aid system, which guarantees adequate resources for an effective and efficient defence, and with due respect for the need to judiciously manage public legal aid funds. I explore the Court's legal aid system further in my response to Question 20. Lastly, the Registry assisted the ICC-Judges in their review of, inter alia, Chapter 4 of the Regulations of the Court dealing with legal aid, defence and counsel matters. This process culminated in newly introduced amendments to the Regulations of the Court, including the criteria of eligibility for associate counsel.

To be sure, notable gains have been achieved at the Court to guarantee the effective exercise of the rights of the defence, and as Registrar, I would ensure that these important achievements continue, and are built upon and enhanced. More can be done to hone existing policies and practices, to engineer and implement new policies and standard operating procedures, and to identify areas in need of improvement. I have been intimately involved in issues concerning the defence and counsel both at the ICTR and at the ICC. In my potential new role as ICC Registrar, I would employ this background knowledge to, inter alia, institute a comprehensive strategy for counsel and the assistance to be provided to the defence (preliminary work on this strategy document has already begun). As part of this process, all existing policies and standard operating procedures of the Registry dealing with the defence and the services provided to the latter will be reviewed with an eye to improve service delivery, efficiency and effectiveness.

I am also a firm believer in the importance of consultation. In this process, and in all policy initiatives having an impact on the rights of the defence and counsel generally, (including the Registry's training program for counsel), I would ensure comprehensive and meaningful consultations are conducted with

defence counsel engaged in ICC proceedings, the members of the List of Counsel, relevant national and international bar associations, NGOs and other pertinent stakeholders. I would review and add to the existing efforts of the Registry on, inter alia, provisional release to ensure that persons who have successfully been granted provisional release in accordance with Article 60 can effectively exercise this Statute guaranteed right, by securing effective cooperation from States Parties, increasing representation on the Court's List of Counsel and ensuring that the Court's legal aid system continues to be responsive to the actual needs of defence teams practicing before the Court.

In short, it is my firm belief that the defence pillar must be an integral and fully functional part of the ICC system if the Court is to achieve its laudable goals. As Registrar, I will honour this conviction in accordance with the applicable legal texts of the Court.

20. The role of the Registrar is to provide support to Counsel and their teams including the management of legal aid for both defence and victims representatives. In light of the fundamental importance of fair trial and victim participation provided for by the Rome Statute, as a Registrar what, if anything, would you do to improve the support to defence counsel and legal representatives of victims?

In my answer to question 19, supra, I have outlined the contours of the services and support provided to defence teams at the Court as well as how I would undertake to further improve the existing policies and the support furnished to the defence, highlighting the importance of concrete consultation with the beneficiaries of such services and other stakeholders. The same of course applies to legal representatives of victims and their team members in order to ensure that the rights of victims to participate in the proceedings -in conformity with the Court's legal texts and the modalities defined by the Chambers -are endorsed and fully facilitated. I therefore reiterate my response to question number 19 above, and stress the central importance I give to the absolute need to ensure that the rights of both the defence and victims, as stipulated in the Court's legal instruments, are supported through the services provided by the Registry.

Among the support provided to the defence and victims at the Court, perhaps none is as critical as legal aid resources granted to indigent persons implicated in Court proceedings. Access to legal representation, in particular for persons who do not have sufficient means, is a must for justice to be done and seen to be done.

The Registry has established a lump-sum legal aid system. The Court's legal aid system, which is the outcome of consultation with the different stakeholders addresses the needs of the defence and victims (with their respective specificities) to have sufficient means available for effective legal representation. The system is also respectful of the budgetary constraints of a publicly funded legal aid budget.

As has been stated in various Registry documents, the Court's legal aid scheme is not a rigid unchangeable system. The legal aid system of the Court since its implementation has gone through various reforms and adjustments. As mentioned, some of these reform initiatives augmented the resources provided under the system (see e.g. ICC/ASP/6/4, dated 31 May 2007, resulting in higher remuneration of all legal team members; a substantial increase in the investigation budget afforded to defence and victims' teams, etc.), while other more recent adjustments have rid the system of deficits, which practice had demonstrated needed to be addressed to ensure a more judicious management of legal aid funds. The Court's legal aid system is guided by five core principles. They are: equality of arms, objectivity, transparency, continuity and economy. As Registrar, I would ensure that these principles continue to be strictly adhered to in practice and in the implementation of the Court's legal aid system. Moreover, Regulation 83.3 of the Regulations of the Court enables a person who benefits from legal aid (or through his or her counsel) to request for additional resources. This right has been exercised frequently in

practice and the Registry has rendered favourable decision in response when the granting of additional resources was objectively justified in view of the circumstances and demands of the case.

A comprehensive review of the legal aid system is being asked for by States Parties. While it is important that the Registry continues - as it already does - to improve and review the system, we need to be careful to avoid constantly being in a stage of review and change without giving the system the chance to be tested properly. It should not be forgotten that we still have not had the full cycle of one case yet (Lubanga still has to complete appeals and reparations).

It is also important to remember that the rights of the defence and of victims before the Court should not be sacrificed or compromised due to budgetary constraints - so the Registry should be vigilant and draw the attention of the States Parties to such risks. Should practice justify further adjustments and review of the Court's legal aid system (e.g. to increase legal aid resources), I will undertake this necessary task in full consultation with the relevant stakeholders. A responsibly managed and economically conscious legal aid system, which provides the necessary resources for effective and efficient legal representation (of both defendants and victims) is fundamental to guaranteeing the fairness of ICC proceedings, and by extension, will cultivate increased support for the Court and reinforce its credibility.

21. The first case at the ICC has highlighted the reliance of the ICC on its use of intermediaries. What are your thoughts on the role of intermediaries and their relationship with the Court?

All ICC organs learned a great deal from their experience in the first proceedings before the Court. While in some areas it might be possible to lessen the reliance on intermediaries, the reality is that they will continue to be necessary. This is partly due to the fact that the Court does not have sufficient staff to carry out activities itself directly (E.g. in the case of the Registry outreach and in assisting victims in relation to participation.) but also, because of the nature of the affected communities in the Situation countries, which makes it difficult for the Court to walk in to a new place and identify and engage with local communities and victims in an appropriate way and without putting them at risk. It takes time to build knowledge and trust, and since the Court has to become operational in new situations very quickly it has to rely on people on the ground to assist.

However our experience in the early cases has made it clear that there are steps that can be taken to manage relations with intermediaries - while always recognizing that it will be an area where challenges may arise. The Court-wide guidelines that have been developed -following in-depth consultations within the Court – and in which I was intimately involved as chair of the working-group – provide a strong basis for enabling different sections and bodies of the Court to manage their relations with intermediaries, look for and avoid red-flags and to give more clarity and certainty to those outside the Court who might consider acting as intermediaries. There will be a need to closely monitor the implementation of the guidelines and further adjust it in light of further experience acquired.

22. Article 68(1) of the Rome Statute provides that the Court ‘shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses’. What measures would you take to strengthen the protection of victims and witnesses, particularly women?

One should not underestimate what has already been achieved by the Registry in this matter. It is difficult in the context of a questionnaire to explore this important issue in detail since much of what the Registry does to protect victims and witnesses necessarily has to remain confidential. This said, I am of the view that interaction should be based on a witness/victim/survivor-centred approach and focus should be on both physical and psychological protection so that it is holistic.

At a minimum, the following principles must guide our operations:

- a) witnesses should not be contacted if the Court cannot offer adequate protection;*
- b) integration of a gender perspective;*
- c) there should be a general protection framework but programs must be individual and tailor made;*
- d) adopt a 'do no harm' approach in all activities, policies, etc;*
- e) the interest of the witness/victim/survivor is paramount;*
- f) witness must be given some level of control and involvement, listened to and concerns addressed within the Court's mandate;*
- g) witnesses must be treated with respect and dignity; and*
- h) the Court's response must always be timely and carefully deliberated.*

As Registrar, I will also ensure that the protection regime in place is effectively reactive and proactive, and includes measures which provide for a continuum of protection that starts with the early identification of vulnerable or intimidated witnesses/victims, continues with the management of witnesses/victims in safe environments to measures which protect the witness' identity during courtroom testimony, as well as measures intended to make a permanent change of identity and/or relocation post trial. One area where there is always need for more to be done is obtaining cooperation from national authorities, international organisations and others who are in a position to assist the Court's efforts and obligations vis-à-vis victims and witnesses (e.g. with the relocation of witnesses). The Court cannot manage the protection of victims and witnesses effectively without such critical cooperation.

As regards women and other vulnerable groups, as Registrar I will undertake a comprehensive review of existing policies, trainings and programs, and subsequently ensure that there is a periodic assessment done to decipher whether we are doing enough to adequately deal with this important vulnerable category of victims and witnesses, learning from each experience.

Miscellaneous:

23. Have you made speeches and presentations regarding the ICC or related topics and/or have you published articles/books on these subjects. If so, can you please provide details?

Over the last eight years, I have delivered numerous speeches and presentations in Africa, Asia, Europe and Latin America regarding the ICC focusing especially on the mandate of the Registry-. Examples of publications on ICC related topics including:

- Comments on several articles of the Rome Statute in the 'Statut de Rome de la Cour pénale Internationale: commentaire article par article.' This book of reference – the first of its kind in the French speaking world – is Piloted by the Center Thucydide and the Centre de Recherche sur les Droits de l'Homme et le Droit Humanitaire, University of Paris II Panthéon-Assas | Published by Editions A. Pedone.*
- Chapter 20, Archbold: International Criminal Courts, Practice, Procedure & Evidence, 3rd ed., (SWEET & MAXWELL, 2008) edited by R. Dixon, Judge Adrian Fulford, & K. Khan.*
- A Call to the Legal Profession: a Partnership with the International Criminal Court in the Quest of Justice, Peace and Security in the African Continent, South African Bar Journal.*

24. Have you ever been found after an administrative or judicial hearing to have discriminated against or harassed an individual on the grounds of actual or perceived age, race, creed, colour, gender, sexual orientation, religion, national origin, disability, marital status, socioeconomic status, alienage or citizenship status? If yes, please describe the circumstances.

I have never been subject to such proceedings.

25. Do you know of any factors that would adversely affect your ability to competently serve as the Registrar, to comply with a member's ethical responsibilities, or to complete the responsibilities that the Registrar is required to assume? If yes, please explain.

No.

Thank you.