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Overview of the efforts of the Registrar in relation to the defence, the legal participation of victims, and the consultation process followed – report pursuant to paragraph 4 of the statement of the focal point on the establishment of an international criminal bar

I. Institutional efforts

1. The consultations with the legal profession have gone far beyond the mandate set forth in rule 20 (3) and also beyond all previous action in the field of international justice, covering a wide range of questions related to the exercise of the legal profession. International, national and local bar associations or associations of counsel have been consulted, as well as individual experts. All legal systems and regions of the world were included in the consultations, as well as associations representing the perspective of women lawyers.
2. The following main steps were taken:
 - (a) Invitation to submit comments regarding ethics and legal aid: 10 international associations from all over the world were consulted, and 6 of them replied.
 - (b) Questionnaires on ethics and legal assistance: 59 experts from all legal systems and regions of the world, appointed by associations or identified by the Registry as having a particular competence in these domains, were consulted; 17 replies were received, one of which was prepared collectively by some of the experts consulted in the framework of the International Criminal Bar.
 - (c) First seminar on defence issues: 44 participants from all over the world discussed different problems concerning defence for two days. The issues included the draft code of conduct, the possibility of setting up a public defence office, or organization of the defence inside the Registry.
 - (d) Open consultation on the third draft code of conduct: conducted between December 2003 and February 2004. It was sent to the Prosecutor, to all States Parties, to 81 associations and experts and to the ad hoc tribunals; 41 replies were received, allowing for a thorough revision of the draft.
 - (e) Second seminar on defence issues: held in May 2004; it focused on the draft for a legal aid payment system that had been prepared by the Registry.

- (f) Last discussions on the draft code of conduct for lawyers in May 2004, ending with a general agreement on the terms of the code.
- (g) Request to the national bar associations of all States Parties regarding professional charges applicable to the exercise of the legal profession and national systems of legal aid (ongoing).
- (h) Visits to national institutions to observe different approaches to, inter alia, legal aid, control of ethics, organization of police and judicial investigators. These included: in the United Kingdom: General Council of the Bar, Legal Services Commission, Public Defender Service, Office for the Supervision of Solicitors, Solicitors Disciplinary Tribunal, Independent Police Complaints Commission, Centrex, Metropolitan Police Service, Directorate of Professional Standards; in Belgium: Police Fédérale, Direction Générale de l'Appui opérationnel, Direction de la Collaboration Policière Opérationnelle Internationale, Commission SIRENE, Comité permanent de contrôle des services de police, Inspection Générale de la Police Fédérale et de la Police Locale.
- (i) Permanent bilateral contacts with international associations (International Criminal Bar, Ibero-American Union of Bars, Federation of European Bars, International Federation of Women in Legal Careers, etc.).

II. Preparation of the code of conduct and other normative work

3. The Registrar submitted to the President of the Court, pursuant to rule 8, a proposal for a code of professional conduct for counsel acting before the Court. The main steps in the preparation of the document were:

- (a) In January 2003, ten international associations were asked for their input regarding the issue.
- (b) The first draft, based on the experience of the ad hoc tribunals, the drafts submitted by the International Bar Association and the International Criminal Bar, and comparative research carried out by the Registry, was submitted to the judges in June 2003.
- (c) A second draft, incorporating the judges' suggestions and the result of the relevant consultations, was made public in December 2003, as stated above, and was sent to all States Parties.
- (d) The third draft was sent in April 2004, as explained above, and the last consultations were held on 13 May, when a final agreement on the contents of the code was reached among all the participants.

4. The participation of the Registry in the drafting and discussion of the Regulations of the Court related in particular to the chapters on defence and victims participation issues.

5. The draft Regulations of the Registry include relevant provisions concerning the participation of defence counsel and legal representatives of victims.

III. Organization of the list of counsel and other administrative work

6. The list of counsel has been established, and 48 lawyers have declared that they wish to be included in it. These applications are currently under review in the light of the Rules of Procedure and Evidence and the Regulations of the Court.

7. Other lists have been prepared with the aim of providing defence teams with qualified assistants, experts and investigators.

8. The administrative procedures and their physical support in the form of different templates have been finalized.

9. Contacts have been established with the aim of introducing operational arrangements with several bar associations, particularly those of the countries in respect of which a situation has been referred to the Prosecutor. These associations might be extremely useful, particularly when duty counsel is necessary in cooperation with the Office of Public Counsel for the Defence established in the provisionally adopted Regulations of the Court.

IV. Setting up of a legal aid system

A proposal for a payment system for legal aid was presented and discussed during the second seminar on defence issues, and is currently under review. This proposal, whose main objective is to ensure the quality of the defence while taking due account of the budgetary constraints of the Court, was used to prepare the draft budget for 2005 and was the subject of a report submitted to the CBF.

Annex**COUNTRY/ORGANIZATION OF INDIVIDUAL EXPERTS
CONSULTED**

COUNTRY/ORGANIZATION
Belgium
Bosnia and Herzegovina
Brazil
Cambodia
Cameroon
Canada
Colombia
Croatia
Czech Republic
Democratic Republic of the Congo
France
Germany
Guinea
Kenya
Mauritania
Mexico
Morocco
Netherlands
Peru
Republic of Korea
Senegal
Serbia and Montenegro
Spain
Sweden
United Kingdom
United States of America
United Nations

LIST OF INTERNATIONAL ASSOCIATIONS CONSULTED

Amnesty International
Association of Defence Counsel - ICTR (ADAD ICTR)
Association of Defence Counsel - ICTY (ADC-ICTY)
Council of the Bars and Law Societies of the European Union/Conseil des Barreaux de l'Union européenne
European Criminal Bar Association
Fédération des barreaux d'Europe
Fédération Internationale des Femmes des Carrières Juridiques
Fédération internationale d'“Avocats sans Frontières”
Human Rights Watch
Inter-American Bar Association
International Association of Young Lawyers
International Bar Association
International Commission of Jurists
International Criminal Bar
International Federation for Human Rights (FIDH)
LAWASIA
Lawyers Committee for Human Rights/Human Rights First
Coalition for the ICC
Pan-African Lawyers Association
Union des Avocats Européens
Unión Iberoamericana de Colegios y Agrupaciones de Abogados
Union Internationale des Avocats

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