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Independent Oversight Mechanism

EVALUATION DRAFT REPORT

Evaluation of Complementarity in Guinea

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IOM EVALUATION REPORT

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The Bar Association of Guinea

Non-governmental and civil society organisations (OGDH, FIDH, Human Rights Watch, Global Survivors Fund)

DISCLAIMER: The independent evaluation was not intended to provide a legal evaluation of current proceedings in Guinea or a legal assessment of the domestic matters, such as the decrees on the financial compensation or the pardon. It is also not the purpose of the evaluation to interpret or fulfil OTP's role in complementarity in Guinea, or communicate OTP's position on their behalf.

IOM EVALUATION REPORT

FOREWORD

I am pleased to present the Evaluation of Complementarity in Guinea conducted by the Independent Oversight Mechanism (IOM) of the International Criminal Court (ICC). This independent evaluation, following the ICC Evaluation Policy and the UN Evaluation Group's Norms and Standards focused on the results achieved under the commitments of a Memorandum of Understanding (MoU) on complementarity signed by M. Karim A.A. Khan, KC, the ICC Prosecutor, and the President of the Republic, General Mamadi Doumbouya, on 28 September 2022.

This evaluation is significant for at least two reasons. It is the first time that an independent evaluation on complementarity has been carried out, bringing to awareness a number of key lessons and forward-looking, timely recommendations that the Office of the Prosecutor (OTP) and the Guinean authorities are urged to consider in the current situation in Guinea, following a historic trial concluded on 31 July 2024 for crimes against humanity committed in Conakry on the 28 September 2009. Second, it is the first evaluation conducted by the IOM that is available to the public, as per the Evaluation Policy of the ICC and in line with the principles of accountability and transparency. This is also an important milestone for the IOM and its evaluation function.

It is worth recalling that complementarity is at the heart of the Rome Statute. In Guinea particularly, complementarity activities have been ongoing for a significant amount of time pre-dating the signing of the MoU. This was not lost time and effort: the missions conducted by the OTP brought incremental change and under the right enabling and political conditions, real progress was made. The OTP contributed by facilitating the development of judicial capacity. In terms of the MoU, the evaluation identified ways to improve its use as an accountability mechanism, ensuring that its implementation is operationally robust with a project management approach. As the focus of complementarity in Guinea has expanded to reparations, memorialisation and national reconciliation following the trial, the MoU remains relevant.

While the milestone completion of a domestic trial last year – a first ever in the region demonstrating that complementarity can work – it was this year's events in Guinea that brought the relevance of complementarity to the fore. The evaluation recognises OTP's important role to address the presidential pardon in the context of complementarity. It offers critical recommendations on the need for continuous vigilance and consistent communication particularly in enforcing sentencing for crimes against humanity in domestic contexts, even after a major positive outcome of the MoU has been achieved. While the verdict and the financial compensation to victims brought some relief and solace, it excluded others, and the timing of the pardon to the main convict that followed triggered an outcry, with key legal and reparation related issues unresolved.

It is in this context that the evaluation brings value by offering independent and impartial recommendations going forward to both the OTP and the Guinean authorities. Overall, the evaluation provides an additional nudge and opportunity for accountability in the interest of justice in Guinea.

Silvain Sana
Head, Independent Oversight Mechanism, the ICC

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LIST OF ABBREVIATIONS

- **AFADIS:** *Association des Familles des Disparus du 28 septembre*
- **AVIPA:** *Association des Victimes, Parents et Amis du 28 Septembre*
- **CNEI:** *Commission Nationale d'Enquête Indépendante*
- **FIDH:** *Fédération Internationale des Droits Humains*
- **GSF:** Global Survivors Fund
- **ICC:** International Criminal Court
- **ICMP:** International Commission on Missing Persons
- **ICTJ:** International Center for Transitional Justice
- **IOM:** Independent Oversight Mechanism
- **MoU:** Memorandum of Understanding
- **OGDH:** *Organisation Guinéenne de Défense des Droits de l'Homme*
- **OHCHR:** Office of the United Nations High Commissioner for Human Rights
- **OTP:** Office of the Prosecutor
- **UDHR:** Universal Declaration on Human Rights
- **UN:** United Nations
- **UN-COI:** United Nations Commission of Inquiry
- **UN-TOE:** the United Nations Team of Experts on the rule of law and sexual violence in conflict
- **UNDP:** United Nations Development Programme
- **UNRCO:** UN Resident Coordinator Office

EXECUTIVE SUMMARY

This report outlines the results of the *Evaluation of Complementarity in Guinea* conducted by the Independent Oversight Mechanism (IOM). The involvement of the International Criminal Court (ICC) in the situation in the Republic of Guinea commenced in 2009, following the aftermath of the crimes committed at the national stadium in Conakry on the 28 September.

The independent evaluation was intended to provide an assessment of the results, performance and lessons learned related to the joint commitments made in the Memorandum of Understanding (MoU) signed by the ICC's Office of the Prosecutor (OTP) and the Head of State of Guinea in 2022. The MoU falls under the framework of complementarity as defined in Article 17 of the Rome Statute aiming to enable effective national prosecutions of international crimes related to the events of 28 September 2009 at the Conakry stadium. During the evaluation, the IOM decided to extend the temporal scope to include in its review the period preceding the MoU and the national investigations in Guinea (2009 to date).

The evaluation methodology included individual interviews, focus groups, observations and a desk review of documents and relied on both qualitative and quantitative information and data analysis. The evaluation included an evaluation mission to Conakry from 2 to 6 June 2025, to be able to interview the national stakeholders, namely the OTP focal point at the Ministry of Justice, the current and a former Minister of Justice, the magistrates, the prosecution and defence, the Bar association, the representative of a victim association and the victim community, as well as the UN and diplomatic delegations in the country. During the mission 69 stakeholders were interviewed, whereas the total number of participants that have taken part in this evaluation was 87 individuals.

The evaluation found that the MoU is considered relevant as a symbol of political will for cooperation and a basis for continued collective action, but it suffers from serious operational shortcomings. No concrete implementation mechanisms or action plans were defined. The absence of these operational tools limits the MoU's effectiveness as an instrument for judicial capacity development.

The main success to date, the achievement of the main goal of the MoU, remains the holding of a national trial before the Dixinn Tribunal of First Instance completed in July 2024 that led to the conviction for crimes against humanity, including a verdict and sentence imposed on some of the accused. This outcome is all the more significant, given that very little to no evidence was found in relation to several aspects of the implementation of the MoU, such as the training of Judges (article 2.(i)) or a contribution to projects and programmes aimed at the provision of knowledge transfer, the exchange of best practices and technical support (article 5) or engagement with the most vulnerable among victims and witnesses, other than meeting briefly with few victim representatives during OTP missions. Moreover, the presidential pardon granted to former Head of State Moussa Dadis Camara undermined victims' trust and weakened the expected deterrent effect of the trial.

The protection of victims and witnesses as part of the national proceedings was unequal. Female victims of sexual violence reported persistent stigma and the absence of long-term psychosocial support and meeting their livelihoods needs that were affected because of the harm they suffered and the related stigma. Reparations were partial and inconsistent, with some victims not compensated despite having

participated in the proceedings. The identification of mass graves, requested by some families for their closure, has not been carried out.

The OTP carried out regular missions during the period of ICC preliminary examination and the national investigation process in Guinea, and continued to do so during the time of the domestic trial. These missions were important and valued and a main means of monitoring for the OTP, since the ICC and the OTP have no in-country presence or specialized team at ICC Headquarters responsible for complementarity in Guinea. While during these missions the OTP frequently and consistently met with key stakeholders, and significant relationships were developed (e.g. UN Team of Experts, Comité du pilotage¹) the effectiveness of the OTP's interventions in preparation for and during the initial stage of the domestic trials – in the early days of the Memorandum of Understanding signed – fell short of its potential due to weak engagement with potential partners in Guinea and the region such as regarding training for Judges, when it was timely and needed to do so. The lack of joint and co-ordinated effort, planning and projects around the objectives of the MoU limited its impact.

The most lasting outcome remains the national judicial experience gained during this historic trial and its verdict and sentencing of the accused acknowledging that crimes against humanity were committed during the gathering at the Conakry stadium on the 28 September 2009. The relevance and applicability of the Memorandum are still strong in view of the remaining legal proceedings including appeals; the prosecution of other alleged perpetrators; unresolved issues related to reparations for victims as corroborated by a wide range of judicial stakeholders in Guinea; as well as efforts related to the archiving of proceedings, memorialisation and national reconciliation as initiated by the OTP during their last mission in Guinea. More importantly, recent developments related to the pardon granted to the main accused have brought the relevance of the Memorandum to the fore.

The evaluation identified five key lessons: (i) an MoU on complementarity may represent political will at the highest levels that can catalyse action domestically including necessary financial investments; (ii) an MoU on complementarity must be accompanied by operationalization or project management tools and processes such as a needs assessment; an operational plan with activities and indicators, a communication strategy etc. etc. by both signatories of the MoU; (iii) mindful of the boundaries of OTP's mandate, it is important to recognise the wider context and that justice must be judicial, social, memorial, transformative and reparative; (iv) complementarity is only achievable if it is an inter-institutional, coordinated effort backed by sufficient resources; and (v) OTP must consistently, publicly and clearly communicate, in a timely manner, on any domestic developments that undermine or perceive to undermine complementarity and act in line with the interest of justice.

The evaluation issued nine recommendations, some of which are addressed to both signatories of the MoU. They include recommendations concerning: the strengthening of the accountability of

¹ The Steering Committee (Comité de pilotage) was established during the mandate of Me Cheick Sako to manage the case of the September 28, 2009 massacre. The Committee's mission was to address all issues related to opening the trial concerning the massacre at the Conakry stadium on September 28, 2009 (OTP dossier, 2025).

implementing the Memorandum of Understanding on complementarity in Guinea; providing ongoing support to the judicial stakeholders in Guinea through training, technical support, victim identification, exhumation; mainstreaming a victim-centred approach in all interventions; addressing the enforcement of sentencing in the context of a pardon; and supporting programmes on the memorialisation and reparations in Guinea; leveraging existing partnerships and mechanisms and creating new ones both at the Court and externally, including with the Office of the High-Commissioner for Human Rights (OHCHR), the International Commission on Missing Persons (ICMP), the ICC forum on complementarity and cooperation, and the other Organs of the Court; and enhancing the resourcing of complementarity activities of the OTP.

Complementarity in Guinea has seen significant progress but remains weakened by structural gaps, political ambiguity and MoU with limited impact. The future of justice and healing for the crimes of 28 September 2009 will depend on political will, the effective inclusion of victims, and continued engagement by national and international institutions.

1. EVALUATION BACKGROUND

1.1. Evaluation Context

Evaluation Mandate

- 1.1.1. This report outlines the results and recommendations of the *Evaluation of Complementarity in Guinea*² conducted by the IOM.³ This is the first-ever independent evaluation on complementarity of the ICC conducted by the IOM.
- 1.1.2. The IOM initially proposed an evaluation case study on complementarity to the Assembly of States Parties (ASP) through the IOM evaluation proposal process, which was then considered and formally requested by the Bureau of the ASP.⁴ The IOM then progressed to draft the evaluation Terms of Reference (TOR), which were finalized in consultation with the OTP.⁵
- 1.1.3. The country for the case study was selected when the TOR was near final. Based on several operational and strategic criteria, as well as potential value in terms of learning on complementarity the IOM selected Guinea as a fit for purpose country case study for the evaluation.⁶

The Rationale

- 1.1.4. The IOM deems that the lessons and accountability through the OTP's work on complementarity is considered strategic, timely and relevant in the Court's general budgetary context, and is also in line with the importance that the Prosecutor places on the OTP policy on cooperation and complementarity. The recent expansion of Memoranda of Understandings on complementarity further supports the need to evaluate these efforts.
- 1.1.5. More fundamentally, however, complementarity is at the heart of the Rome Statute and domestic accountability was envisaged to take primary precedence over the ICC for impunity regarding international crimes, the Court assuming a subsidiary role. It is with this rationale in mind that the IOM considered the evaluation as a strategic one and in line with the recently adopted Evaluation Policy of the ICC.

² The original title of the evaluation at the time of the IOM submitting the proposal to the Bureau of the Assembly of States Parties on 24 October 2024 was: "Evaluation of Complementarity: A Country Case Study".

³ Consultations with the Principals on the IOM evaluation proposal took place in January 2021.

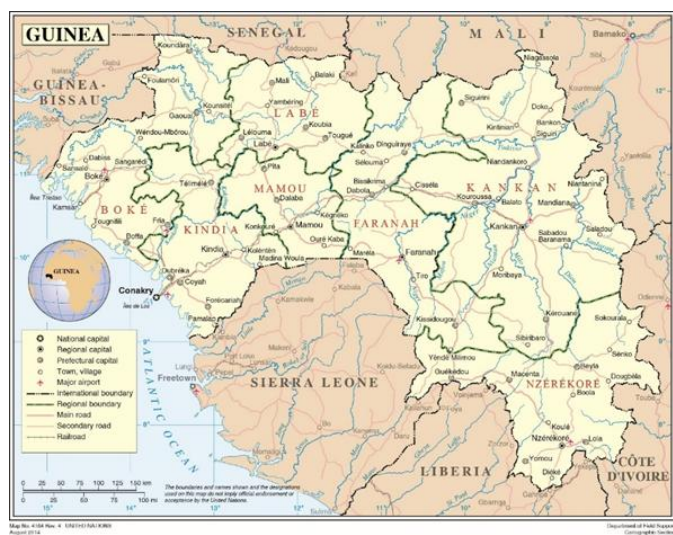
⁴ 28 November 2024 (Document 2024-Bureau13-Agenda-Decisions).

⁵ Annex 1

⁶ The IOM also consulted with OTP's views on which country would be most suitable for the case study that would provide the most learning for all stakeholders (IOM memo on 16 January 2025). Both the IOM and the OTP came to the same recommendation that Guinea would be most suitable, based on independent assessments and criteria.

The Process

- 1.1.6. The evaluation process involved the support of an external consultant hired by the IOM, an evaluation advisory group of external experts, and an internal evaluation reference group composed of staff from the OTP.
- 1.1.7. The process was participatory and inclusive, in that it engaged a wide range of stakeholders in the evaluation, from the OTP and the Guinean authorities to victim survivor communities, civil society organisations, the UN and diplomatic delegations in Guinea and at UN Headquarters, as well as the Guinean justice system, both the judges, the prosecution and the lawyers for the accused and the victims.
- 1.1.8. The preliminary results and recommendations of the evaluation were discussed with the OTP management, civil society organisations and the victim associations. Furthermore, the draft evaluation report was shared with key stakeholders for comments and feedback, as well as the completion of a Management Action Plan.⁷ The report was then finalised in September 2025 and submitted to the Bureau via the President of the ASP.
- 1.1.9. Although potentially expected by some stakeholders, the independent evaluation was not intended to provide a legal evaluation of current proceedings in Guinea or a legal assessment of the domestic matters, such as the decrees on the financial compensation to some of the victims or the pardon. It is also not the purpose of the evaluation to interpret or fulfil OTP's role in complementarity in Guinea, or communicate OTP's position on their behalf.



1.2. Country Context

Figure 1: The Socio-Economic Context⁸⁹

1.2.1. Guinea (Figure 1) is a West African coastal country bordering six countries (Guinea-Bissau, Senegal, Mali, Sierra Leone, Liberia, and Côte d'Ivoire). Its capital is Conakry. It has eight administrative regions (Boké; Conakry; Faranah; Kankan; Kindia; Labé; Mamou; and N'Zérékoré), 33 prefectures, 39 urban communities and 323 rural ones.¹⁰

⁷ Annex 2

⁹ See UN Geospatial, 1 August 2014 (<https://www.un.org/geospatial/content/guinea>).

¹⁰ https://www.stat-guinee.org/images/Documents/Publications/INS/annuelles/annuaire/La_Guine_en_chiffre_2022_INS.pdf

- 1.2.2. Guinea has an estimated population of 14.75 million.¹¹ While the official language is French, there are 6 additional national languages: Malinké, Soussou, Poular, Kissi, Kpèlè et Lomagoé.¹² The following are the ethnic groups in Guinea: Fulani / Peul (33.9 per cent), Malinké (31.1 per cent), Soussou (19.1 per cent), Guerze (6 per cent), Kissi (4.7 per cent) and Toma (2.6 per cent). The majority of the population is Muslim (85%), with a minority of Christians (8%), and some with exclusive traditional beliefs (7%). Both the ethnic and religious group compositions are based on the July 2016 census.¹³
- 1.2.3. The Fulani or Peul are mostly politically associated with the opposition, whereas the Malinke mostly come from the forest region and are supporters of former President Moussa Dadis Camara.¹⁴
- 1.2.4. The following are some socio-economic indicators on Guinea, mainly based on World Bank data:¹⁵
- **Literacy rate:** 45.3% with 61% and 31% for the male and female populations of Guinea (2021)¹⁶
 - **Unemployment rate:** 5.2% (2024)¹⁷
 - **Access to electricity:** 51.1% (2023)¹⁸
 - **Individuals using the Internet:** 33.92% (2022)¹⁹
 - **Proportion of seats held by women in national parliaments:** 30% (2024)²⁰
 - **GDP growth rate:** 5.7% annual change (2024)²¹
 - **Gross domestic product:** 25.33 billion USD (2024)²²
- 1.2.5. Guinea's economy relies primarily on its agricultural sector, contributing to approximately 27.8% of gross domestic product (GDP) and employing over half of the population in 2024. Mining is another major source of revenue for Guinea, accounting for approximately 18% of GDP, with rich natural resources that include bauxite, gold, diamonds, and iron ore.²³

¹¹ World Bank, 2024 data (<https://data.worldbank.org/indicator/SP.POP.TOTL>). According to the National Statistical Office of Guinea, the projected population in 2022 was 13,26 million (latest edition).

¹² https://www.stat-guinee.org/images/Documents/Publications/INS/annuelles/annuaire/La_Guine_en_chiffre_2022_INS.pdf

¹³ <https://minorityrights.org/country/guinea/>

¹⁴ <https://www.crisisgroup.org/africa/west-africa/guinea/guinea-conflict-alert>

¹⁵ <https://data.worldbank.org/country/guinea>

¹⁶ <https://worldpopulationreview.com/country-rankings/literacy-rate-by-country>

¹⁷ <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=GN>,

<https://tradingeconomics.com/guinea/unemployment-rate>

¹⁸ <https://data.worldbank.org/indicator/EG.ELC.ACCS.ZS?locations=GN>

¹⁹ <https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=GN>

²⁰ In 2020 it was 22,8% and in 2021 it was 16,7% according to the National Statistical Yearbook of Guinea (2022).

²¹ <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=GN>

²² <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?locations=GN>

²³ <https://www.worldbank.org/en/country/guinea/publication/guinea-economic-update-2024>

- 1.2.6. Despite its rich natural resources and general economic progress, Guinea's Human Development Index (HDI)²⁴ value for 2023 is 0.500, positioning it at 179 out of 193 countries and territories, categorising it as a developing country.²⁵ The 2024 Multidimensional Poverty Index (MPI)²⁶ estimated that 63% of the population of Guinea are multidimensionally poor.
- 1.2.7. In 2023, the Mo Ibrahim index rated Guinea to be increasingly deteriorating in terms of governance.²⁷ There is high gender inequality between men and women in Guinea, with a Gender Development Index value of 0.818,²⁸ and with continued significant gender gaps in the educational attainment, political and labour force participation of women.

Government and the Judiciary

- 1.2.8. Guinea is a republic and its latest constitution was adopted in 2020. The current regime is based on a transitional constitution named Charte de la Transition, 2021, and it is identical to the one described in the 2020 Constitution. However, the Charter has technically replaced the 2020 constitution.²⁹ There was a referendum held on the Constitution, organized on the 23 September, and the promulgation by a decree of the new Constitution on the 26 September 2025.
- 1.2.9. Guinea has a presidential regime with a Prime Minister appointed by the President. Since 1 October 2021, the President is Colonel Mamady Doumbouya, who, in the meantime has passed on to a grade of a General. Since 27 February 2024, the Prime Minister is Mamadou Oury Bah.
- 1.2.10. From 2009, there were nine changes of Ministers of Justice to date:
1. 2009-2010 Colonel Siba Nolamou
 2. 2010-2014 Christian Sow
 3. 2014-2019 Cheikh Sako
 4. 2019-2020 Mamadou Lamine Fofana
 5. 2020-2021 Mory Doumbouya
 6. 2021 (Nov.-Dec.) Fatoumata Yarie Soumah
 7. 2021-2022 Me Moriba Alain Kone

²⁴ The HDI is a summary measure for assessing average achievement in three basic dimensions of human development: a long and healthy life, access to knowledge and a decent standard of living.

²⁵ <https://hdr.undp.org/data-center/specific-country-data#/countries/GIN> (Human Development Report, UNDP).

²⁶ The MPI identifies multiple deprivations at the household level in three key dimensions: health, education and standard of living. People who experience deprivation in at least one third of these weighted indicators fall into the category of multidimensionally poor (Human Development Report, UNDP).

²⁷ The Mo Ibrahim foundation and index define governance as “the provision of the political, social, economic and environmental public goods that every citizen has the right to expect from its government, and that every government has the responsibility to deliver to its citizens” (<https://assets.iiaonline.org/2024/2024-Index-Report.pdf>).

²⁸ This value places Guinea in Group 5: Countries with absolute deviation from gender parity of more than 10 percent are considered countries with low equality in HDI achievements between women and men (Human Development Report, UNDP).

²⁹ <https://www.sgg.gov.gn/document/charte>

8. 2022-2024 Alphonse Charles Wright
9. 2024- Yaya Kairaba Kaba

1.2.11. The legal system in Guinea is of a civil law type, built around laws adopted through the legislative body. The judiciary is composed of a constitutional court, a supreme court with a breakdown of appeal and first instance courts. There is also a special court in charge of repression of economic and financial breaches (CRIEF)³⁰. The judiciary is constitutionally established as an independent entity from the government. While its decisions are public in principle, it remains difficult to access the caselaw especially for the lower courts and tribunals. The literacy rate also affects the public access to the law and jurisprudence.

International and Regional Memberships and Ratifications

1.2.12. Guinea is a State Party of the ICC since its ratification of the Rome Statute on 14 July 2003. The country is also a member of the African Union (AU) and the Economic Community of West African States (ECOWAS). It is worth noting that Guinea, in addition to the Rome Statute, has signed and ratified most of the international and regional human rights conventions.³¹

The Events of 28 September 2009

1.2.13. On 28 September 2009, at the call of the "Living Forces of the Nation,"³² tens of thousands of peaceful demonstrators gathered inside the stadium to protest a possible candidacy of former President Moussa Dadis Camara, who seized power following the death of General Lansana Conté on 23 December 2008. While the demonstrators chanted songs and slogans hostile to a possible long-term seizure of power by the army, men armed with military rifles and bladed weapons appeared and opened fire on the demonstrators. Various crimes were committed on that day and the following days.³³

1.2.14. As a response to the stadium incident, the United Nations Secretary General established an International Commission of Inquiry (UN-COI) in late October 2009. Two months later the Commission issued its report,³⁴ which concluded that 157 people were killed, 109 women were raped, and several other people injured and missing. One key recommendation of the Commission was a referral of specific individuals to the ICC for prosecution.³⁵

³⁰ Cour de répressions des infractions économiques et financières.

³¹ The United Nations Commission of Inquiry, which was mandated to establish the facts and circumstances of the events of 28 September in Guinea noted that six of the international conventions that Guinea ratified apply to the events of 28 September.

³² *Forces vives de la Nation*

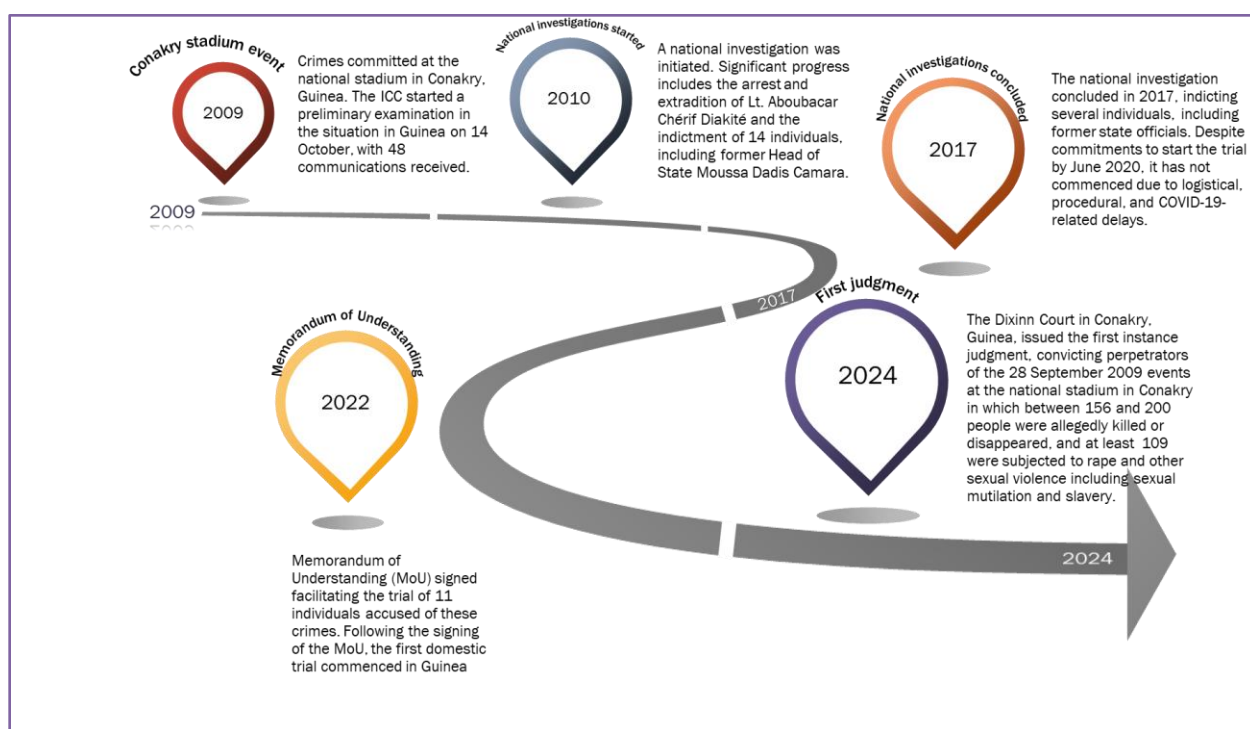
³³ Refer to the UN-COI report for a detailed account of the events (Report S/2009/693 available here: <https://docs.un.org/en/S/2009/693>).

³⁴ S/2009/693, paragraphs 70, 189

³⁵ S/2009/693, paragraph 278

- 1.2.15. However, the Government of Guinea decided to pursue the prosecution and, even though the ICC Prosecutor opened a preliminary examination, she also engaged in a constructive dialogue with the Guinean authorities for facilitating domestic prosecutions. Exceptionally, a team of three investigative judges (*juges d'instruction*) was appointed by the national authorities to carry out the investigations.
- 1.2.16. The investigative judges concluded the process and issued an indictment against fourteen (14) individuals including the former President, Captain Moussa Dadis Camara. Thirteen years after the events, the long-awaited trial officially began on 28 September 2022, with the clear will of the transitional authorities, the support of the United Nations, including the Office of the United Nations High-Commissioner for Human Rights (UN Human Rights), the United Nations Team of Experts on the rule of law and sexual violence in conflict (UN-TOE) and the international community (Figure 2).

Figure 2: The Timeline from the 2009 Conakry Stadium Events to the Conclusion of the Judgement



2. METHODOLOGY

2.1. Terms of Reference

- 2.1.1. The evaluation TOR were drafted in consultation with the OTP and finalised on 18 June 2025. The timeline of the TOR could not be adhered to due to the delays experienced, including awaiting feedback and access to information. The TOR were generic with a reference to the decision of

selecting Guinea but not contextually reflected nor analysed in the TOR to avoid further delays with finalising the TOR.

- 2.1.2. The scope of the original TOR was expanded to include a contextual and temporal analysis that preceded the signing of the MoU. This was important as a way of better understanding the background and context.

2.2. Methodology

Evaluation Approach

- 2.2.1. The evaluation methodology was mixed-methods using both qualitative³⁶ and quantitative³⁷ information and data and included individual interviews, focus groups, observations and a desk review of internal OTP files, internal files of the Guinean national judiciary, external documents and reports,³⁸ audio and video material, monitoring information from the Office of the High-Commissioner on Human Rights (OHCHR) in Guinea, as well as field work through an evaluation mission.
- 2.2.2. The dossier of confidential OTP files that the IOM was granted access to, included the following types of documents:
- medico-legal reports
 - interview records of suspects
 - mission reports from the OTP
 - reports from various organizations
 - documents from national jurisdictions (e.g. medical reports, statements)
 - press reports
 - list of magistrates trained
 - and reports concerning victim compensation.

Selection of Guinea as a Country Case Study

- 2.2.3. The IOM designed relevant criteria to select an appropriate country where complementarity can be evaluated. The criteria considered practical and strategic factors, as well as the most value in terms of learning on complementarity. Based on these criteria, and in consultation with the OTP, the IOM independently assessed Guinea to be the most appropriate country case study for the evaluation.

³⁶ Qualitative data and information include non-numerical, descriptive pieces of information that capture the qualities, characteristics, or attributes of a phenomenon, rather than its quantities.

³⁷ Quantitative data and information refer to measurable, numerical information used to answer "how many," "how much," or "how often" questions. It consists of numbers and can be counted or measured.

³⁸ Annex 3

Management of the Evaluation

2.2.4. The IOM evaluation team was composed of the Head of the IOM, the IOM Senior Evaluation Specialist, the IOM Evaluation Consultant, the Administrative Assistant and an Intern at the IOM.³⁹ The IOM also employed the in-kind support of an Evaluation Advisory Group, composed of independent evaluation experts and subject matter experts.⁴⁰

Evaluation Mission

2.2.5. An evaluation mission to Conakry was conducted from 2 to 6 June 2025, to be able to interview the national stakeholders, namely the OTP focal point at the Ministry of Justice, the current Minister of Justice, the magistrates, the prosecution and defence, the Bar association, the representative of a victim association and victims, as well as the UN and diplomatic delegations in the country. During the mission 69 stakeholders were interviewed.⁴¹

2.2.6. The interview notes were summarised and analysed in terms of key findings. The IOM also received information and documents during the mission that were analysed and used for the evaluation. Some follow up correspondence with stakeholders took place after the mission was completed. Just few days prior to its mission the IOM inadvertently learned that the OTP conducted a mission to Conakry mid-May, few weeks prior to the IOM mission. For this reason, the IOM produced a leaflet to explain the IOM mission and the evaluation. This leaflet was handed out in addition to the IOM standard briefing on evaluation.

Evaluation Analysis

2.2.7. The evaluation analysis included both qualitative and quantitative data and information using triangulation or validation to ensure rigour. The analysis was conducted through the joint work of the IOM evaluation team. The Evaluation Advisory Group provided advisory support and shared some relevant information and data.

2.2.8. A total of 87 individuals participated in the evaluation, each belonging to a certain category of a stakeholder.⁴² Each finding and recommendation of this evaluation, as well as lessons are underpinned by evaluation analysis.

³⁹ The external staff hired to be part of the IOM evaluation team were briefed on the UN Evaluation Group Norms and Standards and were asked to sign the conflict of interest, confidentiality and ethical code of conduct forms for the evaluation engagement.

⁴⁰ These included: Miché Ouedraogo (independent evaluator), Sarah Kassande (International Center for Transitional Justice), Aime Ntumba Kakolo (OHCHR), Kristele Younes (UN Resident Coordinator in Guinea).

⁴¹ The IOM evaluation mission report containing a more detailed summary of the IOM evaluation mission is available upon request from the IOM.

⁴² Annex 4

2.3. Limitations

Timely Access to Documents

- 2.3.1. While the OTP noted that it provided unprecedented access to IOM to its archives to assist the evaluation, access to the OTP dossier by the IOM evaluation team came at a late stage in the planning of the evaluation considerably delaying the evaluation process and the IOM needing to postpone mission dates. The IOM evaluation team planned the mission assuming that the internal OTP files would have been accessible and reviewed prior to the mission. Instead, the IOM team relied on the publicly available ICC information on Guinea, reports such as the UN-COI and the various reports published by the civil society organisations to prepare for the mission.

Limited Data and Information

- 2.3.2. Some of the key data and information were limited and fragmented (e.g. the OTP dossier contained a list of judges who appeared to have received training which was limited to a list and it did not detail the subject matter in greater detail or the objectives of the training, who delivered it, when and where, who organised it or what the feedback was from the participants and its uptake and use). Some information was not available from neither the Guinean stakeholders nor the OTP. This type of information would have been critical for more comprehensively appraising elements of the MoU.
- 2.3.3. Budget and financial information was also limited and fragmented. For example, while the financial plan for constructing the Dixinn courtroom was provided to the IOM by the Guinean authorities, including information on the budget requested periodically to conduct the investigation and the trial, the actual financial implementation data was not.
- 2.3.4. Finally, while the open feedback received from the victims was useful in understanding what justice means to them today in relation to the 2009 Guinea massacres, the evaluation did not systematically assess and analyse the meaning of justice for the victims and whether it has been achieved since this was not part of the terms of reference. The use of a SenseMaker⁴³ method to collect data on a large sample of victims and affected communities would have been useful to shed light on this.

Access to Key Stakeholders

- 2.3.5. The IOM evaluation team did not get the audience with the President of Guinea, who is one of the signatories of the MoU, nor of the Prime Minister. Despite several attempts, the IOM evaluation team could not reach the Presiding judge of the Trial Chamber during the evaluation mission or engage with him remotely after the mission completed.

⁴³ SenseMaker is a software-based method used in research and evaluation. The Trust Fund for Victims has used it in evaluations of reparations.

- 2.3.6. In addition, the IOM evaluation team did not talk to all victims and affected communities, but only to a small sample pre-selected by the president of a victim association (of one of the victim associations out of four). However, the team was able to engage with the leadership or lawyers of all victims associations.

Planned Evaluation Outputs Not Delivered

- 2.3.7. Due to an ambitious evaluation plan that was not commensurate with the time and resources dedicated to the evaluation, planned outputs such as an inception report and a theory of change were not delivered. The inception report has been initiated but due to lack of time and re-prioritization towards planning the mission, designing the methodology, facilitating the recruitment of the evaluation consultant, following up with the evaluation stakeholders to schedule meetings with them, as well as to seek access to documents, meant that the Senior Evaluation Specialist did not have time to finalize the drafting of an inception report. The theory of change would have been a valuable output if the evaluation started earlier (before the trial ended), and if there was ample time for stakeholders to engage in this process.

Slow Administrative Processes

- 2.3.8. The hire of the external consultant by the IOM was slowed down by the internal administrative processes, which then delayed mission planning. Consequently, the accumulated delays including access to documents meant that the evaluation timeline as committed to in the evaluation terms of reference was delayed by one month.

3. FINDINGS

3.1. The Memorandum of Understanding

Mutual Commitments

- 3.1.1. The Memorandum of Understanding (MoU) on complementarity in Guinea, as any of the other MoUs on complementarity initiated by the Office of the Prosecutor is grounded in the ICC-OTP Policy on Complementarity and Cooperation⁴⁴. The MoU in Guinea was signed between M. Karim A.A. Khan, KC, the ICC Prosecutor, and the President of the Republic, General Mamadi Doumbouya on 28 September 2022.⁴⁵ It is a relevant statement of commitments on complementarity to address the crimes that occurred on the 28 September 2009 at the national stadium in Conakry. It reflects mutual commitments by the high-level signatories with the main goal to prosecute the crimes domestically.
- 3.1.2. The role of the OTP is to ensure that it is done in compliance with the principles and standards of the Rome Statute and the ICC, as well as in line with the OTP policy on complementarity and

⁴⁴ The Policy promotes a twin-track approach to complementarity, with vigilance and cooperation as key elements to complementarity.

⁴⁵ Annex 5

cooperation. It is worth noting that complementarity activities by the OTP in Guinea pre-date the MoU, which reflects a culmination of OTP's long-term engagement in Guinea since 2010.

Assessment of the Memorandum

- 3.1.3. The content of the MoU provides for cooperation between the two parties that signed it, the ICC/OTP and the National Authorities of Guinea. It also provides for the possibility of seeking the participation of other international stakeholders for its implementation. Finally, it provides for the possibility for the ICC/OTP to assess the domestic proceedings to determine whether the situation should lead to prosecution before the ICC.⁴⁶
- 3.1.4. **Operationalisation of the MoU.** The strength of the MoU is highlighting the political commitments to address impunity in relation to the crimes committed at the stadium on 28 September 2009. Since its signing in 2022, the MoU has served as a legitimate and stable basis for complementarity activities in Guinea.
- 3.1.5. However, while it provides some indication of activities and outputs expected by the Guinean authorities and by the OTP, its operationalisation falls short. While the MoU has some operational elements⁴⁷ and conditions of implementation,⁴⁸ these needed to be complemented and linked with specific workplans. Other than the financial plan and budget required for certain concrete activities (e.g. courtroom to be built, cost of investigation and trial including protection measures) annual plans of activities such as targeted training or technical support, for example, by either party were absent. This is not surprising, since some key stakeholders were not even aware of the MoU.
- 3.1.6. Even if envisaged solely as a political statement of intent by both parties, it would have benefited from an operational mechanism, jointly conceptualized by and agreed upon by the OTP and the Guinean authorities, and revisited on a regular basis to ensure its effectiveness and efficiency. Intentionally planning the involvement of other parts of the Court (rather than it occurring *ad hoc*) and international and regional partners could have potentially facilitated more use, leverage and impact of the MoU in the Guinean context.
- 3.1.7. **Monitoring of the commitments.** It is worth noting that OTP commitments as defined under the MoU go beyond monitoring activities to include provision of knowledge transfer, exchange of best practices and technical support. The monitoring of the OTP of the commitments made in the MoU by the Guinean authorities was done through insights from open-source information and engaging with national stakeholders including during **five OTP missions** since signing the MoU in 2022 until 2025 (two in 2022, one each in 2023, 2024 and in 2025).

⁴⁶ Article 5 of the MoU.

⁴⁷ Articles 2 and 5 of the MoU, for example.

⁴⁸ Articles 3 and 4 of the MoU.

- 3.1.8. The OTP mission reports outlined concisely the purpose and objectives of the OTP engagement in each of these missions, the stakeholders that OTP met, the key issues discussed, resolved or needed to be followed up. The missions also required preparatory and follow up activities (e.g. diplomatic, logistic, analytic) in addition to the conduct of the mission.
- 3.1.9. The missing part is the systematic assessment and prioritization of needs and an overall project management approach to implementing the MoU. The IOM evaluation team understands that while some intention around conducting these was evident at times⁴⁹, they were not followed through, most likely due to resource and prioritization constraints. The IOM evaluation team concluded that the main, active monitoring and assessment tool and process were the OTP missions both during the long national investigative period, as well as during the trial.
- 3.1.10. **Results achieved under the MoU.** The main goal of the MoU was achieved given that a domestic trial before the Dixinn Tribunal of First Instance was completed in July 2024, including a verdict and sentence imposed on some of the accused. Evaluation stakeholders indicated that some training activities were organised by the Guinean authorities through implementing partners such as the UN-TOE, the OHCHR, or delivered directly by the OTP.
- 3.1.11. The IOM evaluation team obtained some of the training material from OHCHR to confirm that trainings seem to have taken place indeed, including directly by the OTP, although its timing is questionable. In the OTP's experience, finding mutually suitable slots for training of judicial personnel, including the judges, was indeed challenging, compounded by the timing of the signing of the MoU closely coinciding with the start of the trial.
- 3.1.12. The IOM did not find any evidence of specific commitments by OTP actually carried out in terms of provision of knowledge transfer, exchange of best practices or technical support as embodied under article 5 of the MoU, other than what can be accomplished in the missions conducted. The OTP mission reports do show some expression of needs by the Guinean authorities, but it is not clear whether these were followed through. In view of the IOM team, the general absence of a process (other than the missions), as well as lack of time and resources to assess needs and tailor support accordingly would have been a major constraint.

⁴⁹ For example, an email sent by the OTP to the Government focal point on 13 February 2024, where the Office offered specific areas of expertise that could be shared, and requested the Government to identify the specific needs and the envisaged recipients of training to facilitate the Office's planning.

The transformational value of the MoU. There was little to no evidence that the activities conducted or facilitated by the OTP since the Memorandum of Understanding was signed and since the trials began made a transformational change towards specific vulnerable victim populations (Box 1), meaning that the OTP interventions (missions, monitoring etc.) in Guinea prioritized or impacted the lives of victims, particularly those that are most vulnerable.

Box 1. A victim-centred approach prioritizes the needs and rights of victims throughout the legal process, from investigations to reparations. This approach ensures victims have access to information, participation in proceedings, protection, legal representation and the possibility of reparation. It also involves a trauma-informed approach recognising the potential impact of trauma on victims and providing appropriate support.

- 3.1.13. The IOM notes, however, that most of the OTP missions sought to engage with the victim communities, who in turn, expressed appreciation for the OTP in doing so, particularly when the Prosecutors would visit.
- 3.1.14. During the OTP's initial years of engagement with Guinea, the IOM learned that victims and affected communities who would engage with the OTP were initially mainly suspicious that credible national proceedings could ever take place in Guinea. In later stages, with OTP's continuous presence and contribution to create enabling conditions in Guinea, among other factors including an enabling political environment, these communities have gained trust and willingness to participate in a domestic process instead of an international one.
- 3.1.15. The OTP's key work done prior to the signing of the MoU in terms the Office's extensive collaboration with the UNSR on Sexual Violence in Armed Conflict and Team of Experts and the subsequent long-term involvement of the UN-TOE and the UN Judicial Advisor in Guinea have contributed to the building of trust among the victims and affected communities.
- 3.1.16. During the domestic trial period, the IOM takes note that the national and judicial authorities and system has ensured, albeit to a certain limit and with room for improvement, that some aspects of the proceedings are victim-centred. A court was built with victim participation in mind; victims and witnesses have participated in the trial with some limited protection; the judgment was partially accessible (long document, not easily accessible in physical form, inaccessible online and only available in French) although the trial itself was thoroughly covered and publicly televised.
- 3.1.17. The IOM team did not obtain any statistics on participants in the courtroom audience or the online viewership, or their feedback on the trial and its outcome that it could analyse. However, it was undisputable that the trial and its outcome were valued as a success analysing the public opinions and reactions expressed at the national, regional and international level by multiple stakeholders from victim associations, non-governmental agencies and the OTP and the ICC itself.
- 3.1.18. In particular, requalifying ordinary crimes to the verdict of crimes against humanity is likely to have had some transformational value of justice being rendered for victims and this indeed was expressed by some in evaluation interviews.

- 3.1.19. When it comes to the MoU, various reasons could explain why complementarity activities under the MoU did not appear transformational towards victims and affected communities. Since one of the main direct stakeholders of the MoU were the Guinean authorities who in turn were supposed to use international partners to provide specific services to victims and affected communities, the link to the victims is indirect.
- 3.1.20. Another reason may be that the OTP activities are not designed with this perspective in mind, since the mission of the OTP is to facilitate the implementation of the MoU through specific technical support, monitoring and vigilance of the national proceedings etc. and not to provide development assistance to marginalized and vulnerable populations. Also, these two approaches require different mindsets and expertise.
- 3.1.21. Other international or national partners are better placed in addressing the needs of these particular groups, such as the victim associations, the local NGOs, the funding entities. The scope of the evaluation excluded evaluating the interventions of these stakeholders. Nevertheless, there is some indication that the diverse interventions delivered by various civil society and non-governmental organizations did have a transformational intention (e.g. EU funded project delivered by the Global Survivors Fund⁵⁰ in partnership with AVIPA and OGDH⁵¹).
- 3.1.22. As for the Guinean judicial stakeholder, the IOM learnt through the interviews that a more victim-centred approach was nurtured by some of them, despite the security related gaps towards victims. For example, the Guinean judiciary came to realise that female victims of rape needed special attention to avoid re-traumatisation, provided for female lawyers to interview them, and that evidential material can go beyond a medical examination. On the other hand, there were challenges to keep the anonymity of victim and witness testimonies even though the infrastructure of the newly built Dixinn court made anonymisation possible.
- 3.1.23. Similarly, the provision of psychosocial support appeared fragmented and provided to some victims, but not others. Few international and national entities provided such support but not in a mutually coordinated way. Medical records and witness and victim accounts have shown that a large number of women were raped, children and youth were victims too, potentially men too (UN-TOE) and many were indirect victims witnessing and trying to help, and either harmed or killed in attempting to do so. A victim-centred approach is even more important in light of the structural and institutional barriers and stigmatisation attached to victims of rape in Guinea, which are difficult to change.

⁵⁰ The GSF project was concerning interim reparative measures with survivors of conflict related sexual violence related to the event of the 28 September. It identified 158 CSRV survivors and aimed to have a transformative intention, bringing reparative measures to survivors and advocating for a reparation law in Guinea.

⁵¹ AVIPA, OGDH and FIDH provided legal, psychological and medical support to a broader range of victims than in the GSF project.

3.1.24. **Upholding the dignity and the rights** of victims and affected communities, as well as the suspected individuals indicted was one of the evaluation questions. It is worth noting that this question relates to but is not equivalent to the legal concept of due process (Box 2). Therefore, the evaluation

question is not evaluating whether due process was met or not, but merely offering some indication on few aspects concerning dignity and rights.

Box 2: The Regional Atrocity Crimes Training Platform (REACT) – The Siracusa International Institute. The first training phase in Guinea took place from December 10–12, 2024, at the Judicial Training Centre. Developed in collaboration with the Ministry of Justice in Guinea and local stakeholders, the sessions introduced magistrates, police officers, and gendarmes to the fundamentals of international criminal law, covering legal frameworks, investigative techniques, and regional challenges. The training was delivered by high-level experts, including the former head of the International, Impartial, and Independent Mechanism for Syria, as well as the Judge and Registrar of the Special Criminal Court in Bangui. Discussions on atrocity crimes generated significant engagement, with participants requesting extended sessions and more practical exercises. The second phase, conducted from February 24–26, 2025, focused on the practical application of international criminal law investigations. Led by experts from national prosecution services and from the ICC, training emphasized evidence collection, interview techniques, and international cooperation. Special attention was given to gender-based violence cases, ensuring a trauma-

3.1.25. In terms of legislation, the authorities took a positive stand and adopted Act No. L/2022/013/CNT on the **protection of victims, witnesses and**

other persons in vulnerability but no implementing decree was ever adopted.⁵² Yet, some of the victims interviewed during the evaluation considered that they were not afforded an effective protection during and after the trial, including once the pardon was granted and when the financial compensation was paid. Indeed, the IOM evaluation team heard accounts of victim intimidation and threats especially to those who participated in the proceedings by testifying and attending the courtroom trials. Some other stakeholders also opined that in the local social context, it is next to impossible to be able to protect victims and witnesses.

3.1.26. Protection was provided to the judges, prosecutors and registrar by accommodating them all at one hotel for the totality of the trial period. However, this was not extended to the lawyers or the victims and witnesses suggesting unequal treatment based on role and status. Some of the victims informed the IOM evaluation team that they were provided with only partial and inadequate protection. For example, two security guards⁵³ were present in buses, but not from the moment when they descended from the bus and until they entered the courtroom or from the bus to their respective homes. In addition, their badges identified them as victims to the public in front of the courtyard.⁵⁴

⁵² <https://cnt.gov.gn/wp-content/uploads/2023/05/Loi-0013-2022.pdf>

⁵³ It should be noted that those victims were attacked by public security forces on 28 September 2009. The security personnel provided in the buses could have revived traumatic memories for the survivors.

⁵⁴ Annex 6

- 3.1.27. The **treatment of victims in a vulnerable condition** – women who were raped and sexually assaulted – coming forward to testify was challenging from the beginning and throughout the 16-year period of proceedings up to today due to strong cultural reasons including stigma and shame attached to what has happened to them.⁵⁵ The IOM evaluation team heard accounts of particularly difficult situations experienced by female victims (being disowned by family, losing contact with own children, extremely low levels of self-esteem due to not being able to marry, mental health issues, etc.). Since perpetrators were also from security forces, having them in the courtroom also meant that some victims felt unsafe and could not trust the process.
- 3.1.28. Contrary to the victims, the defendants seem to have been better treated. The IOM evaluation team heard of preferential treatment in detention, including the level of influence of some of them, beyond their detention place, posing therefore further threat to the victims.
- 3.1.29. In terms of **communication and outreach**, the trial was well covered through public streaming and coverage on public television channels and private of which certain had links to social networks such as Facebook. This facilitated access to victims and affected communities in the country and beyond, but it is unknown to what extent those in rural areas were left out because of lack of access to electricity, television and internet.
- 3.1.30. It is also unknown how effective the outreach and networking of victim associations was to seek to identify victims and encourage them to come forward and participate in the legal process. When it came to the trial judgment, the IOM evaluation team had some difficulty obtaining a copy that was available only in French and not in the indigenous languages used by the ethnic groups in Guinea. It was also impossible to find the judgment online.
- 3.1.31. To the knowledge of the IOM evaluation team, the OTP has not consulted nor requested the support of the following entities concerning complementarity activities in Guinea immediately preceding or during the trial: ICC's Victims and Witness Section, Outreach Section, the Office of Public Counsel for Victims, the Office of Public Counsel for the Defence, the Victim Participation and Reparation Section and the OTP's own Gender and Children Unit.⁵⁶
- 3.1.32. The IOM evaluation team became aware of a few international partners (e.g. the UN⁵⁷, The Siracusa International Institute – see Box 2, and the diplomatic community in Guinea) that the

⁵⁵ See, for example, the 2019 project of the Global Survivors Fund in partnership with AVIPA, OGDH and WAKILI: <https://www.globalsurvivorsfund.org/our-work/guinea/>

⁵⁶ There was one document in the confidential OTP dossier that provided a sexual and gender-based assessment on the crimes in the early stages of OTP's involvement in Guinea.

⁵⁷ The UN-TOE has organized a workshop in April 2025 on the protection and participation of victims of sexual violence in judicial proceedings in Guinea. The Team requested the ICC 's Victims and Witness Section's support. One psychologist from the Section delivered a session on "the specific needs of victims of sexual violence during criminal proceedings" to the Guinean magistrates who attended the workshop.

Guinean authorities or OTP have requested to or facilitated their involvement in complementarity efforts in Guinea (e.g. victims and witness protection, training of judges etc.) although these would have had more impact when they were needed the most – immediately preceding the trial or at the early stages of and during the trial of first instance and not at its aftermath. .

3.1.33. During the national investigations, the question of **mass graves** was raised. Families of disappeared victims demanded that the mass graves be part of the investigation and buried corps exhumed for identification. However, this did not happen, and the IOM evaluation team was told about the challenges of identifying the location of mass graves, as well as that they would likely to delay the start of the trial (Box 3). It is obvious to the evaluation team that forensic expertise was needed; yet the team has not been informed that any had been provided.

3.1.34. There was also a need to identify alternative evidence to be used in lieu of exhumation. For some, up until today, this is an unresolved matter relevant for their healing and upholding the dignity of their loved ones to be buried. Yet, mechanisms such as the International Commission of Missing Persons (ICMP) could have helped or facilitating state cooperation with respect to forensic expertise. The ICMP did not have any project in Guinea to date.

Box 3: The UN-TOE supported the investigative judges in drafting *commissions rogatoires* concerning the location of mass graves and advocated to the Guinean Ministry of Justice for the mobilization of international expertise on the matter. In March 2015, the UN-TOE organized a joint visit to Mali with the Ministry of Justice to benefit from their experience. In March 2016, the UN-TOE supported the Ministry of Justice’s visit to UN Headquarters in New York and facilitated discussions with the Colombian Institute of Forensic Medicine to share their expertise. These activities enabled the Team to clearly define the required expertise, and the panel, with support from the legal advisor, drafted a forensic mandate concerning the identification and handling of mass graves containing the disappeared. However, the mobilization of this expertise was ultimately not pursued, as it was considered likely to delay the closure of the investigation and the start of trials.

3.1.35. **Interim conclusions.** Intentionality through operationalising the MoU and additional resources for the OTP on complementarity activities would have helped in ensuring that the activities under Articles 2 and 5 were more systematically and fully followed through. While the main instrument of implementation of the MoU for the OTP were its missions to Guinea, and these were indeed appraised by key stakeholders as valuable and needed, there could have been a more systematic assessment of needs and specific projects planned and executed for enhancing the capacity of the Guinean judiciary.

3.1.36. These efforts could have better leveraged the in-country presence and know-how of UN agencies, as well as potential implementing and funding partners. This overall approach would also ensure that specific vulnerable populations are less likely to be left out from the domestic proceedings and accessing justice.

3.1.37. Despite these weaknesses, the OTP managed its complementarity efforts relatively well, particularly under the resource constraints, its remote monitoring and the challenges encountered at the national level during the trial proceedings. The same may be said of the Guinean authorities, since domestic trials were started and the main judgment of first instance completed, with crimes re-characterized from ordinary crimes to crimes against humanity.

3.2. The Investigation Process at the National Level

Summary of International and National Accountability Processes

- 3.2.1. The ICC immediately opened a preliminary examination following the events at the Conakry national stadium and reached a conclusion in 2011⁵⁸, with a formal conclusion to the Preliminary Examination stage announced on 28 September 2022. The UN-COI started the investigation on 28 October 2009 and completed it on 18 December 2009, issuing a report by 18 December 2009. The conclusion of the UN-COI was that it is highly likely that crimes against humanity were committed and issued a list of suspects at the highest level of responsibility, including Mr. Moussa Dadis Camara, the then President. One of its recommendations was that the ICC should investigate and prosecute these crimes.
- 3.2.2. The national accountability process in Guinea started on 8 October 2009 through the establishment of the National Independent Commission of Inquiry (CNEI, *Commission Nationale d'Enquête Indépendante*) by one of the main suspects of the crimes, the former President Mr. Camara. The CNEI was analysed by the OTP as biased and lacking sufficient power to investigate the crimes committed.
- 3.2.3. With the first high-level OTP mission to Guinea in February 2010, the Guinean authorities also initiated the national judicial inquiry/national investigations by drawing a pool of designated judges to investigate domestically into the events of 28 September. A timeline of the accountability processes, milestones and challenging periods is summarised in Table 1 below.

Table 1: A timeline of accountability processes, milestones and challenges in Guinea (2009 – 2025)⁵⁹

Dates	Events
14 Oct 2009 (until 28 Sep 2022)	ICC Preliminary Examination Phase
28 Oct 2009 (until 18 Dec 2009)	UN Commission of Inquiry process to establish the facts and circumstances of the events of 28 September in Guinea
8 Oct 2009	Creation of the National Independent Commission of Inquiry (CNEI)
2010	Faced with the stalling of the proceedings initiated at the national level, FIDH and its member organization in Guinea joined the proceedings as civil parties

⁵⁸ ICC-OTP, Report on Preliminary Examinations Activities, 13 December 2011, para. 113.

⁵⁹ Based primarily on OTP internal report on judicial progress in Guinea (2019).

	on behalf of 67 victims of serious crimes, including sexual crimes, thus restarting the legal process in this case.
8 Feb 2010	Opening of the national judicial inquiry/ investigations (pool of designated judges)
15-19 Feb 2010	First ICC-OTP mission to Guinea
20-21 May 2010	Follow up ICC-OTP mission to Guinea
27 Jun 2010 to 7 Nov 2010	Presidential elections – interruption of national investigations
2 Dec 2010	Election of Alpha Condé as president
Jan 2011 to Dec 2012	Lack of resources, limited progress in investigations
28 Sep 2013	Legislative elections – inter-ethnic violence, suspension of national investigations
Jan 2014	Appointment of Cheick Sako to the Ministry of Justice – resumption of the case (he resigned on the 31 May 2019)
11 Oct 2015	Presidential elections – further delays and violence
May 2015	Toumba Diakité is added to the list of suspects
2016 to 2017	Major progress: • Indictment of several high-ranking suspects, including Dadis Camara and Claude Pivi. • Resumption of hearings of victims and key witnesses. • Reduction of investigation delays thanks to increased logistical support
29 Dec 2017	Completion of the national investigation and the referral of 13 individuals to trial, requesting: (1) the requalification of the charges retained against the accused to crimes against humanity (instead of ordinary crimes); and (2) the referral for trial of two indictees who had benefitted of a partial discharge
25 Jun 2019	Final indictment of 14 individuals and decision of Supreme Court on charge of complicity instead of command responsibility
28 Sep 2022	The ICC Preliminary Examination ends (13 years) The Memorandum signed between the ICC and Guinea Start of the national trial
31 Jul 2024	Judgment issued and the national trial of first instance completed, albeit with appeals submitted by almost all parties of the initial ruling, rendering the decision not yet final at the time.
26 Mar 2025	Decree on financial compensation to victims
29 Mar 2025	Decree on pardon to Moussa Dadis Camara

Key Challenges Encountered

3.2.4. Table 2 outlines the key challenges encountered during the national investigations: political, operational and legal/investigative.

Table 2: Key challenges encountered during the national investigation process in Guinea

Political	• Re-election required support from ethnic group where majority of perpetrators come from • Frequent changes of Ministers of Justice
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	• Decisions of the President of State that may be perceived as interference with the independence of the judiciary
Operational	• Lack of resources: low special allowances for remunerating judicial personnel for the trial often not paid in a timely manner, an adequate building for a courtroom and the cost of a new building, ensuring the safety and security of judicial personnel and participants in the judicial process • Delays in operational progress overall due to resource constraints and lack of political will; unfulfilled financial pledges from international partners
Investigative	• Intentional attempts to conceal evidence immediately following the incident • Scarcity of evidence collected to support a case • First time to investigate international crimes of this nature, complexity and proportion, including sexual and gender-based violence • Inability to identify alleged mass graves • Lack of specialised competencies e.g. understanding of the elements of the international crimes and the way to investigate them, especially the sexual and gender-based crimes • Threats, intimidation and stigmatisation of victims and magistrates • Alleged perpetrators holding governmental positions during the investigative period (Minister of Defence, Head of Presidential Guards) • Inability to locate some of the alleged perpetrators, some of whom fled abroad, including to neighbouring countries • Lack of cooperation from States where alleged perpetrators or witnesses were located

Key Enablers Experienced

3.2.5. Despite the range of challenges encountered, the national investigative process experienced some key enablers too, at certain stages (Table 3).

Table 3: Key enablers experienced during the national investigation process in Guinea

Political	• The enabling environment created during the mandate of Minister of Justice Cheick Sako (e.g. Steering Committee/Comité du pilotage created) • OTP's continuous, consistent and transparent missions to Guinea • International diplomatic community's expressed willingness and financial support to develop capacity and build a courtroom, to support victim reparations and rehabilitation • Active civil society participation and engagement in Guinea
Operational	• The courtroom built and covered by the national budget • The EU funded projects implemented

Investigative	• Trust developed by the victims and civil society that domestic proceedings are possible and preferable to an ICC one⁶⁰ • The victims, their lawyers, the non-governmental organizations accompanying them played an active role for initiation, revival and support of the proceedings, including as civil parties • After an initial reluctance, stepping forward of numerous victims of sexual violence to participate in the investigative proceedings • The reform of the legal framework - penal code and code of criminal procedure – before the completion of the investigation • Sharing of UN-COI files with the Guinean judiciary, facilitated by the ICC and the UN • Judicial capacity development within the framework of the UN-Guinea Joint Communiqué signed by the SRSB-SVC in November 2011. • Responsiveness of civil party lawyers to the needs of victims of sexual violence
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OTP's Monitoring of the National Investigations

3.2.6. From 14 October 2009 until 28 September 2022 during which time the ICC preliminary examination process took place, the OTP conducted 21 missions. Up until 2019 when the national investigations were completed, the OTP undertook 18 missions.

3.2.7. During these missions, the OTP's monitoring activities included internal analyses, preventative messages and local press conferences and issues addressed with specific stakeholders with view of finding a solution. Some of these issues included the following: obtain a detailed update on the status of national investigations since OTP's previous visit; gauge the prospects of a trial in the near future; gauge political willingness to move the case to a trial; follow up on the investigative steps; discuss and commit to timelines; express concern of the ICC Prosecutor about the increasingly unjustifiable delay encountered by the proceedings; facilitate the exchange of evidential information from the UN-COI to the national investigators etc.

3.2.8. The mission reports gave no indications during this period that specific training and support from the ICC-OTP was received by the Guinean national investigative judges and other judicial stakeholders related to the events of 28 September 2009.

Outcomes of the National Investigations

⁶⁰ The development of trust into domestic proceedings was attributed by stakeholders as mutually due to both OTP's persistent and long-term involvement in Guinea, but also due to implementation of a litigation strategy that could be adapted to positive developments at the national level, fully integrating the principle of complementarity by the victims and civil society.

- 3.2.9. The investigations led to an indictment being confirmed against fourteen (14) individuals who were convicted in the first instance trial, some of whom an appeals procedure is ongoing.⁶¹ However, this seems to be only a first group because further investigations are still ongoing and might lead to more indictments in the near future.
- 3.2.10. The issuance of the indictment through a judicial order led to appeal challenges which were eventually concluded. It was only then that the trial could commence. However, the lack of political will at the highest level of the executive led to a non action, despite the pressure by the international community and the advocacy of the victims and survivors, and the civil society organizations supporting them.
- 3.2.11. . It was only when the transitional regime came in place in 2021 that the political will became strong enough to yield results. Hence the opening of the trial on 28 September 2022.

3.3. The First Instance Trial and Its Outcomes

- 3.3.1. The trial process started on 28 September 2022 and was concluded with the judgment issued on 31 July 2024.⁶² The written judgment is 287 pages long. It provides the history of the case and the identification of the accused and some of the victims with a summary of the testimony heard. The judgment also addresses the legal characterization of the offences as crimes against humanity.⁶³ Finally, the judgment includes a list of victims⁶⁴ who were granted a financial compensation.

3.4. The Financial Compensation to Victims and the Pardon

Key Issues Related to Reparations

- 3.4.1. Decree No. D/2025/040/PRG/CNRD/SGG⁶⁵ of 26 March 2025 provided for financial compensation for the victims by the Guinean State. This was a move that elated the victims widely, but it does raise numerous issues. First, only a limited number of victims named in the judgment was granted the compensation arising from this decree. Indeed, the inclusion of victims in the financial compensation scheme was the main issue related to reparations that was highlighted during the evaluation mission. AVIPA and the civil party lawyer have 776 individuals on its list of victims, but the judgment only listed 334 victims to which the presidential decree is applicable and there is likely to be duplicates, while not only victims on AVIPA's list were included. Prior to the decree, a non-vulnerable group of victims (politicians) were compensated first, which raised criticisms.

⁶¹ Annex 7

⁶² The composition of the tribunal/court, the civil parties in the first trial and the relevant chronology of the legal proceedings are summarized in Annexes 8-10.

⁶³ pages 196-204

⁶⁴ pages 276, 281-287. Sharing the full list of victims may have endangered their safety and compromise their anonymity.

⁶⁵ Annex 11

- 3.4.2. The IOM evaluation team could not determine how the judges came up with the list of victims in the judgment that does not match the list of those who were heard throughout the investigations or admitted as civil parties to the trial, let alone the totality of the victims, bearing in mind that not all the civil parties could testify, some having been discouraged either due to security threats and risks, or because the trials needed to advance so there was no time to include them in the process, bearing in mind the repetitive nature of some of their evidence.
- 3.4.3. Moreover, there is also an issue with the clarity of the identification in the judgment. Some victims did not think that it would be any worth coming forward and now with this presidential decree with reference to the victims listed in the judgment of first instance, they are claiming their rights as well. It is difficult, under those circumstances, to state that the right of victims to reparation has been fully upheld.
- 3.4.4. The IOM evaluation team noted that the OHCHR recommended in the steering committee to first pay administrative reparations and wait for the final appeals judgement before paying out reparations, but the Guinean Presidency decided that full compensation to all 334 victims mentioned in the first instance judgement be paid out. First payments were publicly broadcasted, putting victims at risk of retaliation and criminality given large sums of money were handed out.
- 3.4.5. The real difficulty remains how to integrate the other victims into the list. The IOM evaluation team heard from the experience of the Guinean compensation commission in charge of the implementation of the decree about the challenges related to victim identification, however, the ICC's Victim Participation and Reparation Section was not foreseen to be called on to support this process as part of the MoU.

The Pardon of former President of Guinea, Mr. Moussa Dadis Camara

- 3.4.6. On 29 March 2025, public media announced that Moussa Dadis Camara was granted a pardon by the President due to health reasons. At the time of the mission in June 2025, Moussa Dadis Camara was said to be in Morocco for medical treatment. The IOM team has requested to see the pardon issued from various stakeholders, including the OTP but has not managed to obtain it. Finally, the IOM searched and found it under Decree No. D/2025/045/PRG/CNRD/SGG published in the *Journal officiel de la République* or National Gazette of May 2025⁶⁶.
- 3.4.7. The IOM evaluation team heard about doubts raised on the health reasons while other defendants seem to have more serious health issues even though they were not equally granted similar clemency measures. Moreover, this pardon seems to have been granted as a surprise to all parties involved, without any prior consultation, while the withdrawal of the appeal was lodged by the beneficiary of the presidential measure, apparently without any knowledge of his defence team.

⁶⁶ journal-officiel.sgg.gov.gn/JO/2025/guinee-jo-2025-05.pdf (pages 142, 145), see also Annex 12.

- 3.4.8. The overall sentiment towards the pardon that the IOM evaluation team experienced during the visit to Conakry was that of disappointment, disbelief and hurt, particularly among the victims and affected communities. A victim commented on the timing of the pardon, suggesting that it would have been less hurtful if it was granted a year after the financial compensation. Some victims told the IOM evaluation team of experiencing intensification of the abuse, threats and intimidation from the supporters of Moussa Dadis Camara immediately following the issuance of the pardon.
- 3.4.9. Some of the diplomatic delegations⁶⁷ asked the IOM team why the OTP has not invoked Article 4 of the MoU⁶⁸ in light of the pardon and asked about the “silence” of the OTP on the matter. Many questioned if the MoU was disrespected with this development. Even some of the defence lawyers were surprised by the pardon because there was neither prior request nor consultation. Some stakeholders refused to comment, possibly out of fear.
- 3.4.10. The local, regional and international civil society organisations have all condemned the pardon, most publicly commenting on 1 April. The pardon violates the Memorandum of Understanding between the ICC-OTP and Guinea because it falls under the “significant change in circumstances” that could compromise the “genuineness” of the judicial proceedings. They have questioned the legal aspects of the pardon. The key legal issues related to the pardon include:
- The pardon was granted while Moussa Dadis Camara, the other accused and the Prosecution had filed an appeal. In other words, the verdict and sentence are not final yet. In addition, it was a surprise to learn that it was the government which announced that he had withdrawn his appeal. Doubts remain regarding the legality of the process. However, there was no decision of the Appeal Court on such a withdrawal. There are questions on how any appeals proceeding could take place without the principal perpetrator. There are concerns that more pardons might follow.
 - It is considered a violation of the fundamental principles of justice, accountability, and the fight against impunity, especially considering how soon after the trial judgment it has occurred.
 - The pardon for crimes against humanity is in contradiction with Guinea's national, regional, and international commitments, including the Statute of the ICC, which requires States to prosecute perpetrators of serious crimes.
- 3.4.11. **OTP’s mission to Guinea and communication on the pardon.** The IOM team has interviewed DP Niang and OTP staff on the last mission of OTP to Conakry on 19 to 21 May. The subsequent public statement on the mission included a commentary on the pardon itself in the main body of the

⁶⁷ This includes civil society organisations, e.g. <https://www.fidh.org/fr/regions/afrique/guinee-conakry/proces-du-28-septembre-2009-la-grace-accordee-a-moussa-dadis-camara>

⁶⁸ See Annex 5 for the content of Article 4.

text. This was the first public reaction on the pardon by the OTP, about 2 months after it has been announced in the media while the UN High-Commissioner and civil society organisations reacted a few days after the announcement of the pardon, releasing public statements on April 1.

- 3.4.12. During its mission, the IOM evaluation team noted the perception among numerous stakeholders that the OTP was slow and mild in expressing a critical reaction on the pardon, with some wondering why the reaction of the Court was not stronger, for example, triggering a re-assessment under Article 4, given the gravity of the situation.
- 3.4.13. Internally, the OTP monitoring staff alerted the management who also learned about the pardon on the day of its announcement, and they suggested a strategy to follow and recommendations to implement in addressing the pardon on 1 April. The IOM evaluation team was made aware that the OTP was formally notified about the pardon on 3 April through a letter sent by the Minister of Justice. The Deputy Prosecutor engaged with the Minister of Justice on the same day through a phone call, followed by an exchange of letters about a month later. However, the evaluation team has not been made privy to the substance of the verbal exchange.
- 3.4.14. Specifically, a letter was sent to the Prime Minister, the Minister of Justice and the President on 5 May and a telephone conversation ensued between the Deputy Prosecutor and the Minister of Justice on 6 May expressing concerns about the pardon. It was then after the OTP mission that the OTP public statement on 23 May was issued on DP Niang's fourth mission to Guinea.
- 3.4.15. The rationale of the OTP at the time was to make sure *the Office possesses all the relevant information before making any public communication on the issue*, which should also reflect the outcome of the discussions with the Guinean authorities and other relevant stakeholders *in situ* at the conclusion of the mission. While this is a necessary approach, the IOM evaluation team is of the opinion that public perceptions and OTP's communication on sensitive matters need to be attended to simultaneously, as well as managed carefully and in a timely manner.

3.5. Reflection on Sexual and Gender Based Crimes and Human Rights

- 3.5.1. The IOM evaluation team is cognisant of the efforts of the OTP to partner with the Special Rapporteur on Sexual Violence in Conflict, as well as the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict being continuously active in Guinea since the signing of a Joint Communiqué in November 2011, providing advice, workshops, and advocacy efforts on the issue of sexual violence. The UN-TOE has been working in close collaboration with the ICC throughout that time.
- 3.5.2. Despite these effort, having thoroughly reviewed the judgment, the IOM evaluation team noticed that it does not provide any critical level views on the sexual and gender-based crimes relevant to

the case.⁶⁹ Indeed, the factual allegations came through the testimonies, with the cautionary language based the local culture, and the trial judges drew the conclusions without any further analysis. However, this category of victims was awarded the largest award among the victim categories.

- 3.5.3. Yet, some of the female victims heard had a graphic description of the sexual abuse, some having even been kidnapped by the armed individuals who kept them for two to three days, and being subject to continuous sexual violence and torture.
- 3.5.4. This is also valid for the social groups that were affected by the offences, and the judgment did not identify them in any specific way. Yet, the team was told by countless stakeholders, except for the governmental officials, that the majority of the victims are Peul while the accused are mainly from the forest region.
- 3.5.5. Both the sexual and gender-based crimes and the ethnic political line were noted by the UN-COI, as well as a number of reports by the non-governmental and civil society organisations.

3.6. Coherence, Efficiency and Sustainability Issues

- 3.6.1. **Coherence issues.** The evaluation addressed how coherent the efforts were of the various stakeholders in achieving the overall goals of the Memorandum. Not all judicial stakeholders interviewed by the IOM knew of the existence of the MoU (which contains a clause on inter-entity coordination and cooperation needed), which indicates its limited use and impact. Furthermore, the observation and as reported by some of the national stakeholder during the IOM evaluation mission was that coordination between the various governmental entities is weak, which affects complementarity efforts domestically.
- 3.6.2. The OTP showed consistency in their approach to implement the MoU by engaging with the same key stakeholders during OTP missions. In terms of jurisprudence, the re-characterization of crimes brought consistency with the goals of the MoU. However, the IOM evaluation team also found that OTP could have assisted better on the characterization of the offences, preferably well before the MoU was signed. OTP could also have arranged for the legal team of the ICC Judges or Registry to assist the Guinean Judges by training them directly or through facilitation of support by other partners to deepen understanding of possible charges: that would have provided them with the substantive knowledge to address some of the issues, including those in section 3.5.
- 3.6.3. The IOM collected limited data and information to be able to reflect on other existing national programmes and activities that align with the overarching goals of complementarity in Guinea addressing impunity for the victims of crimes committed on the 28 September 2009. The UN,

⁶⁹ The Court awarded reparations to the various categories of victims. Each victim of sexual violence was awarded 1.5 billion Guinean francs, (approximately \$174,000), to be paid by those found guilty, the largest award among the victim categories (UN-TOE).

especially the OHCHR Country Team, the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, and some NGOs (e.g. Global Survivors Fund, OGDH and AVIPA) implemented capacity development and reparation projects. However, with the exception of the UN-TOE, it is not clear whether the OTP has had a pivotal role in facilitating these projects.

- 3.6.4. Pre-dating the MoU, the IOM took note of the willingness of the various diplomatic missions in Conakry to fund the building of the courtroom (e.g. the US, the EU, France), or to train the magistrates (e.g. French delegation in Conakry). However, there appeared to be no strong coordination or coherence in the mobilisation of funds, eventually leading to the new political echelon funding the courtroom.
- 3.6.5. One of the constraints was that providing direct funding by the diplomatic missions in Guinea would be challenging given that the new authorities were not democratically elected. However, the IOM (and the OTP at the time) was assured for example by the EU that funding towards victims' organisations would continue.
- 3.6.6. **Efficiency issues.** The evaluation addressed whether the overall implementation of the MoU was cost-efficient for both parties of the MoU, and if there were any efficiency related constraints to achieving results in terms of timeliness, budget and/or financial/human resource use for both the OTP and the Guinean authorities.
- 3.6.7. An efficiency analysis based on budget and finance information from the OTP and the Government counterparts on the implementation of the MoU was not possible to be carried out because such information was not available. It is not possible to distinguish the allocation of OTP budget on complementarity activities in a certain situation,⁷⁰ however, it is possible to make an estimated assessment of the investments made on the basis of mission travel and staff allocation.
- 3.6.8. The evaluation could reflect on the investments made by both parties for complementarity efforts. The OTP conducted in total 5 missions (two in 2022) from 2022 up until today to Guinea with 3 to 5 ICC staff in each mission. While the MoU dictated that two missions per year will be conducted by the OTP, in reality half of that was delivered.
- 3.6.9. A single staff member at the P-3 level was assigned as the focal point for Guinea on a part-time basis. He has complementarity activities reflected as part of his performance review (Guinea and other situations collectively) but recalling how much time he spent on Guinea was difficult and not possible to do reliably.
- 3.6.10. Based on these observations, as well as the complexity of the context and that there is no presence of OTP in Guinea, the IOM is of the view that this level of coverage is a bare minimum

⁷⁰ Making it impossible to compare complementarity activities in Guinea versus complementarity activities in other countries in which OTP operates.

for the essential aspects of administrative monitoring, legal analysis and mission planning related to the Guinean situation.

- 3.6.11. However, this situation could have been enhanced with the better leveraging of in country strategic partners who monitored the trials on a daily basis such as the OHCHR Team in Guinea who could also have been used for the other goals of the MoU. It is worth noting that the Head of OHCHR when initially approached by the IOM was not aware of the existence of the MoU.
- 3.6.12. The IOM also observes that, aside the complementarity expertise of the focal point in OTP, other specialised expertise could have been mobilized by the OTP for the implementation of the MoU (e.g. project management, partnership and financial mobilisation) to make up a small team with the focal point. This is related to the observation that in-country partners and ICC internal partners would have been useful to complement OTP resources and enhance efficiency.
- 3.6.13. While certain cooperation did occur, it is the observation of the IOM that more intentionality and a proactive approach on cooperation and partnerships at the design stage of the MoU would have been beneficial. The OTP remarked that in-country cooperation in complementarity usually depends on common history and interest between the OTP and a given partner entity.
- 3.6.14. The training and service provision commitments under the MoU would have potentially be more likely to be leveraged if the MoU was arranged prior to the start of the trial, and the early stage of the investigations. However, the IOM is cognizant of and appreciates that political conditions have to be enabling for such an MoU to seize the moment and come into existence (namely, a shift at the top leadership position in Guinea made it favourable) and be signed at the highest level of the Guinean State.
- 3.6.15. As mentioned earlier, the IOM obtained some limited information on the required budget and plan concerning the building of the courtroom in Conakry prior to the start of the national trials (Box 3)⁷¹, as well as the running expenses of the judiciary during the investigation and the trial. It is worth noting that the Guinean Judges, the Prosecutors and the Registry key staff were provided with full-board accommodation in a hotel for the two years that the trial lasted, for security reasons. A representative of civil society in Guinea remarked how the Guinean

Box 3: The construction of the courtroom. The construction of the Dixinn courtroom, where the trial for the crimes of the 28 September 2009 was held, is a significant demonstration of the complementarity by the Guinean authorities. The financial plan for this project was available, and the courtroom was ultimately built and funded through the national budget of Guinea. The OTP monitoring reports showed that the international diplomatic community had expressed willingness to contribute financially towards courtroom construction, however, it is unclear if these pledges were ever materialized.

⁷¹ Annex 13

population has not been informed up to date on the amount of money that went into the running of the trial.

- 3.6.16. **Sustainability issues.** The evaluation addressed how likely it is that the judicial experience at the national level is sustained in the long term. Additionally, the sustainability question reflected on the conditions needed to fully leverage the MoU as a means of capacity development for the Guinean authorities long-term.
- 3.6.17. The IOM could not fully assess this question since there was insufficient data that could be used to assess it, except some limited qualitative information. It is safe to assume however, that the starting point or the baseline for the Guinean judiciary was insufficient, non-applicable or in some areas simply absent of experience in international criminal law and its application in the domestic context, from investigations, prosecution and reparations. Wide ranging examples include how to gather relevant evidence for international crimes, treat the victims with caution to avoid further trauma, to characterize the offences whether domestic/ordinary or international, to assess the evidence at hand to make meaningful findings, etc.
- 3.6.18. On the OTP side, as previously noted, due to the precarious rather than well planned and intentional development of capacity and without any assessment of needs or conceptualising a well-timed annual implementation plan, for example (e.g. with the signing of the MoU the trials immediately started and the IOM evaluation team was told that the judges did not have time to undertake training⁷²) the IOM found that the operationalisation as envisaged under the MoU has room to improve.
- 3.6.19. In the broader context, it is the experience of the Guinean judiciary of holding its first ever trial of international crimes in the country and the region that will be valuable in moving forward to completing the delivery of justice in Guinea. The MoU can still be leveraged to develop the capacity of the national judicial system long-term, for example, in resolving the ongoing legal issues, reparation issues, memorialisation for national reconciliation issues⁷³ etc.
- 3.6.20. The OTP can continue to be much needed in these areas to help further develop capacity with the Guinean judiciary, and other parts of the ICC can also contribute to add to the impact. These capacity development exercises can also be implemented through visits of the Guinean judiciary to the ICC Headquarters, provided that such visits encompass a learning opportunity.
- 3.6.21. It is important that both the Guinean judiciary and the OTP reflect on lessons learned in the domestic prosecution of international crimes. This indeed, was envisaged as part of the OTP exit

⁷² The IOM was made aware that a training programme was implemented in Guinea in late 2024 and follow up training in early 2025 organized by the Siracusa International Institute for Criminal Justice and Human Rights in which OTP delivered some direct training.

⁷³ During the last OTP mission in May discussions on memorialisation, archiving and national reconciliation took place.

strategy and the IOM supports that a joint lessons learned exercise takes place. Such an exercise can reflect on forward-looking issues that relate to sustainability of the capacities developed.

- 3.6.22. The IOM evaluation team noted that certain structural issues may limit the retention of capacity developed. The low level of salaries for the judiciary, limited training opportunities and protection issues may dissuade the retention of judicial personnel in the national system.
- 3.6.23. As was the case from the start of national and international accountability mechanisms regarding the crimes committed on the 28 September 2009 at the national stadium, political will remains one single pre-condition for any small or large step forward and progress in general, with or without the use of the existing MoU.
- 3.6.24. However, demand for accountability and for addressing impunity by the ICC, the UN system, the NGOs and the victims and affected communities may also be a powerful driver for continuing to develop capacity in areas that may be still lacking such as forensics, reparations, memorialisation and archiving, for example.

4. LESSONS AND RECOMMENDATIONS

4.1. Moving Forward

- 4.1.1. After the completion of the trial of the first instance, and the presidential pardon to the main accused, the enforcement of the MoU remains relevant to the work to be done in Guinea. Indeed, the healing of the nation sixteen years after, reconciliation and the memorialisation for the victims and affected communities remain important and require intentional effort and support from the OTP and other partners.
- 4.1.2. This also requires mindful political choices going forward, as well as specific and coordinated projects that address these processes covered by or outside the MoU and involving the Guinean civil society, including the victim associations. In the current context, the OTP continues to be one of principal contributor to closing the gap to impunity and safeguarding the interest of justice in complementarity situations.
- 4.1.3. Furthermore, it requires transformative effort to address the stigmatisation of the victims, including its culturally conditioned and gendered aspects; as well as their trauma, rehabilitation and reintegration into society; and the livelihood of the victims. While these goals do not necessarily fall under the mandate of the ICC, they need to be addressed for healing to happen. The Memorandum on complementarity in Guinea or elsewhere must be seen primarily through the perspective and the lived experience of the victims.

4.2. Lessons on Complementarity for the Court and the Guinean Authorities

- 4.2.1. The following reflection on lessons on complementarity in Guinea may be considered valuable for both the OTP and the Guinean authorities. Some may be partly generalisable to other complementarity contexts in which the Court is engaged.
- 4.2.2. **Lesson 1: A symbol of political will and an accountability mechanism.** An MoU on complementarity may represent a symbol of political will to ensure that impunity is addressed through a domestic accountability mechanism. It has to be signed at the right level of executive power and at the right time to leverage its purpose and the OTP needs to exercise its vigilance continuously.
- 4.2.3. **Lesson 2: Operationalisation of the Memorandum on complementarity.** An MoU must include an operationalization plan with indicators, a communication strategy, and mutual commitments. This also requires adequate resources and specialist expertise in addition to complementarity related competencies. The activities and interventions to be timely to be fit for purpose and relevant. Continuation terms and an exit strategy are also important operational components.
- 4.2.4. **Lesson 3: The meaning of justice in complementarity efforts.** Justice must be envisaged holistically, namely as a judicial, social, memorial, transformative and reparative process. An MoU with the ICC on complementarity that focus on domestic proceedings addressing international criminal crimes are inherently positioned in this wider context.
- 4.2.5. **Lesson 4: Coordination and cooperation.** Complementarity is only achievable if it is an inter-institutional, coordinated effort backed by sufficient resources. This applies to the ICC States Parties, the ICC as a whole including the OTP, as well as the domestic systems and inter-governmental entities.
- 4.2.6. **Lesson 5: Breaches of complementarity.** The ICC/OTP has significant responsibility to determine when complementarity is not respected in the domestic process. It needs to communicate clearly, consistently and in a timely manner when the boundaries are breached, and act in line with complementarity principles and the interest of justice.

4.3. Recommendations for the Court and the Guinean Authorities

- 4.3.1. **Recommendation 1:** Facilitate the leverage of the ICC and the High-Commissioner on Human Rights to ensure that the Memorandum of Understanding on complementarity is implemented and honoured (see paragraphs 3.4.9 – 3.4.12; 3.6.3; 3.6.10 – 3.6.12).
- 4.3.2. In line with the ICC-OTP's Policy on Complementarity and Cooperation, and for the purpose of fostering conditions to enable the genuine and effective administration of justice, the ICC Prosecutor and the United Nations High-Commissioner for Human Rights should continue to engage in promoting complementarity in Guinea, for example, by issuing joint statements or conducting joint missions.

4.3.3. This would harness the existing cooperation mechanisms under the Relationship Agreement between the United Nations and the Court, to promote the independent, but mutually reinforcing and complementary mandates of the Prosecutor and the High-Commissioner for Human Rights. Any other key stakeholder who could help contribute towards the fulfilment of the goals of complementarity in Guinea should be welcomed as a partner, both at the diplomatic and operational levels, given that the ICC and the OTP do not have country presence in Guinea.

4.3.4. **Recommendation 2:** Equip the Memorandum of Understanding with an enforceable protocol and joint monitoring committee (see paragraphs 3.1.4 - 3.1.10).

4.3.5. While the Memorandum itself is a useful document manifesting commitment, it could be further strengthened operationally to ensure it is also an accountability tool with an enforceable practice to show more serious commitment. This will ensure that the activities it envisaged are implemented by both parties, and that it is a known accountability document by all relevant stakeholders, particularly the Guinean people. As the Steering Committee, its membership could also include other relevant stakeholders such as victim associations, civil society and the UN.

4.3.6. **Recommendation 3:** Ensure that other Organs and Entities of the Court are proactively engaged in the implementation of the Memorandum of Understanding on complementarity in Guinea (see paragraphs 3.1.24; 3.4.1 – 3.4.5; 3.6.2).

4.3.7. The IOM has observed that in Guinea, contrary to some other situations, there were no engagements by other Organs of the Court to help with the implementation of complementarity activities. To this end, it is beneficial to consistently consider joint complementarity related activities from the start of any MoU on complementarity, with the view of achieving more impact in a domestic system.

4.3.8. As regards to Guinea, as long as the MoU is active, the engagement of other Organs of the Court could be considered in fulfilling the objectives of the MoU. For example, given the ongoing challenges with victim identification in Guinea, the OTP can facilitate a targeted intervention of support through the Victim Participation and Reparations Section to the Guinean judges and related reparation entities of the Guinean Ministry of Justice, such as the Steering Committee and the *Unité de Gestion du Procès*. Such an intervention would help the inclusivity of the reparation process in Guinea. Equally, the planning of activities or assistance activities to victims could be informed by the Trust Fund for Victim's expertise.

4.3.9. **Recommendation 4:** Ensure that the OTP has adequate resources dedicated to complementarity in Guinea that goes beyond monitoring and mission activities (see paragraphs 3.6.8 – 3.6.9; 3.6.11).

4.3.10. The evaluation found that OTP monitoring preceding the signing of the MoU through its missions to Guinea was frequent, effective, consistent in its approach, and had a deterrent effect when needed and valued. With the commencement of the domestic proceedings, while the OTP missions continued to be valued by all stakeholders, they appeared to become more hands off and less resourced.

4.3.11. In terms of expertise, while the technical competencies in complementary are an essential requirement, they need to be complemented with additional expertise and human resources, such as a project manager, training and partnership specialists, etc. Creative ways need to be found to ensure that the OTP's commitment is adequately resourced, for example, through the use of the existing Complementarity Trust Fund.

4.3.12. **Recommendation 5:** Strengthen national capacities with technical support and targeted training in a timely manner (see paragraphs 3.1.24; 3.4.1 – 3.4.5; 3.6.2; and also 3.6.19 – 3.6.20 and 3.6.23).

4.3.13. Going forward with complementarity in Guinea means that it is important that there is capacity in the current areas of focus (e.g. victim identification, archiving, memorialisation) and that any needs to strengthen these are assessed and appropriate technical support and training are provided in a timely manner. This also means keeping detailed records of such technical support and training as part of OTP's monitoring dossier on Guinea.

4.3.14. In order to harness all means and resources possible for ensuring that technical support and training is provided in Guinea for the current needs, the OTP could draw on the experience and service provision from other Organs (Recommendation 3) but also consider the existing ICC complementarity and cooperation forum⁷⁴ to mobilise specialised expertise from other Member States.

4.3.15. **Recommendation 6:** Facilitate the provision of support in exhumations by linking relevant international partners, such as the International Commission of Missing Persons with Guinean authorities in the context of memorialisation and the healing of victims and affected communities (see paragraphs: 3.1.25 and 3.1.26; and 4.1.1).

4.3.16. For the sake of national reconciliation, memorialisation and healing, victims who have not survived the massacre and whose bodies have not been found need to be honoured and their families' wishes respected. The OTP can facilitate the process of exhumation upholding the dignity of victims of enforced disappearances. A key partner may be the International Commission of Missing Persons, and existing mechanisms may be used such as the ICC complementarity and

⁷⁴ Available on the Assembly of States Parties (ASP) website: <https://asp.icc-cpi.int/complementarity/Platform>.

cooperation forum for identifying other potential partners. This recommendation is linked to Recommendations 3 and 5.

4.3.17. **Recommendation 7:** Adopt a consistently victim-centred approach, including women, children, disabled victims and indirect victims (see paragraphs: 3.1.11 – 3.1.16; 3.1.18 – 3.1.21; and section 3.5).

4.3.18. While the goal of the MoU - the trial itself as supported by OTP - was directly responding to the needs of victims seeking justice for the crimes committed at the Conakry stadium, the adoption of a victim-centred approach in the case of Guinea seems to be a learning process. This is compounded by cultural values, conditioning and stigmatisation attached to the victims. Successful legal outcomes and activities that contributed to them are important but the process of getting to them and the way that victims are treated by the community along the way contribute, or not, towards that accomplishment. Additionally, the MoU itself could endorse a more victim responsive approach demanding more victim-centred outputs and outcomes even if implemented through partners.

4.3.19. **Recommendation 8:** Assess the enforcement of sentencing in the context of a pardon and as part of a complementarity assessment; require transparency and justification for any such measures; and reflect on legal and non-legal mechanisms to prevent an impunity gap through a pardon (see paragraphs: 3.4.6 – 3.4.15).

4.3.20. Even though the Rome Statute does not address pardons, the ICC as an institution that stands for the interests of justice addressing impunity for the most unconscionable crimes has to have a clear and unequivocal position about it. Similarly, if the President of Guinea has the best interests of justice and national reconciliation at heart, his political decisions need to be compatible with such interests.

4.3.21. Complementarity does not end with trial proceedings, and OTP needs to assess the enforcement of sentencing in domestic proceedings, including its length and timeliness in the context of pardons to ultimately evaluate if it is in the best interest of justice.

4.3.22. Furthermore, the OTP can exercise its responsibility under article 4 of the MoU to do so. Going forward, both parties have the opportunity to communicate their positions more clearly on the pardon for the interests of justice and the sake of victims of crimes committed at the Conakry stadium. **This recommendation applies in the current situation and becomes more critical if additional pardons are granted in Guinea.**

4.3.23. In addition to applying this recommendation in the context of complementarity in Guinea, the OTP should lead and facilitate a Court-wide reflection on how to manage this type of situation through both existing or new legal means, as well as non-legal mechanisms.

4.3.24. **Recommendation 9:** Create a national programme for inclusive memorialisation and reparations (see paragraphs 3.6.23; 4.1.1; and 3.6.18).

4.3.25. The IOM evaluation team has positively noted the memorialisation discussions as part of OTP's exit strategy in relation to its involvement with Guinea. There is a range of current issues related to reparations of victims that the evaluation highlighted.

4.3.26. A national programme for memorialisation and reparations has to address the victims that were excluded from the financial compensation scheme, whether because of not participating in the proceedings, because of specific vulnerabilities or because they have not been correctly identified to date. Strategic partners in relation to these efforts can be identified and formalised through the use of the MoU (e.g. the TFV, GSF).

ANNEX 1: EVALUATION TERMS OF REFERENCE

1. Background

- 1.1. Complementarity is at the heart of the Rome Statute, embedded in the preamble of the Rome Statute⁷⁵ and in Articles 17 and 53⁷⁶. The International Criminal Court (“the ICC” or “the Court”) conducts investigations and, where warranted, tries suspected individuals charged with crimes of genocide, war crimes, crimes against humanity, and crimes of aggression. The Court cannot achieve these goals alone and therefore it is a Court of “last resort”: it seeks to complement, not replace, national Courts and does so where a national legal system fails to do so because the State is unable or unwilling to do so genuinely. The Rome Statute, therefore, recognizes that States have the first responsibility to prosecute international crimes.
- 1.2. In line with the ICC Office of the Prosecutor’s (OTP or “the Office”) Policy on Complementarity and Cooperation⁷⁷, the current strategic cycle and the OTP Strategic Plan (2023-2025)⁷⁸, the Office has prioritised the need to increase its ability to provide direct, tangible support to national proceedings using a two-track approach, that is, strengthening partnerships with States to promote cooperation and complementarity, while remaining vigilant in its mandate to independently and impartially investigate and prosecute crimes under the Rome Statute⁷⁹.
- 1.3. Accordingly, the OTP has set to deliver targeted activities and bring cost-effective and impactful change in domestic contexts fully aligned with the goals of complementarity and cooperation (positive or dynamic complementarity). The rationale behind this approach is that ultimately, helping national systems will also ensure a more effective implementation of OTP’s core mandate and relieve its overall caseload by developing and reinforcing capacity at the national level.
- 1.4. Therefore, the OTP committed to contribute to action at the national level through:
- i) Implementing **complementarity programmes** with relevant States Parties incorporating, for example, training on investigations and prosecutions, provision of direct support in the field of forensics and other technical fields, legislative/regulatory reform, and the hosting of regional or national events to increase dialogue across relevant actors.
 - ii) establishing **field presence** in relevant States for the purpose of, inter alia, implementing cooperation and complementarity activities;

⁷⁵ “Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions”

⁷⁶ Article 17: Issues of admissibility

Article 53: Initiation of an investigation

⁷⁷ <https://www.icc-cpi.int/sites/default/files/2024-04/2024-comp-policy-eng.pdf>

⁷⁸ <https://www.icc-cpi.int/sites/default/files/2023-08/2023-strategic-plan-otp-v.3.pdf>

⁷⁹ Paragraph 3 of the OTP Policy on Complementarity and Cooperation.

- iii) **increasing the provision of information and material relevant to domestic proceedings** under Part 9 of the Rome Statute;
- iv) using **seconded personnel** for forensic and scientific support to the Office and deployment in relevant situations to provide expertise and assistance with respect to, inter alia, crime scene analysis, digital forensics, and mass grave excavation;
- v) developing and implementing **best practice guides** in relevant policy areas to support the investigation and prosecution of Rome Statute crimes by national authorities.

1.5. One of the ways in which these complementarity programmes are manifested are through the signing of Memoranda of Understanding (MoUs) with relevant Governments to promote and implement these complementarity activities, which is the focus of the planned evaluation case study.

1.6. As of January 2025, and under the mandate of the current Prosecutor, the OTP signed various MoUs on complementarity with 6 States that include **the Central African Republic (CAR) (2), Colombia, the Democratic Republic of the Congo (DRC), Guinea, Sudan (2) and Venezuela (2)**. In addition, an MOU was signed with the **Independent Investigative Mechanism for Myanmar (IIMS)** in the Bangladesh/Myanmar situation and the Joint Investigation Team in Ukraine.

1.7. Agreements have also been signed in terms of **field presence**, for example, an OTP country office was opened in Caracas; in April 2024 the OTP and the Government of Colombia signed an agreement on the establishment of an OTP office in Bogotá, Colombia; rotational extended mission deployments were conducted since May 2022 in Ukraine and an ICC country office was opened in Kiev in September 2023.⁸⁰

1.8. In addition, **strategies** (Libya), **joint team agreements** (e.g. OTP, national authorities and Europol in Libya⁸¹; the Joint Investigation Team in Ukraine), **joint workplans** (with the Special Jurisdiction for Peace in Colombia), **action plans** (Colombia); and roadmaps were also agreed by the OTP with States Parties or entities in, or, concerning State Parties. Moreover, **incoming requests of assistance** by national authorities were responded to by OTP in relation to several different situations (e.g. in CAR by the Special Court, Afghanistan by Australia and the UK). These agreements were all signed by the OTP and the other party(ies) as mutual commitments towards pursuing accountability for Rome Statute crimes in support of genuine national proceedings through complementarity.

1.9. As a precondition to and in addition to the above actions and efforts, the Registry and the OTP also support the development of legislative/regulatory provisions seeking to increase alignment of domestic legislation with the requirements set out in the Rome Statute or for the conclusion of supplementary agreements and arrangements to further cooperation and assistance (support to legislative/regulatory reform).

⁸⁰ OTP Annual Report 2024.

⁸¹ The Joint Team Agreement is within the framework of article 19 of the United Nations Convention against Transnational Organized Crime (UNTOC).

2. Evaluation mandate

- 2.1. The IOM recognises the increasing importance of complementarity and cooperation for the OTP and the Court. The initial proposal for this evaluation was based on IOM's proposal to the Bureau submitted on 25 October 2024. The IOM was subsequently requested to conduct a complementarity case study evaluation by a Bureau decision on 12 November 2024. On 13 January 2025, the IOM contacted the OTP to seek consultations on selecting an appropriate country for a case study and received a response on 3 February 2025 proposing Guinea.⁸²
- 2.2. The complementarity case study is timely and strategic given the publication of OTP's Policy on Complementarity and Cooperation and a strategic focus on complementarity activities.
- 2.3. An independent evaluation of a complementarity country case study, where a MoU has been signed between State Parties and the OTP would be useful to inform ongoing complementarity efforts. This independent evaluation would be the first of its kind on the topic of complementarity.

3. Evaluation purpose and objectives

- 3.1. The purpose of the evaluation is to highlight the joint complementarity commitments and take stock of the progress made on these by the OTP and a Government counterpart in a country selected by the IOM where there is a signed a MoU on Complementarity.
- 3.2. The objectives of the evaluation are to:
- i) create a theory of change⁸³ concerning the MoU commitments and beyond, in terms of the intended changes that the Government and the OTP envisage in co-creating in the given country (and region), identifying the preconditions and assumptions and target stakeholders;
 - ii) assess if the MoU adequately responds to the needs of the selected national judicial system and within the boundaries of OTP's mandate and policy on complementarity;
 - iii) take stock of the results achieved in implementing an MoU on complementarity between the OTP and a selected country in terms of activities, outputs and outcomes;
 - iv) assess what challenges exist in implementing the MoU and what enabling factors support its implementation;
 - v) assess if the activities envisaged in the MoU are likely to sustainably develop capacity at the national level and meet the longer term complementarity goals;
 - vi) distil lessons from the ongoing implementation of the MoU, including human rights principles.

⁸² The IOM evaluation inception report will outline the rationale for selecting a country for the case study, as well as the overall country context.

⁸³ A theory of change is an outline of the planned positive changes that an intervention, such as the activities committed to in a Memorandum of Understanding are intended to achieve, under given preconditions and assumptions. A theory of change helps plan interventions, and at a later stage, assess results and outcomes.

3.3. The evaluation is intended to be useful for the ASP and the working group on complementarity, the OTP, the Government and other relevant entities with whom the OTP has signed the MoU and the Court overall in the context of the OTP's strategic focus on complementarity. The evaluation is also intended to be of primary use to the rights holders, particularly the most vulnerable victims⁸⁴ and marginalised groups or communities affected by Rome Statute crimes. It is intended to be useful to external stakeholders of the Court and the OTP who are interested in complementarity activities or developments, particularly civil society organisations in the country, as well as the regional and international actors. The evaluation results will provide feedback to the implementation of OTP's Strategic Goal 2: "Enhance efforts by national authorities to fight impunity" under the current OTP Strategic Plan 2023-2025. More broadly, the evaluation is intended to be a contribution of evidence towards the Sustainable Development Goal 16⁸⁵.

4. Evaluation scope

4.1. The evaluation scope will provide an overview of the country context in terms of the national legal system and relevant country indices, policies, programmes and initiatives in the context of the national jurisdiction covering international crimes, and specifically those falling under the Rome Statute. The scope will also involve a legal analysis of the investigation and prosecution portfolio relevant under the MoU signed with the OTP.

4.2. The evaluation analysis will cover the scope of all activities and outcomes covered in the MoU both for the OTP, as well as the Government counterparts from the date of signing the MoU to the present time.

4.3. The geographical scope will be limited to that of the country context, however, the evaluation will also consider any other relevant regional factors affecting results or effectiveness.

5. Methodology

5.1. The evaluation will employ a case study methodology. Case study methodology examines one or more "cases" that could be described as instances, examples, or settings where the problem or phenomenon can be examined. Case studies are inherently mixed methods and draw from more than one data source⁸⁶.

⁸⁴ The IOM uses the term "victims" in the legal and broader meaning, instead of the term "survivor".

⁸⁵ Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

⁸⁶ Yin, R. K. (2018). [*Case study research and applications*](#) (6th ed.). Thousand Oaks: SAGE Publications.

- 5.2. The case in this evaluation will be a given country and the MoU signed with the OTP and will focus on the development of a national legal system, and the national proceedings addressing international crimes under the Court's jurisdiction.
- 5.3. The sampling strategy for selecting a country case study will consider the following criteria and considerations:
- i) Only formal agreements with a government are considered for this evaluation as per the IOM proposal and not others, which limits the sample to six countries (excluding the situations in Libya and Ukraine)
 - ii) Agreements signed during 2021-2023 (all 6 countries)
 - iii) Gender based crimes and crimes against children part of the scope of preliminary examination, investigation and/or charges
 - iv) Absence of current open preliminary examinations and investigations (excludes all except Guinea and Colombia)
 - v) Safety/security considerations and upcoming presidential elections (excludes Venezuela)
 - vi) Investment made through the creation of a country or OTP office: Ukraine (Kyiv), Venezuela (Caracas)
 - vii) Special criminal court set up or intended to be set up: CAR, DRC
 - viii) Complexity: as the first ever evaluation of its kind, the IOM will consider a country with a manageable degree of complexity (complexity in terms of the legal framework surrounding complementarity initiatives, the incidents assessed and/or investigated, geographical/ethnic, stakeholders, etc.).
- 5.4. The IOM will make the final selection of a country for the case study in consideration of consultative input from the OTP.
- 5.5. The evaluation design will be quasi-experimental and the approach will be participatory and theory based. The evaluation will use mixed methods and will include a desk review, interviews and focus groups, and a survey.
- 5.6. Artificial intelligence (AI) tools may be used in summarising quantitative and qualitative information and data under the oversight of the IOM. The summaries will be quality checked by a relevant thematic expert either from the evaluation team or the advisory and reference groups. The use of such tools will be transparently acknowledged in the final evaluation report.
- 5.7. Triangulation will be ensured through multiple methods, stakeholder groups and the analysis of both quantitative and qualitative data. Whenever possible and feasible, data will be disaggregated according to gender and other relevant categories of groups such as most vulnerable or marginalised victims and affected communities. The linkages between the data sources, data collection methods and analysis methods are outlined in Annex A.

- 5.8. The most challenging limitation of the methodology is envisaged to be reaching the primary stakeholders most affected by the international crimes committed and under the jurisdiction of the national legal system. Under the limited time and budget constraints of the evaluation, technical evaluation backstopping, mission travel and/or a national consultant may not be secured, limiting the evaluation to a desk study and remote data collection methods.
- 5.9. In addition, the independence of the IOM is dictated by the provisions in the IOM operational mandate⁸⁷, as related to access to information and stakeholders in the conduct of its evaluation work. This information sharing requirement of the IOM may be at odds with confidentiality requirements of the State concerned and of the OTP and its prosecutorial independence provisions.
- 5.10. The evaluation will follow the UNEG ethical guidelines⁸⁸, the UNEG guidance on integrating human rights and gender equality in evaluation⁸⁹, as well as the UNEG norms and standards for evaluation⁹⁰. The consultant and the evaluation advisory group will sign confidentiality, conflict of interest and ethical code of conduct agreements.

6. Evaluation questions and criteria

6.1. The key evaluation questions⁹¹ that the evaluation will aim to respond to are the following:

1. How relevant are the efforts of the OTP and the Government counterparts as reflected in the commitments made in the MoU in ensuring that genuine national proceedings of Rome Statute crimes are conducted?
2. How effective or successful are the efforts of the OTP and the Government counterparts as reflected in the commitments made in the MoU?
3. What efficiency issues, if any, stand in the way of achieving results vis-à-vis the implementation of the MoU?
4. How coherent are efforts of the various stakeholders in achieving the overall goals of the MoU?
5. How likely is it that the ongoing efforts to develop capacity at the national level through the implementation of the MoU activities are sustained?

⁸⁷ The IOM Operational Mandate, paragraphs 32 and 33, state that the IOM will have full, free and prompt access to all ICC documents and personnel (ICC-ASP/19/Res.6, Annex II).

⁸⁸ https://www.unevaluation.org/uneg_publications/uneg-ethical-guidelines-evaluation

⁸⁹ https://www.unevaluation.org/uneg_publications/uneg-guidance-integrating-human-rights-and-gender-equality-evaluations

⁹⁰ https://www.unevaluation.org/uneg_publications/uneg-norms-and-standards-evaluation-un-system

⁹¹ See also Annex A: The Evaluation Framework

6. What lessons have been learned in the ongoing implementation of the MoU so far?

- 6.1. The evaluation questions are indicative and subject to change following the selection of the country as a case study, as well as the feedback from key stakeholders⁹² before the active data collection phase commences.
- 6.2. The evaluation criteria that will be covered in this evaluation include: relevance, effectiveness, efficiency, coherence and sustainability. Impact will not be assessed in this evaluation as it would be premature to do so, given that the sample of countries to be selected as the potential case study that have signed an MoU with the OTP did so since 2021 earliest, under the commencement of the mandate of the current ICC Prosecutor.
- 6.3. In addition to the key evaluation questions, the evaluation will assess lessons learned in the ongoing implementation of the MoU from the perspectives of both the OTP and the Government and any unintended positive and negative consequences of implementing it.

7. Evaluation management and the work plan

- 7.1. The evaluation process will be overseen by the Head of the IOM. The IOM Senior Evaluation Specialist will manage the evaluation process, the outputs and the evaluation team.
- 7.2. The evaluation team will be composed of the Head of the IOM, the IOM Senior Evaluation Specialist, an IOM visiting professional, an evaluation consultant and the IOM Administrative Assistant. The evaluation will further be supported by an external evaluation advisory group and an internal OTP evaluation reference group. Both the consultant hired by the IOM and the external evaluation advisory group will have terms of reference outlining their roles and responsibilities.
- 7.3. The members of the OTP evaluation reference group will be briefed on the evaluation and their role and responsibilities. Members of the evaluation reference group are both OTP focal points providing guidance and information for the evaluation and validating preliminary evaluation results; as well as evaluation participants.
- 7.4. The IOM will hire a consultant, with expertise in evaluation and/or international criminal law, and with knowledge of the country context, human rights and gender equality. The consultant will be responsible for the delivery of the outputs outlined in Table 2, with the quality assurance input from the rest of the evaluation team. A consultant TOR will describe in more detail the expectations on the delivery of outputs and the payment schedule.

⁹² These will involve the IOM, the consultant hired by the IOM, the OTP, the advisory and reference groups and the Government counterparts (see section 7).

Table 2: The delivery of evaluation outputs

Output	Description
Inception report	A report following the selection of a country for the case study will outline the country context and analysis, stakeholder mapping, legal summary, the MoU activities, a theory of change, the sampling of evaluation participants and the methodological instruments to be used in the evaluation. The Senior Evaluation Specialist will draft the inception report and finalize it with consultant input.
Desk review	A country analysis describing the history, geography, demography, culture, economy and socio-political context. A mapping and analysis of stakeholders in the country and the region. Legal summary of the investigative and prosecutorial work of the OTP and the national systems into the Rome Statute crimes to date. Any other secondary data collected and analyzed pertinent to answering the evaluation questions.
Theory of change (ToC)	A visual diagram of the intended positive changes pursued through the MoU. The ToC will be constructed in a participatory way with the input from the evaluation team, Government and national stakeholders, as well as the OTP reference group. The ToC will be constructed as per the template and guidance provided by the IOM.
Primary data	Raw data collected and analyzed.
Evaluation report	Draft evaluation reports and a final evaluation report delivered. The final evaluation report will integrate the feedback of the evaluation team and the evaluation advisory and reference groups. The overall quality assurance check of the final evaluation report will be conducted by the Senior Evaluation Specialist.
Power Point presentation	The presentation will outline preliminary results to stakeholders and will include the evaluation context, key findings and recommendations.

7.5. The IOM will establish an evaluation advisory group composed of diverse expertise on the country context, the national legal system and complementarity, human rights and gender equality and evaluation. Their role will be to provide advisory and quality assurance feedback to the evaluation process and outputs.

7.6. The evaluation budget foresees a total of 30,000 euro to cover the consultancy contract (up to 25,000 euro), as well as mission travel of the Head of IOM/Senior Evaluation Specialist (up to 5,000 euro). The engagement of the external evaluation advisory group will be pro-bono. The members of the OTP evaluation reference group are expected to participate in the evaluation as evaluation participants and OTP focal points, with the permission of their supervisors to do so.

7.7. The evaluation team will disseminate the evaluation results and the report to the OTP, the Government counterparts and the Court's Bureau. Table 3 outlines the key evaluation stages and the timeline.

Table 3: The evaluation work plan and timeline

Evaluation Task	Nov 24 - Feb - 25	Mar-25	Apr-25	May-25	Jun-25
Inception stage					
Evaluation TOR ⁹³					
Inception report					
Establishment of the advisory group and selection of the national consultant					
Desk review analysis					
Evaluation data collection and analysis					
Draft and final evaluation report					
Interim results and recommendations presented to OTP & Government					
Results & recommendations presented to the Bureau and final report submitted					

⁹³ Following the formal evaluation request to the IOM on 2 February, consultations with the OTP were conducted on forming the OTP evaluation reference group and on the selection of the country for the case study.

Appendix 1: The Evaluation Framework

Evaluation criteria	Questions ⁹⁴	Indicators/outputs/bench marks	Sources of information	Data collection/Analysis methods
1. Key Evaluation Issue: How relevant are the efforts of the Office of the Prosecutor and the Government counterparts as reflected in the commitments made in the Memorandum of Understanding (in ensuring that national proceedings of Rome Statute crimes are conducted successfully)?				
Relevance	1.1.Does the Memorandum of Understanding (MoU) provide a clear roadmap for both the OTP and the Government counterparts on what activities, outputs and outcomes should be achieved?	Summary of activities as committed to in the MoU Quantitative and qualitative information on the activities of the MoU Monitoring plans and key performance indicators	MoU Workplans of OTP and the Government counterparts on MoU activities Perceptions and experiences of stakeholders Any document evidencing the conduct of activities of the MoU	Desk Review Interviews, focus groups & survey
	1.2.Does the MoU adequately address the priorities and needs of the national judicial system and national accountability processes so that it is able to conduct effective investigations and prosecutions of individuals suspected to have committed Rome Statute crimes?	As above + Summary of national accountability processes and outputs	As above + Sources related to national accountability processes and outputs	As above

⁹⁴ Seventeen evaluation questions in total

Evaluation criteria	Questions ⁹⁴	Indicators/outputs/bench marks	Sources of information	Data collection/Analysis methods
	1.3.Are the implemented MoU activities responsive and transformational in particular towards women, children and other marginalized and vulnerable populations that were affected by the Rome Statute crimes?	As above + National legislation protecting the rights of victims of international crimes	As above + National legislation protecting the rights of victims of international crimes	As above
2. Key Evaluation Issue: How effective are the efforts of the Office of the Prosecutor and the Government counterparts as reflected in the commitments made in the Memorandum of Understanding?				
Effectiveness	2.1.What results have been achieved in relation to the planned activities of the MoU by the OTP and the Government counterparts (duty bearers)?	As above	As above	As above
	2.2.How many investigations and prosecutions were conducted concerning relevant international crimes under the Rome Statute, particularly in terms of sexual and gender based crimes and crimes against children?			
	2.3. What difference and/or contribution, if any, is the ongoing implementation of the MoU making in relation to the most vulnerable victims and affected communities (rights holders) and more generally towards the national accountability processes?			
	2.4.Has the implementation of the national program under the MoU upheld the dignity and the rights of victims and affected communities, as well as the suspected individuals and perpetrators indicted?			

Evaluation criteria	Questions ⁹⁴	Indicators/outputs/bench marks	Sources of information	Data collection/Analysis methods
	2.5.What are the constraints (or gaps) and enabling factors in implementing the MoU for the OTP and for the Government at the institutional and national levels?			
3. Key Evaluation Issue: What efficiency issues, if any, stand in the way of achieving results vis-à-vis the implementation of the Memorandum of Understanding?				
Efficiency	3.1.Is the overall implementation of the MoU cost-efficient ⁹⁵ for the OTP and the Government counterparts?	As above	As above	As above
	3.2.Are there any efficiency related constraints to achieving results in terms of timeliness, budget and/or financial/human resource use for the OTP and the Government counterparts?			
4. Key Evaluation Issue: How coherent are efforts of the various stakeholders in achieving the overall goals of the Memorandum of Understanding?				
Coherence	4.1.Are the OTP and the Government counterparts consistent in their approach to implement the MoU and to bring the necessary change required at the national level?	As above	As above	As above
	4.2.Are the activities under the MoU complementing other existing national programs and activities that have similar goals to that of the MoU? Do the Government counterparts work in synergy and coordination with other relevant national stakeholders? Are relevant partnerships leveraged at the national level to build national capacity in the judicial system?			

⁹⁵ This analysis will require budget and finance information from the OTP and the Government counterparts on the implementation of activities planned under the MoU.

Evaluation criteria	Questions ⁹⁴	Indicators/outputs/bench marks	Sources of information	Data collection/Analysis methods
5. Key Evaluation Issue: How likely is it that the ongoing efforts to develop capacity at the national level through the implementation of the Memorandum of Understanding activities are sustained in the long term?				
Sustainability	5.1.Are the activities envisaged under the MoU likely to develop the capacity of the national judicial system long-term?	As above	As above	As above
	5.2.What are the conditions needed to ensure that the MoU is fully leveraged as a means of capacity development for the Government counterparts long-term?			
6. Key Evaluation Issue: What lessons have been learned in the ongoing implementation of the Memorandum of Understanding so far?				
Lessons learned	5.3.What lessons can be drawn from the ongoing implementation of the MoU and the cooperation between the OTP and the Government counterparts?	As above	As above	As above

ANNEX 2: MANAGEMENT ACTION PLAN

Ref	Recommendation	PR *	Accepted (Y/P/N)	Management Comments	Agreed Actions	Entity Responsible	Target Date
1.	Facilitate the leverage of the ICC and the High-Commissioner on Human Rights to ensure that the Memorandum of Understanding on complementarity is implemented and honoured.	H	N	OTP does not agree with this recommendation, as the UNOHCHR is not a party to the MOU with Guinea. The Office will continue to liaise with UNOHCHR, as appropriate, to facilitate complementarity in Guinea.			
2.	Equip the Memorandum of Understanding with an enforceable protocol and joint monitoring committee.	H	P	OTP partially agrees with this recommendation. OTP recommends that rather than amending MOU, the commitment focuses on the establishment of an action plan that ensures effective monitoring, in close coordination with relevant partners.	• OTP will develop an action plan as part of the MOU implementation monitoring process in coordination with national authorities and relevant partners on the ground in Guinea. • As part of this, OTP will seek a note from victims' representatives regarding the challenges identified as well as victims' reparation and raise them with the relevant authorities including the President of the commission in charge of implementing the reparations program. • OTP will also brief and seek support from relevant diplomatic actors, including from the	OTP and Guinean authorities	Q2 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from EAU/CCS and under the supervision of HoPEU ⁹⁶

⁹⁶ Head of the Preliminary Examination Unit.

					European Union, in its implementation activities.		
3.	Ensure that other Organs and Entities of the Court are proactively engaged in the implementation of the Memorandum of Understanding on complementarity in Guinea.	M	N	OTP does not agree with this recommendation, as the other Organs and Entities of the Court are not parties to the MOU with Guinea and are independent from OTP. The Office will liaise with the other Organs and Entities as appropriate to facilitate complementarity in Guinea.			
4.	Ensure that the OTP has adequate resources dedicated to complementarity in Guinea that goes beyond monitoring and mission activities.	H	Y	OTP agrees with this recommendation. OTP will seek additional resources contingent to the availability of funds in the OTP Trust Fund on Complementarity, as well as seek to harness existing resources to the extent possible to meet this.	• OTP will proactively engage with States to seek financial contributions to the OTP Trust Fund on Complementarity in order to support further activities in Guinea. • OTP will also seek, where possible, to allocate existing resources internally in order to strengthen support for this situation.	ICC Member States and OTP	Q1 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from EAU/CCS and under the supervision of HoPEU

5.	Strengthen national capacities with technical support and targeted training in a timely manner.	M	Y	OTP agrees with this recommendation. This will be implemented in coordination with UN and other partners. OTP is actively engaging OHCHR office in Guinea and UN Team of Experts to coordinate any upcoming capacity building activities.	OTP will seek, based on assessment of needs of the Guinean national authorities, to ensure the delivery of further technical training to the Guinean judiciary in the coming year in coordination with relevant partners.	ICC Member States, Guinea, OTP and selected partners	Q2 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from EAU/CCS and under the supervision of HoPEU
6.	Facilitate the provision of support in exhumations by linking relevant international partners such as the International Commission of Missing Persons with Guinean authorities in the context of memorialisation and the healing of victims and affected communities.	M	Y	OTP agrees with this recommendation. OTP note in this regard the relevance of the OTP Global Forensic Network, which has provided such support in a number of national jurisdictions in recent times.	OTP will liaise with relevant partners in Guinea, and seek guidance from Guinean national authorities as to their needs, with a view to taking appropriate action, as necessary.	ICC Member States, OTP, ICMP, Guinea	Q2 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from EAU/CCS and under the supervision of HoPEU
7.	Adopt a consistently victim-centred approach, including women, children, disabled victims and indirect victims.	M	Y	OTP agrees with this recommendation and will continue, consistent with its policy framework, to ensure such an approach is taken.	OTP will continue to emphasize the importance of a victim-centered approach in the prosecution strategy adopted by Guinean authorities, including through its engagements in Conakry. This will include the conduct of an assessment of training needs of	Guinea and OTP	Q2 2026 Resource required: One assigned Analyst or International Cooperation

					national authorities with respect to gender-based crimes and crimes against and affecting children and those with disabilities, in liaison with Guinean partners.		Advisor with support from EAU/CCS and under the supervision of HoPEU
8.	Assess the enforcement of sentencing in the context of a pardon and as part of a complementarity assessment; require transparency and justification for any such measures; and reflect on legal and non-legal mechanisms to prevent an impunity gap through a pardon.	H	Y	OTP agrees with this recommendation. OTP notes however that this recommendation relates to the independent assessment by the Office pursuant to its mandate under the Rome Statute. OTP does <i>not</i> understand this recommendation to be related to the legal evaluation of current proceedings in Guinea or an assessment of legal criteria of complementarity but rather aimed at improving OTP communication regarding its activities in Guinea.	• OTP will seek to engage further at a senior level in Guinea to ensure clarity with respect to the legal requirements of complementarity under the Rome Statute. • OTP will continue to inform the public of its activities in Guinea through social media, OTP statements, periodic reports and direct engagement with media and civil society representatives.	OTP	Q1 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from EAU/CCS and under the supervision of HoPEU
9.	Create a national programme for inclusive memorialisation and reparations.	M	Y	OTP agrees with this recommendation. While noting that it is for the Guinean authorities to establish such a programme, the OTP will continue its positive engagement with relevant partners in line with ongoing efforts towards	• OTP will continue its engagement with the Guinean authorities in this area, and continue coordination of this work with the TFV. This will continue to be implemented within the Working Group established for this purpose with Guinean authorities, and will be subject to progress in ongoing national proceedings.	Guinea, OTP and selected partners	Q1 2026 Resource required: One assigned Analyst or International Cooperation Advisor with support from

				this goal, including by the sharing of OTP archives with Guinea to be incorporated into the memorialization process.			EAU/CCS and under the supervision of HoPEU
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* H=High, M=Medium, L=Low.

** Y=Yes, P=Partially accept, R=Reject.

ANNEX 3: LIST OF REFERENCES

I. Treaties and Agreements

1. Rome Statute of the International Criminal Court.
2. Memorandum of Understanding (MoU) on Complementarity (28 September 2022).
3. International Covenant on Civil and Political Rights (ICCPR), 1966 (Optional Protocols of 1966 and 1989).
4. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 (Optional Protocol of 2008).
5. International Convention on the Elimination of All Forms of Racial Discrimination, 1965.
6. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (Optional Protocol of 2002).
7. Convention on the Elimination of All Forms of Discrimination Against Women, 1979.
8. Convention on the Rights of the Child, 1989.
9. African Charter on Human and Peoples' Rights, 1981.
10. African Charter on the Rights and Welfare of the Child, 1990.

II. National laws and related documents

11. Charter of the Transition (2021) of Guinea.
12. Guinean Penal Code, 2016.
13. Décret, D/2025/040/PRG/CNRD/SGG DU 26 MARS, 2025, portant prise en charge des frais d'indemnisation des victimes du procès des massacres du 28 septembre 2009.
14. Décret, D/2025/045/PRG/CNRD/SGG DU 29 MARS 2025, accordant la grâce présidentielle a un condamné.
15. The Judgment document in the Dixinn Court of First Instance. 31 July 2024

III. Reports from International Organizations

16. United Nations International Commission of Inquiry (UN-COI): Report S/2009/693.
17. Office of the United Nations High-Commissioner for Human Rights (OHCHR): Follow-up information in Guinea.
18. United Nations Development Programme (UNDP): Human Development Report.
19. World Bank: Report on the Guinean Economy (2024).

20. Report of the Working Group on the Universal Periodic Review, United Nations

IV. Reports from NGOs and Civil Society

21. Human Rights Watch (HRW) *Bloody Monday: The September 28, 2009, Massacre and Rapes in Conakry, Guinea*. [https://www.hrw.org/fr/news/2009/12/17/guinee-le-monde-doit-agir-en-reponse-un-massacre-planifie-et-des-viols-\].](https://www.hrw.org/fr/news/2009/12/17/guinee-le-monde-doit-agir-en-reponse-un-massacre-planifie-et-des-viols-)
22. HRW: *Pressure Point: The ICC's Impact on National Justice. Lessons from Colombia, Georgia, Guinea, and the United Kingdom*, 2018. <https://www.hrw.org/report/2018/05/03/pressure-point-iccs-impact-national-justice/lessons-colombia-georgia-guinea-and>
23. Global Survivors Fund project for Guinea (<https://www.globalsurvivorsfund.org/our-work/guinea/>).
24. FIDH. Guinée-Conakry. (2009).
25. Human Rights Watch. Guinée. Dans *Rapport mondial 2025*. <https://www.hrw.org/fr/world-report/2025/country-chapters/guinea> .

V. Data and Indices

26. National Institute of Statistics of Guinea (INS): 2022 Annual Report.
27. Mo Ibrahim Foundation: Mo Ibrahim Index.

VI. Internal and Confidential Documents

28. Internal records of the Office of the Prosecutor.
29. Internal records of the Guinean national justice system.
30. Reports from missions of the Office of the Prosecutor in Guinea.
31. Documents on the training of magistrates.
32. Documents concerning victim compensation.

VII. Other Sources

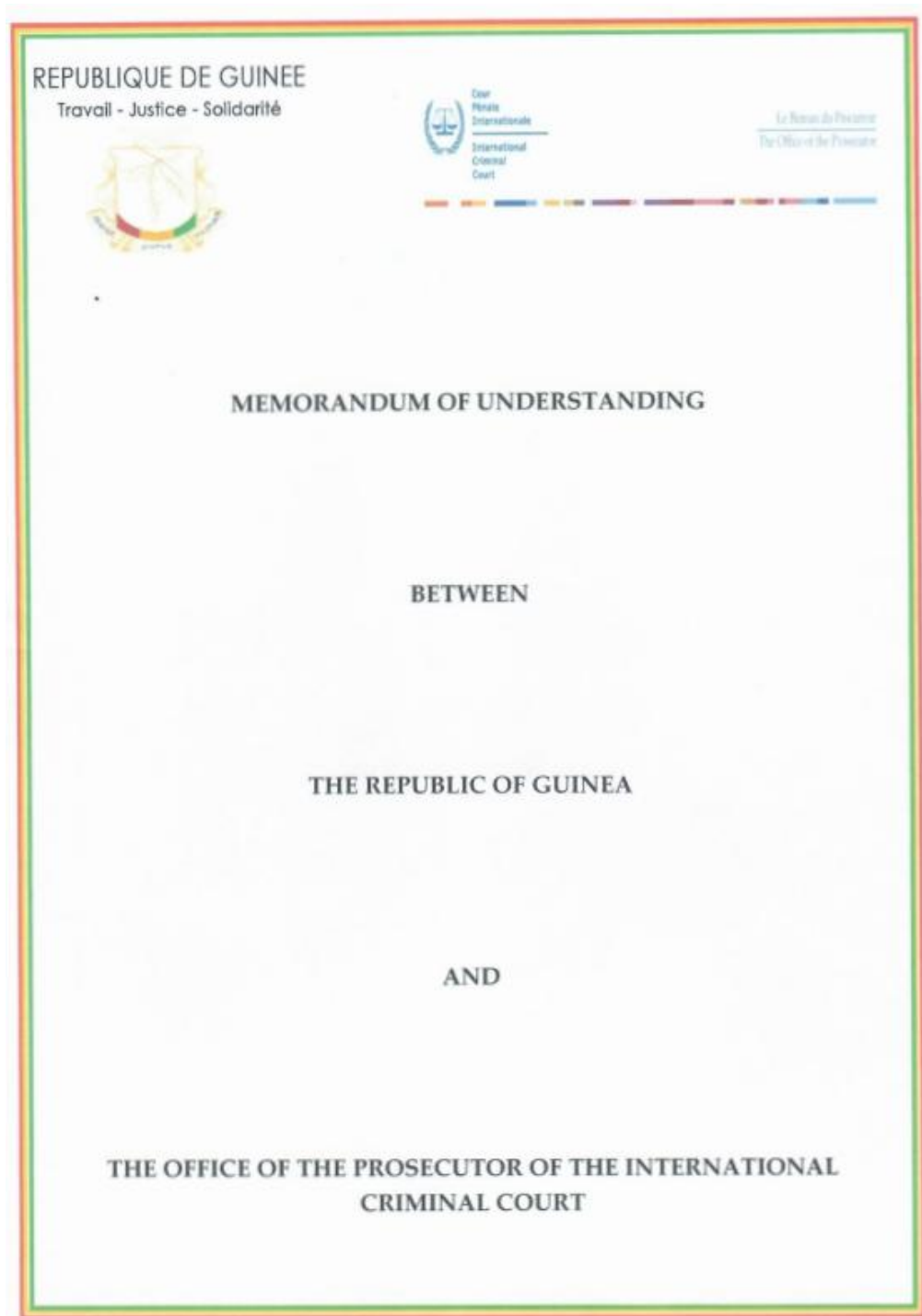
33. Press reports on the Guinean trial proceedings.

ANNEX 4: LIST OF STAKEHOLDER GROUPS INTERVIEWED

There were 13 stakeholder groups interviewed in the evaluation, as listed below. For the sake of preserving confidentiality and anonymity, the names of interviewees are not published.

1. The ICC Office of the Prosecutor (including former OTP Prosecutor)
2. Other Organs and Entities of the ICC (e.g. Victim Participation and Reparation Section; Trust Fund for Victims)
3. Guinean authorities (current and former Minister of Justice: *Ministre de la Justice, Garde des Sceaux, Unité de Gestion du Procès*; members of the Steering Committee: *Comité de Pilotage*)
4. Guinean judiciary
5. Guinean Bar Association
6. Guinean magistrates
7. Guinean defence lawyers
8. Guinean lawyers for victims
9. Victim associations (e.g. AVIPA)
10. Direct and indirect victims of the crimes committed in Guinea on 28 September 2009
11. Diplomatic delegations in Guinea (e.g. France, EU, Japan, Belgium)
12. The United Nations organisations – local, regional and international (e.g. OHCHR in Guinea, the UN Resident Coordinator, UN Team of Experts on the Rule of Law and Sexual Violence in Conflict)
13. Non-governmental and civil society organisations – local, regional and international (e.g. OGDH, Global Survivors Fund, Human Rights Watch, FIDH)

ANNEX 5: THE MEMORANDUM OF UNDERSTANDING ON COMPLEMENTARITY IN GUINEA



The Government of the Republic of Guinea and the Office of the Prosecutor of the International Criminal Court ("ICC-OTP" or the "Office"), hereinafter the "Parties";

Based on the Rome Statute of the International Criminal Court (the "Statute") and the obligations arising under this instrument for the Republic of Guinea ("Guinea");

Guided by the principle of complementarity, which constitutes the cornerstone for the exercise of the jurisdiction of the International Criminal Court;

Recalling the events that occurred on 28 September 2009, at the national stadium in Conakry ("28 September 2009 events");

Noting that, in October 2009, the ICC-OTP opened a preliminary examination into the Situation in Guinea and in December 2011 found a reasonable basis to believe that the crimes against humanity of murder, imprisonment or other severe deprivation of liberty, torture, rape and other forms of sexual violence, persecution and enforced disappearance of persons were committed during and after the 28 September 2009 events;

Noting that since the opening of the preliminary examination into the Situation in Guinea, Guinea and the ICC-OTP have exchanged communications with respect to this process and developed a cooperative relationship aimed at addressing justice for the serious crimes;

Emphasizing the commitment of Guinea to ensure effective justice regarding the 28 September 2009 events, as part of its efforts to combat impunity and thereby to contribute to the prevention of serious crimes;

Recognizing the efforts of the transitional institutions in Guinea, its people, and civil society, as well as the progress made by the judicial authorities in investigating the alleged crimes committed in the context of the 28 September 2009 events;

Welcoming the opening of the trial of the 28 September 2009 events on their 13th anniversary on 28 September 2022 and emphasising the need for genuine proceedings that are carried out effectively;

Noting the ability and willingness of Guinea to genuinely administer justice related to crimes under the jurisdiction of the International Criminal Court committed in the context of the 28 September 2009 events, and the requirement for the ICC-OTP to determine, in the context of its preliminary examination, admissibility pursuant to article 17 of the Rome Statute on the basis of the facts as they presently exist;

Emphasising the commitment of the ICC-OTP to engage in a long term process of both supporting and learning from national accountability processes in Guinea;

Noting the possibility for the ICC-OTP to close the preliminary examination into the Situation in Guinea, subject to possible later reconsideration, while entering into a new and fruitful stage of cooperation with Guinea;

Recalling the willingness of the Guinean authorities to continue cooperating with the ICC-OTP and the commitment of the Office to continue supporting and accompanying the genuine judicial proceedings in Guinea with respect to the 28 September 2009 events;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Guinea and the ICC-OTP undertake to work actively and collaboratively to furthering the principle of complementarity and ensuring accountability for international crimes committed in Guinea in the context of the 28 September 2009 events.

ARTICLE 2

Without prejudice to the separation of powers, Guinea commits to continue supporting the trial of the 28 September 2009 events including by:

- (i) ensuring, in collaboration with its international partners, the training of Judges, prosecutors, registrars, and lawyers;
- (ii) ensuring, in collaboration with its international partners, outreach and communication to objectively inform the public of the developments of the judicial proceedings;
- (iii) preventing any interference with the administration of justice;
- (iv) ensuring the safety and security of judicial and prosecutorial personnel as well as participants appearing before the judges, in particular victims and witnesses;

v) providing, in collaboration with its international partners, support and assistance to victims and witnesses participating in the trial, including but not limited to psychological support, and ensuring, through the competent judicial authorities, the familiarisation of victims and witnesses with the proceedings;

vi) promoting full cooperation and coordination between the different State entities assigned with discharging duties with respect to accountability and the administration of justice in the context of the 28 September events and coordination of those entities with international stakeholders, as appropriate, including in the Steering Committee established by Guinea; and

vii) allocating the required resources for the implementation of the above mentioned measures.

ARTICLE 3

Guinea will proactively, regularly and upon request keep the ICC-OTP informed of the progress made in the judicial proceedings related to the 28 September 2009 events and will facilitate access to relevant proceedings, records and documentation, as requested, as per the requirements of the laws of Guinea and the Rome Statute. To this end, with support of the Government of Guinea, bi-annual visits and exchanges will be organized between the ICC-OTP and national judicial institutions and other relevant stakeholders.

ARTICLE 4

In line with the Rome Statute, the ICC-OTP may reconsider its assessment of complementarity in light of any significant change in circumstances, including the imposition of any measures that might significantly hamper the progress or genuineness of the judicial proceedings related to the 28 September 2009 events; the issuance and the enforcement of ineffective or disproportionate penal sanctions; obstructions to the mandate or proper functioning of the relevant jurisdiction; or any suspension or unreasonable delay in the carrying out of the judicial proceedings in a manner which is inconsistent with an intent to bring the persons concerned to justice. In this context, and to ensure information flows about these and other related matters, lines of communication between the ICC-OTP and the Government of Guinea, judicial actors and members of the Steering Committee, will be maintained and reinforced.

ARTICLE 5

The ICC-OTP commits, within its mandate and means, to continue supporting Guinea's accountability efforts with respect to the events of 28 September 2009, including by contributing to projects and programmes aimed at the provision of knowledge transfer, the exchange of best practices and technical support.

ARTICLE 6

This memorandum of understanding will enter into force on the date of its signature. It may be denounced by either party giving three (3) months prior notice to the other.

Conakry, the 28th day of September 2022.

Executed in two (2) copies in English and in French, both of them being authentic.

For the Republic of Guinea

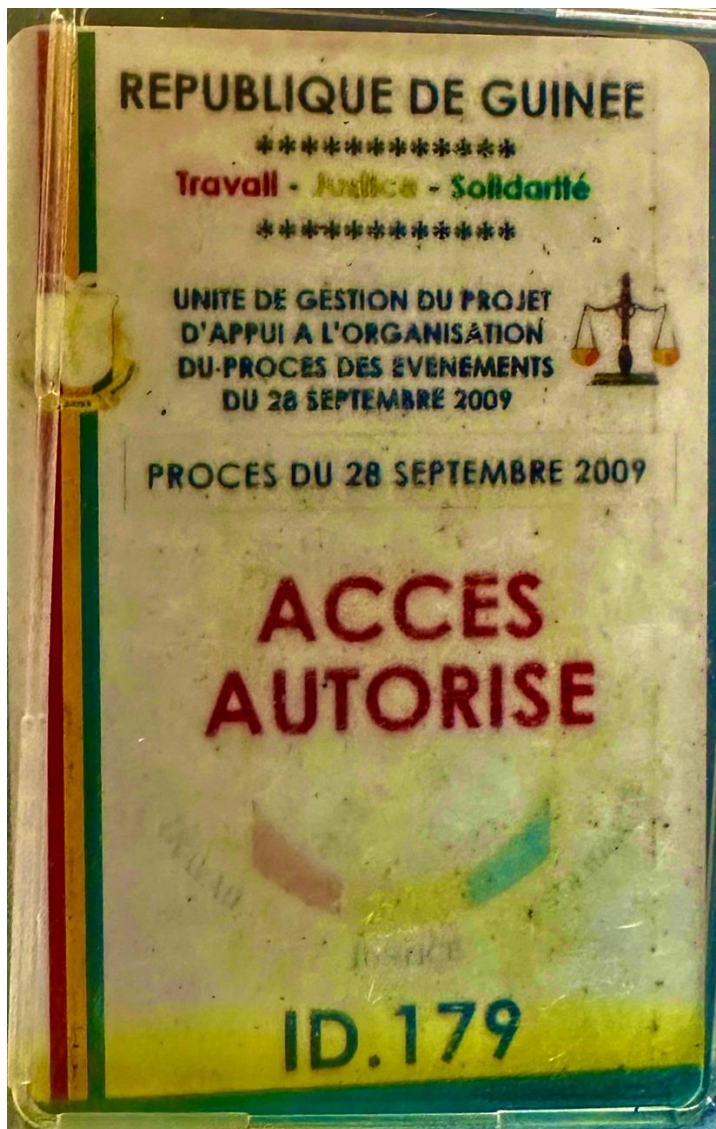
For the International Criminal Court

Office of the Prosecutor

H.E. Colonel Mamadi DOUMBOUYA
President of CNRD
Transitional President
Head of State
Supreme commander of the armies

M. Karim A.A. Khan KC
Prosecutor

ANNEX 6: THE IDENTIFICATION BADGE OF VICTIMS PARTICIPATING IN THE TRIAL



ANNEX 7: ACCUSED, IN ALPHABETICAL ORDER

List of all accusations

Murder, assassination, rape, looting, arson, insulting law enforcement officers, torture, kidnapping and kidnapping, failure to assist a person in danger, sexual violence, indecent assault, illegal possession of first-class war material and complicity in these offences.

Acts provided for and punishable by the provisions of Articles 207, 208, 268, 514, 510, 373 and 381, 239, 658 et seq., 232, 333 et seq., 298, 267 et seq., 271 et seq., and 19 of the Criminal Code, and Articles 1, 2, 17 and 22 of Law L/96/008 of 22 July 1996

(1) Alpha Amadou BALDE

Member of the Gendarmerie Nationale, he was the Special assistant to Aboubacar Diakite a.k.a. Toumba.

He was arrested in 2017 but absent at trial.

On 31 July 2024, he was acquitted.

(2) Ibrahima CAMARA a.k.a. Kalonzo

Colonel in the Gendarmerie Nationale, he was arrested on 27 September 2022.

On 31 July 2024, he was acquitted.

(3) Mamadouba Toto CAMARA

He died before the trial was opened and could therefore neither be convicted nor sentenced.

(4) Moussa Dadis CAMARA

Captain of the Army, he was the President of the Military Junta, at the time of the massacre.

Arrested on 27 September 2022, he was the main accused in this first trial. His defence was that this is a setup by the former President Alpha Congé with the help of the former Minister of Défense Sékouba Konate and his former military aide, Aboubacar Diakite a.k.a. Toumba.

On 31 July 2024, he was convicted for command responsibility in crimes against humanity and sentenced to 20 years in prison.

On 29 March 2025, he was granted pardon through Presidential Decree and transferred to Morocco for medical care.

(5) Moussa Thiégboro CAMARA

Colonel in the Gendarmerie Nationale, he was the Secretary of State in charge of fighting drug and organized crime.

He was arrested on 27 September 2022. His initial defence was to deny all accusations.

However, later and during the trial, I sought to adjust his defence and to blame Moussa Dadis Camara for having ordered the violence.

On 31 July 2024, he was convicted for command responsibility in crimes against humanity and sentenced to 20 years in prison.

(6) Abdoulaye Cherif DIABY

Colonel and Medical Doctor in the Army, he was the Minister of Health.

Arrested on 27 September 2022, he faced a single charge of not providing assistance to victims whose life was in danger.

On 31 July 2024, he was acquitted.

(7) Aboubacar Sidiki DIAKITE known as Toumba

Lieutenant and Medical Doctor in the Army, he was the commander of the bodyguards of Moussa Dadis Camara in September 2009.

He was arrested on 14 March 2017.

On 31 July 2024, he was convicted for command responsibility in crimes against humanity and sentenced to 10 years in prison.

(8) Sambarou SECURED

Grade: Unknown

He died before the trial was opened and could therefore neither be convicted nor sentenced.

Note: He is identified on the first (cover) page of the Trial Judgement of 31 July 2024, but not in the text itself, when the Tribunal listed the accused.

(9) Blaise GOUMOU

Colonel in the Gendarmerie Nationale, he was a member of the Special Services under the command of Moussa Thiégboro Camara.

He was arrested on 27 September 2022.

On 31 July 2024, he was convicted for direct participation in crimes against humanity and sentenced to 15 years in prison.

(10) Marcel GUILAVOGUI

Captain in the Army, he was one of the bodyguards of Moussa Dadis Camara.

He was arrested on 18 June 2010.

On 31 July 2024, he was convicted for direct perpetration of crimes against humanity and sentenced to 18 years in prison.

(11) Paul Mansa GUILAVOGUI

Sergeant Chief in the Army.

Arrested on 22 May 2015, he faced limited charges (not providing assistance to victims whose life was in danger, physical harm, torture and unlawful confinement). In his defence, he denied all allegations, but testified that he witnessed torture committed by his superior, Commandant Ibrahima Sory Camara a.k.a. Bégré in the Koundara Camp (also known as Macambo).

On 31 July 2024, he was convicted for direct perpetration of crimes against humanity and sentenced to 10 years in prison.

(12) Cécé Raphaël HABA

Captain the Army, he was the bodyguard of Aboubacar Diakité a.k.a. Toumba.

Arrested on 14 May 2010, he was accused of murder, killing, rape, pillaging, arsoning, armed robbery, torture, among others.

On 31 July 2024, he was acquitted.

(13) Mamadou Aliou KEITA

Chief Warrant Officer in the National Gendarmerie.

He was arrested on 30 April 2013 and accused of raping Mrs. Aissatou Keïta.

On 31 July 2024, he was convicted for direct participation in crimes against humanity, and sentenced to 11 years in prison.

the time of his sentence, he had already spent 11 years in detention and was therefore released.

(14) Claude PIVI

Colonel in the Army, and Minister of the Safety of the President

Arrested on 27 September 2022, he managed to escape jail in November 2023, in the middle of the trial.

On 31 July 2024, he was convicted for direct participation in crimes against humanity, and sentenced to life in prison. An arrest warrant was also issued for his arrest.

ANNEX 8: THE DECREE FOR THE FINANCIAL COMPENSATION TO VICTIMS

DECRET D/2025/040/PRG/CNRD/SGG DU 26 MARS 2025, PORTANT PRISE EN CHARGE DES FRAIS D'INDEMNISATION DES VICTIMES DU PROCES DES MASSACRES DU 28 SEPTEMBRE 2009

LE PRESIDENT DE LA REPUBLIQUE,

Vu la Charte de la Transition ;
Vu la Loi L/2018/025/AN du 03 Juillet 2018, portant Organisation Générale de l'Administration Publique ;
Vu l'Ordonnance O/2021/001/PRG/CNRD/SGG du 16 Septembre 2021, portant Prorogation des Lois Nationales, des Conventions, Traités et Accords Internationaux en vigueur à la date du 05 Septembre 2021 ;
Vu le Décret D/2024/044/PRG/CNRD/SGG du 27 Février 2024, portant Nomination du Premier Ministre, Chef du Gouvernement ;
Vu le Décret D/2024/051/PRG/CNRD/SGG du 05 Mars 2024, portant Structure du Gouvernement ;
Vu le Décret D/2022/054/PRG/CNRD/SGG du 13 Mars 2024, portant nomination des membres du Gouvernement ;
Vu le Communiqué N°001 du Comité National du Rassemblement pour le Développement (CNRD) du 05 Septembre 2021, portant Prise Effective du Pouvoir par les Forces de Défense et de Sécurité ;
Vu le jugement Numéro 019 du 31 Juillet 2024 ;

DECRETE:

Article 1^{er}: Dans un souci de justice sociale, de réconciliation et de réparation des préjudices tant moraux que physiques, l'intégralité des frais d'indemnisation des victimes du procès relatif aux massacres du 28 Septembre 2009 sera couverte par le Budget National de Développement (BND).

Article 2: Le Premier Ministre, Chef de Gouvernement ainsi que le Ministre de la justice et des droits de l'homme, le Ministre de l'économie et des finances et le Ministre du budget sont chacun responsables en ce qui les concerne de l'application rigoureuse du présent Décret.

Article 3: Le présent Décret, qui abroge toutes dispositions antérieures contraires, prend effet à compter de sa date de signature, sera enregistré et publié au Journal Officiel de la République.

Conakry, le 26 Mars 2025

Général Mamadi DOUMBOUYA

ANNEX 9: THE DECREE FOR THE PARDON OF MR. MOUSSA DADIS CAMARA

DECRET D/2025/045/PRG/CNRD/SGG DU 29 MARS 2025, ACCORDANT LA GRACE PRESIDENTIELLE A UN CONDAMNE

LE PRESIDENT DE LA REPUBLIQUE,

Vu la Charte de la Transition ;
Vu le Code de Procédure Pénale notamment en ses articles 1189, 1192 et suivants ;
Vu la Loi Organique L/2013/055/CNT du 1^{er} Mai 2013, portant Organisation et Fonctionnement du Conseil supérieure de la Magistrature ;
Vu la Loi L/2018/025/AN du 03 Juillet 2018, portant Organisation Générale de l'Administration Publique ;
Vu l'Ordonnance O/2021/001/PRG/CNRD/SGG du 16 Septembre 2021, portant Prorogation des Lois Nationales, des Conventions, Traités et Accords Internationaux en vigueur à la date du 05 Septembre 2021 ;
Vu le Décret D/2021/167/PRG/SGG du 28 Mai 2021, portant Attributions et Organisation du Ministère de la Justice et des Droits de l'Homme ;
Vu le Décret D/2024/0044/PRG/CNRD/SGG du 27 Février 2024 portant Nomination du Premier Ministre, Chef du Gouvernement ;
Vu le Décret D/2024/051/PRG/CNRD/SGG du 05 Mars 2024, portant Structure du Gouvernement ;
Vu le Décret D/2022/054/PRG/CNRD/SGG du 13 Mars 2024, portant Nomination des Membres du Gouvernement ;
Vu le Communiqué N°001 du Comité National du Rassemblement pour le Développement (CNRD) du 05 Septembre 2021, portant Prise Effective du Pouvoir par les Forces de Défense et de Sécurité ;
Vu le jugement Numéro 019 du 31 Juillet 2024 ;
Sur proposition du Garde des Sceaux

DECRETE:

Article 1^{er}: Une grâce présidentielle est accordée à Monsieur **Moussa Dadis CAMARA** pour raison de santé.

Article 2: Le Garde des Sceaux, Ministre de la Justice et des Droits de l'homme, est chargé de l'application du présent Décret.

Article 3: Le présent Décret, qui abroge toutes dispositions antérieures contraires, prend effet à compter de sa date de signature, sera enregistré et publié au Journal Officiel de la République.

Conakry, le 29 Mars 2025

ANNEX 10: RELEVANT CHRONOLOGY OF THE LEGAL PROCEEDINGS IN GUINEA

28 September 2009 Massacre at the Stadium in Conakry

1. **8 February 2010** Final Pleadings of the Prosecution on the charges
2. **25 June 2015** Additional Pleadings of the Prosecution on the charges, including the command responsibility pursuant to Article 28 of the Rome Statute
3. **11 December 2017** Final Pleadings of the Prosecution on the charges, recharacterizing the command responsibility into complicity in national law
4. **29 December 2017** Decision of the Investigative Judges confirming the charges including the recharacterization of command responsibility into complicity
5. **18 May 2018** Decision of the Appeal Court of Conakry upholding *among others the decision of the investigative judges confirming the charge of complicity instead of command responsibility, because the victims did not have standing to challenge the charges as confirmed by the investigative judges, including the characterization.*
6. **25 June 2019** Decision of the Supreme Court upholding the decision of the investigative judges confirming the charge of complicity instead of command responsibility
7. **28 September 2022** Opening of the first trial with 12 (14) accused
8. **10 October 2022** Jugement avant dire droit - Ordonnance de renvoi
9. **28 July 2023** Decision of the Appeal Court of Conakry, Colonel Bienvenu Lamah
10. **4 November 2023** Accused Claude Pivi escaped from the detention center
11. **19 February 2024** Decision of the Supreme Court, Colonel Bienvenu Lamah
12. **4 March 2024** Prosecution Motion for recharacterization into crimes against humanity and into command responsibility
13. **20 March 2024** Decision of the Trial Chamber postponing the decision on the prosecution motion to the final decision on the merits
14. **21 March 2024** Defence Urgent Appeal challenging the Decision of 20 March 2024
15. **25 March 2024** Defence Motion to suspend trial pending the appeal against the Decision of 20 March 2024
16. **27 March 2024** Decision of the Appeal Court of Conakry denying the defence urgent appeal
17. **2 April 2024** Decision of the Trial Chamber to postpone for a week because of the absence of the defence counsel
18. **15 to 23 April 2024** Trial Hearings for the confrontation between the accused and some witnesses and victims
19. **27 May to 26 June 2024** Oral Closing Arguments
20. **31 July 2024** Trial Judgment in the first case against Moussa Dadis Camara and 13 others

ANNEX 11: COMPOSITION OF THE TRIBUNAL/COURT

Conakry Appeals Court

- Abdoulaye CONTE, Presiding Judge

Tribunal of First Instance of Dixinn, Conakry

- M. Ibrahima Sory 2 TOUNKARA, Presiding Judge
- M. Alpha Saidou SYLLA, Judge
- M. Aboubacar THIAM, Judge
- M. Algassimou DIALLO, Prosecution Counsel
- M. Mohamed Fantagbè DIAKITE, Registrar in Chief
- M. Mamadou Bhoie BARRY, Registrar

ANNEX 12: CIVIL PARTIES IN THE FIRST TRIAL

- M. Oury Bailo BAH, party leader
- Mrs. Aissatou BARRY
- The civil parties as listed in the judgment (pages 61-189)
- FIDH (International Federation of Human Rights)
- OGDH (Guinean Human Rights Organization)
- AVIPA (Association of Victims of 28 September 2009 massacre and their Relatives)
- AFADIS (Association des Familles des Disparus du 28 septembre)

ANNEX 13: THE COURTROOM IN DIXINN, CONAKRY

