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**Report on the future permanent premises of the
International Criminal Court^{*}**

Comprehensive progress report

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**REPORT ON THE
FUTURE PERMANENT PREMISES
OF THE
INTERNATIONAL CRIMINAL
COURT**

PROGRESS REPORT

**Elaborated by the International Criminal Court in cooperation
with the project management consultancy Drees & Sommer**

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Annex: Requirements, options, costs and schedule

I. Introduction

1. This report is submitted pursuant to paragraph 45 of the report of the Committee on Budget and Finance, of April 2006¹, in which the Committee “recommended that the Court submit a further update on the project for consideration at its next session”. It also responds to other requests contained in the same report of the Committee, such as the requests for the differentiation between essential and optional features of permanent premises (see para. 9 of this report), for further work on alternative proposals for renting housing in The Hague (see para. 13) and for firm and reliable cost estimates (see para. 19).

2. The Court has, in the past, submitted several reports on the permanent premises. The first of these was the project presentation² setting out the requirements the Court has for its premises. While this report comes clearly from the Court in its capacity as the user, the subsequent reports were submitted in response to questions of a more general nature asked by the Assembly of States Parties or by the Committee on Budget and Finance.³ Some of the information contained in these reports has since become outdated due to new developments or changes in planning assumptions. In order to avoid any uncertainty, the Court has decided to compile all the reports which needed to be updated into one comprehensive report. The information contained in this report and its annexes therefore supersedes that contained in the earlier reports presented by the Court.

3. In addition to the information contained in this report, reference is also made to two other documents. In October 2005, the Court submitted a report on financing methods used for the premises of other international organizations.⁴ For its part, the Committee “requested the Court to review its internal governance arrangements for the permanent premises”.⁵ This is the subject of a separate report to be submitted to the Committee for consideration at its seventh session.

¹ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 45.

² Report on the future permanent premises of the International Criminal Court – project presentation (ICC-ASP/4/22).

³ Report on the future permanent premises of the International Criminal Court – housing options (ICC-ASP/4/1), requested by the Assembly of States Parties at its third session, in September 2004.

- Report on the future permanent premises of the International Criminal Court – financial comparison of housing options (ICC-ASP/4/23), requested by the Committee on Budget and Finance at its fourth session, in April 2005.

- Report on the future permanent premises of the International Criminal Court – interim report on the composition of estimated staffing levels (ICC-ASP/4/24), requested by the Committee on Budget and Finance at its fourth session, in April 2005.

- Report on the future permanent premises of the International Criminal Court – update of financial comparison of housing options (ICC-ASP/5/CBF.1/1), requested by the Committee on Budget and Finance at its fourth session, in April 2005.

⁴ Report on the future permanent premises of the International Criminal Court – financing methods used for the premises of other international organizations (ICC-ASP/4/25).

⁵ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 43.

II. Requirements

4. In February 2005, as the future user of the permanent premises, the Court submitted to the Committee on Budget and Finance a project presentation⁶ giving an overview of the requirements the permanent premises would have to fulfil.⁷ Except for the building size (see para. 11), most of the information provided in this chapter is identical to that contained in the project presentation.

5. In its position as the future user, the Court has established a number of objectives and principles for the decision on the permanent premises.

6. The primary objectives are that the premises should reflect the character of the International Criminal Court, that there should be one site forever, that all organs should be on one site and that the form of the building should be defined by its function. The secondary objectives are user-friendliness, adaptability, security, separation of the organs of the Court, facilities for victims, witnesses and defence, an open and welcoming character, and a high-quality design.

7. Furthermore, the Court has determined requirements in terms of quality, location and size.

8. In the context of requirements pertaining to size, the Court has also identified flexibility and scalability of its premises to be among the fundamental requirements. This is because it is too early to predict the evolution of the Court in the decades ahead.

9. The Committee on Budget and Finance has “requested that the Court differentiate the essential features of permanent premises at the Alexanderkazerne from optional features, thereby assisting the Assembly to make choices on the scope and cost of the project”.⁸ The Court regards all of the presented features as essential, especially since all of them already exist in the current interim premises (Arc, Hoftoren and Saturnusstraat). None of these functions can be removed without seriously affecting the Court’s operations. From the beginning, the Court has excluded from the requirements any features that were not considered strictly essential.

10. While the costs of the building are not, as such, a factor in the requirements of the Court as user, the Court is nonetheless mindful of the costs. This is because maintenance and costs of construction or rent could impact heavily on the budget of the Court and therefore divert considerable funds from its core functions.

11. In general, the required building size depends to a large extent on the definition of the staffing level of the Court. All previous calculations were based on a maximum staffing level of 1,300. In the absence of a decision of the Assembly of States Parties on the number of

⁶ Report on the future permanent premises of the International Criminal Court – project presentation (ICC-ASP/4/22).

⁷ It should be noted that this report was submitted at a time when custom-built premises on the site of the Alexanderkazerne were the only option considered by the Assembly of States Parties and the Court. The requirements set out in the project presentation do, apply however, apply regardless of which housing option is chosen for the permanent premises of the Court.

⁸ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 42.

work places to be accommodated in the permanent premises, the Court has based its studies on three different scenarios of the possible maximum number of work places⁹:

- A maximum capacity of 850;
- A maximum capacity of 1100; and
- A maximum capacity of 1450.

It should be stressed that at the time of writing the Court does not know which of these scenarios is most likely to be the final requirement, since a decision on the required number of work places still needs to be made by the Assembly. However, at this time it is not necessary to determine definitive staffing levels for the continuation of the preparatory planning work for the permanent premises. The final figures on required work places can be integrated into the project at a later stage.

For more detailed information about the requirements, please refer to chapter II of the annex to this comprehensive progress report.

III. Housing options

12. As requested by the Assembly at its third session,¹⁰ the Court also submitted to the Committee on Budget and Finance in March 2005 a report containing a comparison of the three main housing options: staying in the current interim premises (the Arc), moving into the International Criminal Tribunal for the Former Yugoslavia building, or building tailor-made premises at the site of the Alexanderkazerne. This comparison was mainly based on the requirements, as set out in the project presentation, of the International Criminal Court as the user of the future permanent premises. In addition to these requirements, costs and legal feasibility were also factored in for the sake of completeness. The Court concluded that “the option of new purpose-built premises on the site of the Alexanderkazerne enjoys clear advantages”¹¹. In its resolution on permanent premises, adopted by consensus at its 4th plenary meeting, on 3 December 2005, the Assembly of States Parties, in line with the view of the Committee on Budget and Finance¹², recognized that “according to the information so far available, a purpose-built building on the premises of the Alexanderkazerne would probably offer the most flexible solution in matching the requirements of a permanent Court, in terms of size, functionality and security”.¹³

⁹ The lowest of these numbers is roughly equal to the number of work places necessary if all the currently budgeted posts were to be filled at the same time. The other two figures are derived by adding 30 % and rounding the result. The three scenarios are in line with the preliminary outcome of the first calculations of the Court Capacity Model. These calculations result in a comparable range in terms of staffing levels, although it is not yet clear how the staffing levels projections resulting from the Court Capacity Model relate to the required number of work places at the seat of the Court in The Hague.

¹⁰ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), Part II.A.2, para. 23.

¹¹ Report on the future permanent premises of the International Criminal Court – housing options (ICC-ASP/4/1), para. 47.

¹² *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), Part II.B.6.(b) para. 83.

¹³ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.2, para. 2.

13. In the report on the work of its sixth session, the Committee on Budget and Finance took note of this recognition by the Assembly, but nevertheless asked the Court, “in the absence of a decision by the Assembly to select the Alexanderkazerne option”, to “continue to work on alternative proposals for renting housing in The Hague”.¹⁴ In general, there are three options for alternative housing: an existing building could be adapted to the Court, an existing commercial concept could be adjusted to the needs of the Court, or a new development could be purpose-built for the Court. Regarding all three of these options, only the host State is in a position to state which lots/developments would be available. The host State has already given a presentation on these options to The Hague Working Group of the Assembly of States Parties. The presentation concluded that none of the options surveyed offered any advantages over the existing options.

14. The conclusion reached in the earlier report on housing options thus remains valid, even in the face of the continuing uncertainty concerning staffing levels.¹⁵ The option of custom-built new premises at the site of the Alexanderkazerne is much better suited to the requirements of the Court and both the Arc and the International Criminal Tribunal for the Former Yugoslavia impose significant limitations on the planning of optimal premises for the Court.

15. The selection of one of the housing options for more detailed planning is now the next logical step to take. Parallel planning for more than one of the options would be a time-consuming and costly effort. Even if a final decision on one of the options were to be taken right now, the Court would not be able to move into its permanent premises before 2012, the end of the period in which the host State provides the interim premises to the Court rent-free.

For more detailed information about the housing options, please refer to chapter III of the annex to this comprehensive progress report.

IV. Costs

16. In addition to the comparison of housing options, the Committee on Budget and Finance at its fourth session, in April 2005, also recommended “that the Court prepare a report containing estimates of the possible range of costs for each of the three options, including maintenance and energy costs, over a period of 25 years from 2012, setting out the net present value of each option”.¹⁶ The Court presented its report on the financial comparison of housing options on 18 October 2005.¹⁷ The conclusion of this first comparison was that the Arc would be the least expensive option over an initial period of 25 years. However, in the long term the Alexanderkazerne offers cost advantages as the Court could be the owner of the building and thus would not have to pay rent after the construction costs have been paid. This would also eliminate the extra layer of profit that an external owner/developer would inevitably charge for providing the Court with a building.

¹⁴ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 36.

¹⁵ Given this uncertainty, the possibility of housing 1,300 staff members is no longer considered a strict requirement.

¹⁶ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth Session, The Hague, 28 November – 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part II.B.6 (a), para. 31.

¹⁷ Report on the future permanent premises of the International Criminal Court – financial comparison of housing options (ICC-ASP/4/23).

17. In light of the bid made by the host State¹⁸, on 4 April 2006 the Court provided an updated financial comparison of housing options. In addition, the calculation method has been refined to increase the accuracy of the comparison, which has now been based on the assumed maximum work places of 850, 1100 and 1450.

18. The results of this exercise are the following:

	Arc	ICTY	Alexanderkazerne
• 850 work places:			
Annual costs (2005 level)	€7,331,426	€7,851,460	€7,107,900
Relative difference	100 %	107.1 %	97.0 %
• 1100 work places:			
Annual costs (2005 level)	€8,775,921	€9,286,820	€8,114,719
Relative difference	100 %	105.8 %	92.5 %
• 1450 work places:			
Annual costs (2005 level)	€10,802,470	€11,344,314	€9,524,265
Relative difference	100 %	105.0 %	88.2 %

In light of the host State's bid, the Alexanderkazerne is the least expensive option, regardless of the number of work places. The cost advantage over the Arc and the ICTY increases with the number of work places.

19. The Committee on Budget and Finance also requested that the Court take steps towards preparing "firm and reliable estimates of the range of likely costs for the project".¹⁹ However, at this point in time, given the uncertainty concerning both the staffing level and the definitive requirements, it is simply not possible to provide cost estimates with any reasonable degree of reliability.

20. The calculations provided herein are thus relative comparisons only. However, such a comparison should suffice as a basis for a first decision on which option to pursue further. As work on this option progresses and more detailed requirements become known, the Court will then be in a position to provide more reliable cost estimates.

For more detailed information about the costs, please refer to chapter IV of the annex to this comprehensive progress report.

¹⁸ Letter dated 25 January 2006 from the Minister for Foreign Affairs of the host State to the President of the Assembly of States Parties, (ICC-ASP/4/37). According to this additional bid, the host State would offer the land of the Alexanderkazerne site free of charge (while retaining ownership of the land). It would also provide to the Court a loan for the amount necessary to finance the cost of purpose-built new premises, to a maximum of € 200 million, to be repaid over a period of 30 years at an interest rate of 2.5%. Finally, the host State would also bear the costs related to the selection of an architect.

¹⁹ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 42.

V. Way ahead

21. Before a final decision on the permanent premises is made, there are a number of outstanding questions that need to be resolved:

- **A choice of one of the options**

Staying in the Arc, moving to the Tribunal or constructing purpose-built premises. It should be noted that, even if a choice of the Tribunal or the Alexanderkazerne is made now for further planning purposes, this would not exclude the possibility that it would be decided at a later point that the Court should stay at the Arc²⁰. However, a choice of one of the options would greatly facilitate planning and would allow the Court to present the States Parties with more accurate and reliable cost estimates.

- **Project ownership**

Once the choice of one of the options has been made, it will also be necessary to decide on the project ownership question. There are three fundamentally different models:

- the Court could be the project owner;
- the host State could be the project owner; or
- a private developer could be the project owner.²¹

It is of course also possible to have a combination in the form of a partnership between two of the above actors. Depending on which model is chosen, the Court (with the approval of the Assembly) will then have to develop an appropriate project organization structure.

- **Defining and refining the requirements**

This is essential for the determination of the scope and size of the permanent premises. Although the main responsibility for developing the requirements lies with the Court, the Assembly will be required to approve the most important ones, especially the number of work places to be accommodated in the permanent premises. As there is no need for a final decision on the required number of work places at this point, the lack of consolidated staffing levels does not stand in the way of further planning work.

- The Court will therefore continue to work on refining its detailed architectural and technical requirements, which will allow it to start more concrete planning work as soon as the maximum number of work places has been confirmed by the Assembly.

²⁰ However, it should be noted that the Ministry of Foreign Affairs of the Netherlands has informed the Court that there are currently only temporary permits for the use of the Arc and the ICTY and that a request for renewal would not be favoured by the municipality of The Hague.

²¹ For more information on constructing and maintaining permanent premises in cooperation with the private sector, please refer to chapter IV.5 of the comprehensive progress report, annexed hereto.

- In order to be able to fulfil these tasks, the Court has budgeted for a skeleton Permanent Premises Project Office within the framework of project governance, which will be responsible for the development and management of all necessary tasks related to the development of the permanent premises of the Court. Such an internal specialist capacity is necessary, regardless of which option is chosen or which model of project ownership is eventually adopted.
- **Budget ceiling and financing method**
At a later stage, when the planning work on the option chosen has reached a certain level of maturity, a budget for the project must be determined by the Assembly. Once this has been determined (with the necessary margin for unforeseen changes), the Assembly must also decide on the preferred method of financing.

22. Until there is clarity on all these issues, it is clear that the Assembly can make no final decisions about the permanent premises with important financial consequences. It is only when this planning work has reached a certain level of maturity that final decisions about a budget ceiling and project ownership can be made and the exact scope of the project determined.

23. The immediate steps that lie ahead are thus continued planning efforts on one of the housing options chosen by the Assembly and the further definition of the Court's requirements. The two can go hand in hand in order to avoid unnecessary loss of time.

Annex

Requirements, Options, Costs and Schedule

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The comprehensive report contained in this annex was prepared by the Inter-Organ Committee on the Permanent Premises (IOCPP) of the ICC under the chairmanship of Judge Hans-Peter Kaul, in cooperation with the external project management consultancy Drees & Sommer.

The report was reviewed by the Office of the Internal Auditor of the Court, whose suggestions have been incorporated in the document.

The Court would like to express its appreciation for the contributions and data provided by the ICC Task Force and the Dutch Government Building Agency.

I. Introduction

1. This report contains the results of the Court's planning efforts to date with regard to the permanent premises. To the extent possible, the Court has tried to limit itself to providing only essential information without overburdening the reader with technical details and terminology.

2. In order to create one coherent document, relevant information from the following previous reports has been integrated into the present report:

- a) "Report on the future permanent premises of the International Criminal Court – **Project Presentation**" (ICC-ASP/4/22), submitted further to paragraph 4 of the CBF Report to the Assembly of States Parties regarding discussions on the permanent premises of the Court dated 17 August 2004 (ICC-ASP/3/17).
- b) "Report on the Future permanent premises of the International Criminal Court – **Housing Options**" (ICC-ASP/4/1), as requested by the Assembly of States Parties in its third session held in The Hague from 5 to 9 September 2004.
- c) "Report on the Future permanent premises of the International Criminal Court – **Financial Comparison of Housing Options**" (ICC-ASP/4/23), as requested by the CBF in its fourth session held in The Hague from 4 to 6 April 2005.
- d) "Report on the Future permanent premises of the International Criminal Court – Interim Report on the Composition of **Estimated staffing levels**" (ICC-ASP/4/24), as requested by the CBF in its fourth session held in The Hague from 4 to 6 April 2005.
- e) "Report on the Future permanent premises of the International Criminal Court – **Update of Financial Comparison of Housing Options**" (ICC-ASP/5/CBF.1/1), as requested by the CBF in its fourth session held in The Hague from 4 to 6 April 2005.

All these reports are hereby superseded and replaced by this single comprehensive report, which contains all the up-to-date information.

3. However, the following report is regarded as a separate subject and is therefore not incorporated in the present document:

- "Report on the Future permanent premises of the International Criminal Court – **Financing Methods used for the Premises of Other Major International Organizations**" (ICC-ASP/4/25), as requested by the Committee on Budget and Finance at its fourth session, held in The Hague from 4 to 6 April 2005.

4. The Court hopes that this comprehensive report will provide the Committee on Budget and Finance and the Assembly of States Parties with a solid basis for further in-depth consideration of key issues with regard to the future permanent premises of the Court.

Note to the Committee on Budget and Finance

5. A number of issues regarding the permanent premises have been addressed in the most recent report of the Committee on Budget and Finance¹. Explanations concerning the issues addressed can be found in the following chapters:

Para.	Issue	See chapter
36. / 37. / 40.	“... it was incumbent upon the Court to continue to work on alternative proposals for renting housing in The Hague...”. “The Committee ... did not regard the Arc or ICTY sites as viable alternatives.” “... the Committee felt that the paper did not reflect genuine choices open to the Assembly...”.	III.2
41.	“...the Court would own the buildings constructed at the Alexanderkazerne while the host Government would retain ownership of the site”. “the Committee requested that the situation be clarified...”.	III.3.3.1.3
42.	“... prepare firm and reliable estimates of the range of likely costs for the project...”, “...based on consultations with a range of architectural or construction companies...”	IV.2
42.	“... explore different possibilities for constructing and maintaining permanent premises in partnership with the private sector ...”	IV.5
42.	“... differentiate the essential features of permanent premises at the Alexanderkazerne from optional features...”	II.3.2.1
43. / 44.	“... review [the Court’s] internal governance arrangements ...ensuring that the Registrar is the accountable officer...” “... invited the Registrar to submit proposals ... identifying the roles, responsibilities and lines of accountability for the permanent premises...”	A separate report on this issue has been prepared by the Registrar.

II. Requirements

II.1 Introduction

6. The basis for any planning or first-cost assumptions is always a preliminary definition of the requirements. This can be done only by the user, in this case the Court. Together with the financial aspects, these requirements are the most fundamental and therefore the most important information on which to base decisions on any building project.

7. The Court’s requirements for its permanent premises were first set out in the “Report on the future permanent premises of the International Criminal Court – Project Presentation”². Most parts of this chapter are therefore identical with the original report.

¹ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1).

² ICC-ASP/4/22.

8. It is important to note that these requirements are the basis for the comparison of a number of different housing options (chapter III) and for a financial comparison of these options (chapter IV) that follow in this report. It should be clear, however, that they are only preliminary requirements as defined by the Court and that key components (e.g. maximum staffing level) still need to be approved by the Assembly of States Parties.

9. It is not yet clear whether and to what extent the Court will have to engage in actual construction works. This will depend in the first place on whether a choice is made for the Alexanderkazerne or for one of the other options (see III below). However, it should be stressed that if one of the other options is chosen, substantial construction works may be needed, depending on the required overall size of the premises and the state of the existing parts (see III.2.1.1 below). In other words, the question of whether or not the Court should build in order to have suitable permanent premises depends less on the option chosen than on the Court's requirements.

II.2 Objectives and principles

II.2.1 Introduction

10. This sub-heading presents the main needs and requirements of the Court regarding the permanent premises. While these requirements cannot be expressed in figures, they will nevertheless play an important role in the development of the premises. They are determined first and foremost by the nature and purpose of the Court as a permanent international judicial institution.

11. The Court is expected to become a prestigious institution on the world stage. Its significance and status as an enduring symbol of international criminal justice will gradually grow. The permanent premises must reflect this stature and importance. The international media, by presenting images and pictures of the Court, from both the outside and the inside (especially the courtrooms), will add a visual dimension to the perception of the Court by the outside world. As such, the permanent premises will need to become the public face of the institution – an emblem of fairness and dignity and a symbol of justice and hope.

II.2.2 Objectives

II.2.2.1 Primary objectives

- **Premises reflect the character of the Court**
The Court premises must fully reflect the Court's character and identity as a permanent, effective, functioning, independent and therefore credible international criminal court, with a universal vocation. The area of the Court premises which is open to the public must be perceived as secure (but not as a fortress), people-friendly, comfortable, and accessible to all.
- **One site forever**
The Court premises³ must house its headquarters optimally, with the best possible working conditions for the Court, its staff and other users over an extended period, at least for the next 50 years, if not the next century.

³ For the purpose of this document, the term "Court premises" refers to both the land and the buildings as well as to all other terrains used by the Court (e.g. parking). This means that the Court site (i.e. the geographical location of the land) is considered part of the ICC premises and is subject to the same requirements and criteria.

- **All on one site**
The Court should never be forced to split up its permanent premises over separate locations. The permanent premises must house all organs of the Court together on a single site. Therefore the Court site must be spacious enough to absorb unforeseen growth during this extended period, including when future developments necessitate expansion or reorganization.
- **Form defined by function**
The Court premises must be in full conformity with its general functional, organizational, security and other needs. The Court's needs in the most comprehensive sense must be the decisive criteria for the premises. The site and the buildings should always be an enabling factor, not a limiting one.

II.2.2.2 Secondary objectives

- **User-friendly**
The Court premises should excel in suitability for use and must be a healthy, amenable and safe place for its users and the public.
- **Adaptable**
The Court premises and its buildings must be adaptable to changing needs in terms of size and use.
- **Secure**
The Court premises and in particular the site should make it possible for security requirements in the comprehensive sense to be fully met, as necessary and appropriate, in all possible situations.
- **Separation of organs**
The Court premises should allow the Court's main organs, in particular the Chambers and the Office of the Prosecutor, to be clearly and visibly separated from each other.
- **Facilities for victims, witnesses and defence**
The Court premises should provide suitable facilities for the requirements of victims and witnesses as well as for the needs of defence counsel. The Court premises must provide specific separated areas where those activities may take place.
- **Open and welcoming**
The Court premises should excel in openness towards the public and outside world and must provide adequate facilities to receive visitors of all kinds (from Heads of State to groups of schoolchildren) and the international media. To that end, the Court premises must have:
 - An entrance cluster which is open and spacey and which makes visitors feel welcome, despite the security checks. The entrance cluster should also serve as an educational space where the public can learn basic facts about the Court.
 - The public galleries of the courtrooms must be comfortable and spacey enough to accommodate visitors, random observers (e.g. from governments or NGOs) and the press. The public should feel as closely involved in the court action as possible, while taking into consideration the necessary security precautions.

- The press should be treated as a permanent observer of the Court's activities and as the prime witness for the world. The press facilities should make adequate coverage of the proceedings as easy and efficient as possible.
- The Court's library should attract scholars and students and establish an intellectual link between the Court and the outside world. Visitors must be able to consult the Court's collection in a comfortable setting which is adapted to the purpose.
- The conference cluster should allow the Court to receive outside visitors and to organize events related to the Court's activities.
- **High-quality design**
The Court premises must display outstanding features in terms of architecture and impact on the urban landscape:
 - The premises must be unobtrusive and on a human scale, while at the same time symbolising the eminence and authority of the Court.
 - The Court's premises and buildings should immediately be perceived as reflecting the Court's identity. The Court's main façade should serve as a timeless image symbolising its principal mission, i.e. to bring to justice the perpetrators of the most serious crimes of concern to the international community as a whole. It should also reflect the fact that the Court is an international Court with a universal vocation and seeks a well-balanced representation of the entire international community and a place at the heart of that community.

II.3 Quality

II.3.1 Introduction

12. The objectives and principles formulated in the previous sub-heading form the basis for the requirements regarding size (i.e. space needed, see II.5 below) and quality, which are described in this sub-heading. In line with those objectives, all of the Court's organizational units, with the exception of the field offices and the Detention Centre, will be centrally located on a single site (see primary objectives). It is anticipated that the Detention Centre will be accommodated in the Scheveningen Prison.

13. In order to get an overview of the size of the future permanent premises (i.e. both site and buildings), the Court continues to develop planning assumptions for future staffing levels. These levels are determined primarily by the number of ongoing investigations and trials.

14. As is usual in the early phases of construction projects, the Court is constantly reviewing its assumptions in light of the experience that is being acquired.

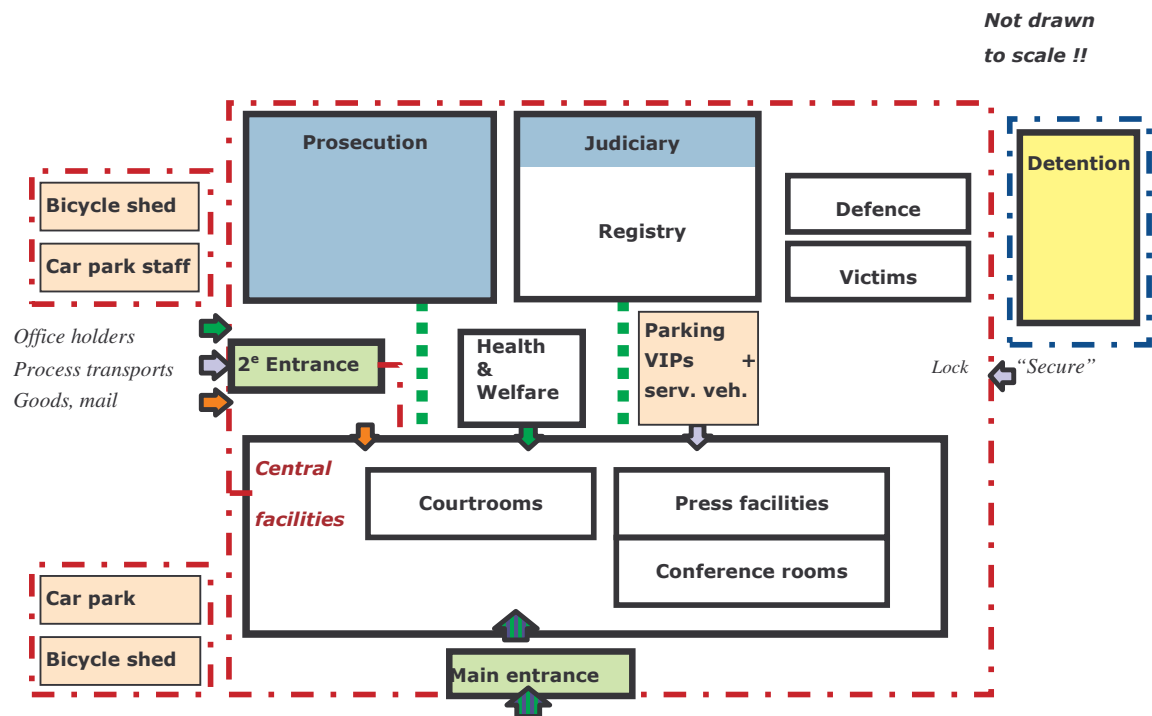
II.3.2 Key elements

15. The spatial programme will be derived from the functional needs of the Court. The arrangement of spaces and functions is directly related to the organizational structure. These key functions are:

- Main entrance, staff entrance, secured entrance
- Reception and information desks, main hall (*salle des pas perdus*)
- Courtrooms
- Library and documentation rooms

- Press and media rooms
- Meeting / conference and instruction rooms
- Catering facilities
- Judiciary
- Office of the Prosecutor
- Registry
- Secretariat of the Assembly of States Parties and Secretariat of the Victims' Trust Fund
- Security facilities
- Holding facilities
- Parking

16. Below is a schematic representation of the key elements. This is not a layout or plan and does not influence the ultimate design of the permanent premises. The drawing below is merely for illustrative purposes.



II.3.2.1 Essential and optional features

17. In the report on its sixth session⁴, the Committee on Budget and Finance asked the Court to "... differentiate the essential features of permanent premises at the Alexanderkazerne from optional features..." (see also chapter II.3.2, paragraph 17)

18. It must be emphasized that all of the features presented here are regarded as essential, since these functions already exist in the current interim premises (Arc, Saturnusstraat and Hoftoren). None of these functions can be removed without seriously affecting the Court's operations.

19. Optional features would be, for example, a shooting range for the training of the Court's security officers, a helicopter landing pad, or accommodation facilities for overnight stays of witnesses and their families, etc. The Court considered several such functions, which would certainly be useful, but decided that they were not strictly essential and therefore excluded them from the requirements.

20. There are, of course, different ways of realizing the essential features. For example, the parking could be placed underground (as is preferred) or simply above ground (as is currently the case on the Saturnusstraat site). However, the Court is not presently in a position to define these qualitative requirements for all essential features, as this also depends to a large extent on the precise circumstances of the housing option that is chosen.

II.3.2.2 Offices

21. The following table is based on Dutch and international standards. It shows the assumed space requirements for the offices:

Office function characteristics	Basic work space	Ancillary	Total USR [m ²]	Examples
- Basic office work	9	0	9	General personnel
- Basic office work + meetings with 2 persons	9	4	13	Personnel with frequent meetings
- Basic office work + meetings with 4 persons	9	8	17	Head of unit
- Basic office work + meetings with 6 persons	9	12	21	Head of section
- Basic office work + meetings with 8 persons	9	15	24	Director of division
- Basic office work + meetings with 8 persons + informal seating for 4 persons	9	21	30	Judge, Prosecutor, Registrar
- Basic office work + meetings with 8 persons + informal seating for 4 persons and large furniture	9	27	36	President

⁴ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1), para. 42.

II.3.2.3 The courtrooms

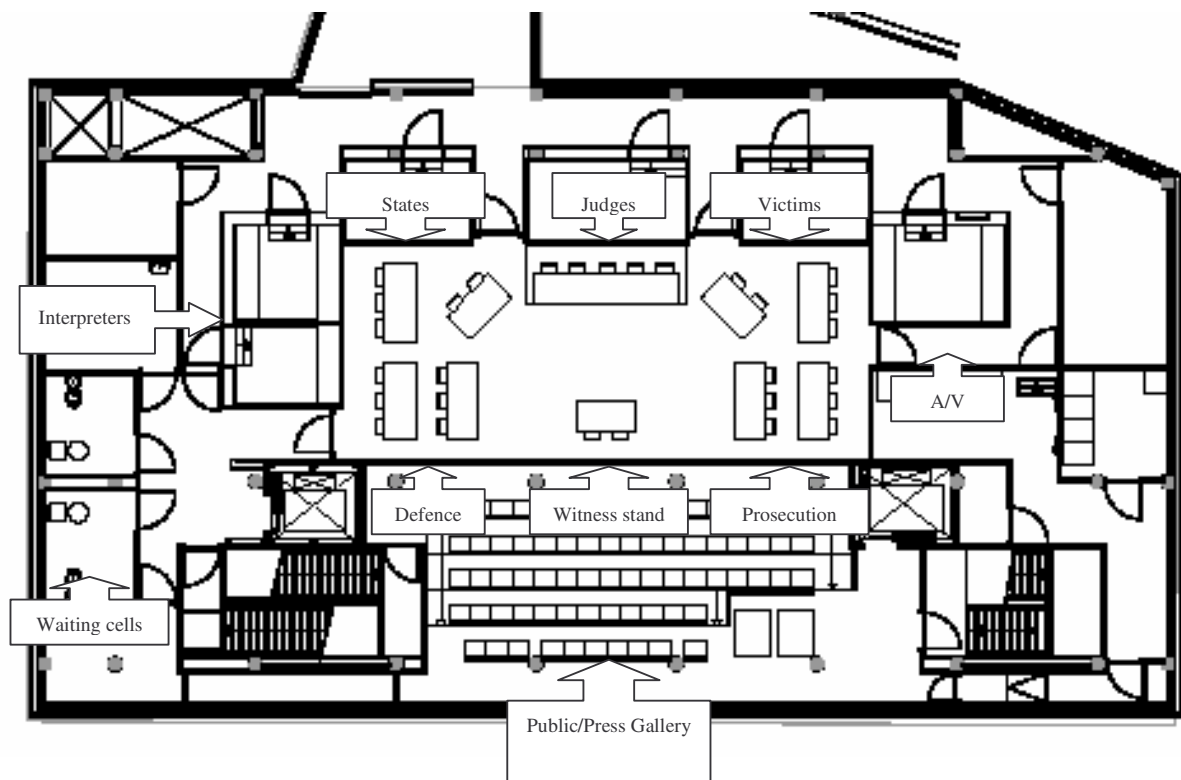
22. As the core element of the Court, the courtrooms are among the most important and prominent rooms and should therefore receive special attention. It is currently assumed that the Court shall have:

- Two “normal” courtrooms for standard hearings; plus
- One larger courtroom for special cases with increased space requirements.

23. Reserve space for additional courtrooms will be available on the site for possible future extensions.

24. The size and layout of the courtrooms will depend on the number of participants directly and indirectly involved⁵ and their distance to each other, and the details will be elaborated in collaboration with the design consultant. It should be borne in mind that the Court will regularly have a larger number of participants as is usual in domestic proceedings, since victims and their representatives and States and their representatives may take part.

25. Below is a possible layout of a courtroom, indicating the main elements that must be included. It should be noted that this picture does not represent any concrete planning. The design and layout of the courtrooms will be developed by the architect in close consultation with the judges.



⁵ E.g. judges, defence lawyers, victims representatives, counsel for States, accused, press and media representatives, visitors, etc.

II.3.3 Architectural concept

26. Several criteria for the ideal building configuration can be derived from the objectives and principles in chapter II.2:

- Distinct identities for the Presidency/Chambers and the Office of the Prosecutor (separation of powers);
- Consideration of possible future extensions of the Court buildings with minimum disturbance;
- Maximum security, with quick evacuation possible in emergencies;
- A design that expresses the character of the Court and fits into the environment and landscape.

27. These criteria have led to a preference for a campus arrangement involving buildings of modest height and with a limited number of floors.

II.3.4 Quality

28. The whole complex will consist of high-quality and low-maintenance materials consistent with Dutch quality standards. Although the appearance of the premises must reflect the Court's stature, no luxury is foreseen.

29. The entire Court complex will be easily accessible to disabled persons.

II.3.5 Security and safety

30. The Court premises are subject to the most stringent international standards to ensure the highest level of security. In addition, the provisions of Dutch law apply to the security of individuals and buildings and to the facilities to be installed for this purpose. These standards and requirements fundamentally impact the nature of the permanent premises.

31. Detailed threat and risk assessments will be made in function of the site in order to further develop and finalize the security measures to be taken. This will involve detailed studies of the security implications of the surroundings, access routes, buildings and grounds. The conclusions of these assessments will serve as a basis for further development of security plans during the design phase. This will have direct implications for the number of security officers required. The safer the design of the premises, the fewer the number of security staff that will be necessary to protect them.

II.3.5.1 Security

32. The buildings on the Court's site will be arranged in such a way that threats from all directions are reduced to a minimum. Besides that, the Court's premises will be protected in various ways:

- The security of the public area outside the complex;
- The barrier around the site;
- Security at the entrances;
- The security technology to be installed (detectors, cameras etc.) throughout the complex will be of the highest standards.

33. The Court foresees a four-level security system within the perimeter, which results in the compartmentalization of the ICC premises into four different zones, as follows:

- Public zone: open to all public after having been scanned for dangerous objects. This zone will include in general the entrance area with access to public facilities, such as the exhibition area, etc.
- Semi-public zone: also open to the public, but in addition to being screened, persons wishing to have access will have to present picture identification and their names will be recorded. This zone will include, in particular, the public galleries of the courtrooms, the conference rooms, library, etc.
- Restricted zone: for staff and other authorized personnel only. This zone will include the more sensitive areas, such as the Presidency, Chambers, Office of the Prosecutor, Registry offices and archives. Visitors who need access to this zone will be scanned and registered and will be assigned to a Court staff member, who will be responsible for the person in question.
- High-security zone: only for specially authorized persons. This zone will include the courtrooms, the holding facilities, etc.

II.3.5.2 Safety

34. The buildings should give users enough time to evacuate the building in an emergency, using suitable escape routes. The design must at least meet municipal minimum norms. Each escape route will lead to a controlled and secure zone, associated with the relevant part of the building. In principle, security measures will remain in effect during emergencies. Detainees will be subject to special emergency measures to prevent their escape.

II.3.6 Environmental principles

35. The Court and the host State are most eager to have environmentally-friendly, sustainable premises, both on principle and for reasons having to do with the image which the Court projects to the world. Where possible and financially feasible, this requirement will be met, in accordance with Dutch standards.

II.4 Location

36. The location of the permanent premises within the city of The Hague as well as the specific features of the site are important parameters for the functionality and image of the Court. The following criteria have been defined for a suitable location:

- “One site forever” i.e. large enough for future growth scenarios which are currently difficult to foresee;
- Representative location;
- Favourable conditions for security measures;
- Accessibility;
- Proximity to:
 - a prison / detention centre
 - hospitals
 - hotels
 - the city centre;
- No inhibiting building restrictions (e.g. environmental, protected monuments);
- Availability.

II.5 Staffing level and building size

II.5.1 Introduction

37. Staffing level and building size are interdependent and are therefore discussed together in this chapter. Three crucial parameters determine the size of the building (and therefore to a large extent the cost):

- Main functions;
- Staffing level; and
- Required space per function or staff.

38. The main functions have been presented in chapter II.3.2, Key elements.

39. The definition of the staffing level is a strategic decision, which must be made by the senior management of the organization with the guidance and approval of the Assembly of States Parties. Once the staffing level has been defined, it will serve as an input requirement for the definition of the permanent premises (“form follows function”).

II.5.2 Current accommodation requirements

40. The current budget for 2006 has 624 approved posts⁶ of which 440 were filled as of August 2006. This number is expected to increase to 676 in 2007, subject to approval by the Assembly⁷. The Court is also currently employing approximately 160 GTA staff and consultants, a number that is also expected to increase in 2007. Moreover, there are also between 50 – 65 interns and visiting professionals at the Court at any given time. This number too is likely to increase as the Court gears up to handle more investigations, cases, etc., and as more departments/divisions realize that they require interns and visiting professionals.

41. The Court must obviously be able to provide adequate accommodation for all its collaborators, regardless of their status. The requirements in terms of working places at the seat of the Court could thus easily amount to around 850⁸, discounting a small number of staff members working exclusively in the field who will never require accommodation in The Hague.

II.5.3 The Court’s progress on estimated staffing levels

42. In order to make predictions about future changes in staffing levels, the Court has developed the so-called Court Capacity Model⁹. As is explained in this report, the Model is a strategic planning tool designed to facilitate the Court’s strategic planning and to assist the Court and the Assembly in discussing the long-term strategic direction of the Court.

43. The Model may be used in two ways. Firstly, it can be used to estimate the level of output (core activities) the Court can produce over a given time frame with specified human resources. It can also be used to determine the human resources required to achieve a given level of output (core activities) within a given time frame.

⁶ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), resolution ICC-ASP/4/Res.8.

⁷ Proposed Programme Budget for 2007 of the International Criminal Court (ICC-ASP/5/9), see annex V(a).

⁸ This would be the case if all budgeted posts are filled.

⁹ See report on the Court Capacity Model (ICC-ASP/5/10*).

44. In other words, by running different simulations, the Model can provide alternatives identifying the range of outputs that can be produced with different resource levels.

45. The simulations of the Model will provide a sound methodology for the Court to formulate estimated staffing levels for each organizational unit for the permanent premises.

46. Consequently, as described in the Interim Report on the Composition of Estimated Staffing Levels, the Court will use the Model for calculating and reviewing the estimated staffing levels for the definition of requirements for the permanent premises.¹⁰

47. In case construction is involved¹¹, the continuously updated estimates for the staffing levels resulting from the Model, as well as the assumptions about their required flexibility and distribution among organizational units, can be used as input for the international architectural design competition. It will thus be possible to ask the designers to find the best possible solutions for the necessary adaptability, in terms of growth and shrinkage of the ICC as a whole (scalability), as well as for maximum flexibility within the organizational units.

48. It is important to point out that at this time it is not necessary to establish definitive staffing levels for the continuation of the preparatory planning work for the permanent premises. The figures on staffing levels can be integrated in the planning process as more precise figures become available.

49. In this context it is also important to understand that, even in case of changes later in the process (i.e. after the architectural competition), the cost of modifications during the design phase because of updated staffing levels is likely to be significantly lower than the cost of postponing the start of the project.¹² In other words, continuing the process on the basis of the first estimates and integrating more precise figures later is more cost-effective than waiting for precise figures before starting the selection of the architect.

II.5.4 Building size

50. Considering that there is no decision about the assumptions and corresponding staffing levels, it is not possible to present any definitive numbers in terms of building size. The proper sequence to come to such numbers is that the Court first decides on its own forecast about long-term workload assumptions and the correlated staffing levels required (based on the Court Capacity Model simulations). When these forecasts are approved or amended by the Assembly, the Court can start calculating the corresponding building size.

51. In the absence of any guidance on the required number of workspaces, the Court has taken three different hypothetical scenarios about possible maximum work places¹³:

- A maximum capacity of 850;
- A maximum capacity of 1,100;
- A maximum capacity of 1,450;

¹⁰ Report on the future permanent premises of the International Criminal Court – interim report on the composition of estimated staffing levels (ICC-ASP/4/24).

¹¹ See paragraph 9.

¹² See also chapter V.6.

¹³ N.B. The notions of ‘standing capacity’ and ‘full capacity’ as used in the project presentation before have become outdated by the Court Capacity Model and the ongoing discussions about the required staffing level. The staffing level of 950 and 1,300 were based on assumptions about the activities of the Court. These assumptions are now being revisited in light of the Court Capacity Model.

Apart from the present staffing level¹⁴, these numbers are randomly chosen to illustrate how the scale of the project influences the relative costs for all three options (see chapter IV.4.4). Each different scenario is an increase of about 30% over the previous one. It should be stressed, however, that at the time of writing the Court does not know which of these scenarios is most likely to be the final requirement, since a decision on staffing levels still needs to be made.

52. What is important to note, however, is that the numbers in the scenarios described above, are maximum occupancy levels. In other words, in the case of a building constructed or rented for 850 workspaces, this would mean that if the Court were to move in now, the building would immediately be filled to its maximum capacity and further growth would be impossible.

II.5.4.1 Flexibility and scalability

53. It is always advisable to construct or rent a building with a certain margin for growth to allow for some elasticity in the staffing levels. In normal circumstances, a building can have a flexibility of up to 30%, depending on the systems used. Therefore, if a building with the necessary flexibility were to be constructed for the current staffing level of the ICC (i.e. +/- 850), this would mean that the maximum capacity of the building would be 1,100 workspaces.

54. It must therefore be stressed that the maximum capacity of the building as such does not say anything about the actual size of the organization occupying it. It is a matter of prudent planning to allow for infrastructure that can absorb unforeseen events, because expanding a building by additional construction (i.e. scalability) is time-consuming and much more costly than providing some reserve space from the beginning.

55. Below is a graphic illustration of the difference between flexibility and scalability:

Flexibility =



Scalability =



- Flexibility signifies the level of increase in staffing levels/courtroom activity, which the existing physical structure (*i.e.* buildings) must be able to comfortably absorb and accommodate. Flexibility allows the organization to expand without any building or construction work. In other words, the growth/shrinkage takes place within the existing walls. Flexibility is limited by the square meters of usable space available in the buildings.
- Scalability involves the construction of additional buildings or extensions to existing ones. Scalability becomes necessary only when existing buildings have reached their maximum capacity and flexibility margins have been fully used. Scalability is limited by the size of the site.

¹⁴ The number 850 reflects the maximum number of persons currently budgeted for.

56. The Court has identified flexibility and scalability of its premises to be among the fundamental requirements for the permanent premises (see chapter II.2.2.1 – “All on one site”). This is because it is not possible to predict the evolution of the ICC in the next decades (i.e. the lifetime of the permanent premises). In an ideal situation, the Court’s premises would be flexible and the land would be big enough to allow for scalability.

57. However, flexibility and scalability apply in the first place to the required office space, which is directly related to the staffing level, whereas other parts of the premises remain more or less the same, regardless of the overall size of the organization. Accordingly, in making assumptions about the building size under the different scenarios (850, 1,100 and 1,450), a differentiation was made between the static parts and the variable parts.

II.5.4.2 Preliminary building size calculations

58. In the absence of firm and consolidated staffing levels, it is not possible to give detailed numbers of required Gross Floor Area (GFA) for the permanent premises. The calculations as presented below are based on a preliminary study (room schedule) from 2004 by the host State’s Government Building Agency, based on the original assumption of 1,300 staff. The Court will as soon as possible develop its own detailed functional and space requirements.

59. For this purpose, the Court has requested the necessary funds to contract a team of independent experts to conduct a comprehensive study to identify the users’ detailed architectural and technical requirements, including detailed functional and space requirements.

60. Nevertheless, based on the distinction between static requirements, such as courtroom cluster or the main entrance hall, and the variable requirements for the office space, it is at this stage already possible to give rough assumptions about the estimated size in the three different scenarios. For this calculation, an average GFA of 23.6 m² ¹⁵ per staff member is used, which is rather modest.

61. It should be pointed out that the Court is not yet in a position to give the precise distribution of staffing levels among the different organs. The Court Capacity Model will provide these numbers as soon as there is agreement about the basic assumptions on future activity of the International Criminal Court. To simplify the calculation, the table below only includes the numbers for the total maximum staffing level that the building must be able to accommodate:

¹⁵ Derived (variable area divided by number of staff = 23.56154m²) from the preliminary room schedule study as provided by the host State.

SURVEY GROSS FLOOR AREA PERMANENT PREMISES ICC				
Staffing level:	(Reference)			
	1,300 100%	850 65%	1,100 85%	1,450 112%
VARIABLE AREA	GFA [m2]	GFA [m2]	GFA [m2]	GFA [m2]
Judiciary				
Office workplaces Judiciary	4,170	2,727	3,528	4,651
Supporting functions (conference / deliberation rooms, storage, sanitary)	550	360	465	613
OTP				
Office workplaces OTP	9,315	6,091	7,882	10,390
Supporting functions (conference / deliberation rooms, storage, sanitary)	950	621	804	1,060
Registry				
Office workplaces Registry	10,440	6,826	8,834	11,645
Supporting functions (conference / deliberation rooms, storage, sanitary)	1,020	667	863	1,138
Other				
Catering cluster	2,170	1,419	1,836	2,420
Workshops (repair, ICT)	200	131	169	223
Repro, post handling	290	190	245	323
Housekeep, goods, storage cluster, general (sanitary, smoke rooms)	1,300	850	1,100	1,450
Entrance areas (staff, special staff, VIPs, goods)	225	147	190	251
Subtotal variable area	30,630	20,027	25,918	34,164
STATIC AREA				
Main entrance plus reception area	1,650	1,650	1,650	1,650
Main lobby (salle des pas perdus) plus supporting functions	1,590	1,590	1,590	1,590
Courtroom cluster (courtroom plus supporting functions)	3,350	3,350	3,350	3,350
Holding cluster (cells, area for detained accused, witnesses)	1,260	1,260	1,260	1,260
Conference cluster (central conference facilities incl. supporting functions)	1,770	1,770	1,770	1,770
Library cluster	1,215	1,215	1,215	1,215
Press facilities	395	395	395	395
Vault, secure storage	650	650	650	650
Security	960	960	960	960
Medical unit	160	160	160	160
Welfare	170	170	170	170
Sports (fitness) cluster	375	375	375	375
Gate-buildings	645	645	645	645
Secretariat of the Assembly of States Parties (10 staff)	236	236	236	236
Secretariat of the Trust Fund for Victims (5 staff)	118	118	118	118
Subtotal static area	14,543	14,543	14,543	14,543
Total	45,173	34,571	40,461	48,708

On this basis, the required building size for the different scenarios is as follows:

- 850 max staffing level
 - Building: 34,571 m²
 - Parking: 12,531 m²
 - Total: 47,102 m²
- 1,100 max staffing level
 - Building: 40,461 m²
 - Parking: 15,086 m²
 - Total: 55,547 m²
- 1,450 max staffing level
 - Building: 48,708 m²
 - Parking: 18,663 m²
 - Total: 67,371 m²

62. It should be stressed that these numbers are only rough mathematical calculations. The final building size will also depend to a large extent on the architectural concept (see chapter II.3.3) and the design of the option chosen. For more accurate and precise estimates of the building size, detailed studies will be carried out in the pre-design and optimization phase.

63. It should also be pointed out that in the existing options (i.e. Arc and ICTY), many of the static requirements are sub-optimal. For example, the size, layout and location of the courtrooms and public galleries at both the Arc and the ICTY leave a lot to be desired. However, the Court does not plan to adapt these features to the required standard if either option were to be chosen. In other words, the Court would have to adapt to the prevailing conditions, even if they do not satisfy.

III. Housing options

III.1 Introduction

64. During the Rome Conference of 1998, the Kingdom of the Netherlands was chosen to host the International Criminal Court in The Hague. In its initial bid, the host State stated that “the final choice of a location for the Court’s premises will be made by the competent national and local authorities, having regard to the statutory requirements of the ICC as determined by the diplomatic conference”.

65. The Alexanderkazerne site (see chapter III.3.3.1) was chosen by the host State as the designated location for constructing purpose-built premises for the International Criminal Court. Other options were considered in a careful selection process with precise criteria, but in the end the host State concluded that the Alexanderkazerne would be the most suitable site for the future permanent location of the International Criminal Court. Until the construction of the new building, the host State offered to provide interim premises free of charge for 10 years in the Arc building. It is on this basis that the planning process for new purpose-built premises started in 2002, with the involvement of the host State and the International Criminal Court Advance Team and the goal of finishing the permanent premises before 2012 (the end of the rent-free period offered by the host State).

66. However, in the report on the work of its third session, the Committee on Budget and Finance recommended that the Court and Assembly should consider the possibility of continuing to use the interim premises in the longer term.¹⁶ In its recommendations on Major Programme V – Investment in the Court’s Premises, the Assembly endorsed this suggestion and noted that there were three possible options for the Court as regards its permanent premises: to stay in its current premises; to move into the building of the International Criminal Tribunal for the Former Yugoslavia; or to move to a different dedicated building.¹⁷

67. The Court made a comparison of these three options on the basis of the requirements that were formulated in the Project Presentation (reflected in chapter II), the result of which was submitted to the Committee on Budget and Finance on 9 March 2005¹⁸.

68. In its resolution on permanent premises ICC-ASP/4/Res.2, adopted by consensus at the 4th plenary meeting on 3 December 2005, the Assembly of States Parties “[recognized that] according to the information so far available, a purpose-built building on the premises of the Alexanderkazerne would probably offer the most flexible solution in matching the requirements of the Court, in terms of size, functionality and security”.

69. In its report on the work of its sixth session¹⁹, the Committee on Budget and Finance took note of this recognition by the Assembly but nevertheless asked the Court to continue to work on alternative proposals for renting housing in The Hague (including the Arc and the ICTY sites), as long as the Assembly had not made a final decision to select the Alexanderkazerne.²⁰

¹⁶ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6 - 10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part II.A.8.(b), p. 199, para. 102.

¹⁷ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third Session, The Hague, 6 - 10 September 2004* (International Criminal Court publication, ICC-ASP/3/25), part II.A.2, p. 15, para. 23.

¹⁸ Report on housing options (ICC-ASP/4/1).

¹⁹ Report of the Committee on Budget and Finance on the work of its sixth session (ICC-ASP/5/1).

²⁰ *Id.*, para. 36.

70. The selection of one of the housing options is now one of the most urgent and important steps to take. Parallel planning work for more than one of the options would be a time-consuming and costly effort and should be avoided if possible.

III.2 Alternative housing options for the Court

III.2.1 Three models for realising permanent premises

71. The starting point for considering housing options must always be the requirements of the user, i.e. the Court. There is no point in renting or buying a certain building if it does not allow the Court to work in it properly.

72. In the search for a suitable building to house the Court, it is thus necessary to take into consideration the many specific and peculiar requirements of the Court. As one would expect, there are no existing buildings available on the Hague real estate market that would suit these special needs. Consequently, the Court has three different options for finding the right accommodation:

- Adapting an existing building;
- Taking an existing commercial concept and adjusting it to the needs of the Court;
or
- A purpose-built new development.

III.2.1.1 Adapting an existing building

73. This option starts from an existing building which has the approximate required size in terms of office space and which allows the necessary adaptation to the specific requirements of the International Criminal Court. This adaptation can be done only through reconstruction of the existing parts or additional construction of new parts.

74. This model can be used for a rented building, but it is not clear who would have to make the investments for the adaptations and additional constructions and how these would be reflected in the rental price. It should also be noted that if this option is chosen, the Court would not benefit from the additional financial bid by the host State (see below IV.3).

75. Both the Arc and the ICTY are examples of this model. However, the adaptations that were carried out do not meet the requirements of the International Criminal Court for the long term. The adaptation of the Tribunal was never adequate and has always been intended to be a temporary solution. The same applies to the Arc, which was conceived as an interim accommodation only. The additions were thus all planned as short-term solutions with a limited maximum time horizon of 10 years in mind and therefore the Arc and the ICTY do not meet minimum requirements for the permanent premises.

III.2.1.2 Existing commercial concept adjusted to the needs of the International Criminal Court

76. A second method for securing premises that meet the requirements of the Court through the private market is to find a commercial project that is still in the planning phase and ask the developer to adapt the plans to the requirements of the Court.

77. In such a model, the Court would have to convince the developer to construct a building specific to its needs, which the Court would then rent from the developer. The Court would thus not be the owner of the premises. It should also be noted that if this option is chosen, the Court would not benefit from the additional financial bid by the host State (see below IV.3).

78. It is not clear whether there would be any interest from the market for such a model, considering the high specificity of the Court's requirements, which would make it difficult for the developer to ever rent the building to anyone else.

III.2.1.3 Purpose-built new development

79. Purpose-built premises start from a plan and design and a corresponding piece of land that will allow this plan to be constructed on it. This model allows the Court to construct a building that fully meets its requirements and which can be owned by the International Criminal Court if desired.

In this model, the Court would define its requirements and then find the necessary partners (public or private) to carry out the project.

80. The Alexanderkazerne option would fall into this category. However, it should be noted that the Court would be able to benefit from the additional financial bid by the host State under this model only if the Alexanderkazerne option is chosen (see below IV.3).

III.2.2 Identifying suitable options for the International Criminal Court

81. As noted above, the Committee on Budget and Finance has asked to identify "alternative proposals for renting housing in The Hague (including the Arc and the ICTY sites) in order to present the Assembly with genuine choices"²¹. In order to comply with this request, the host State has conducted a survey of possible alternative options for housing in The Hague.

82. The host State, as an indispensable partner of the International Criminal Court in the search for realistic housing options, has carried out a large real estate survey²² with the goal of identifying the most suitable option to house the permanent premises of the Court.

83. Based on this survey and the analysis of the alternative options for meeting the Court's requirements (see II), the host State concluded that the Arc, ICTY and Alexanderkazerne are still the three most viable options in The Hague for realizing the Court's permanent premises.

84. It should be stressed that all three are genuine options in the sense that they could provide a solution for the International Criminal Court's housing needs if the necessary adaptations are carried out. This may require substantial construction and refurbishment of the Arc or ICTY sites, depending on the volume of the project in terms of work places.

III.3 The Arc, ICTY and Alexanderkazerne options

III.3.1 Arc

Location: Maanweg 174, 2516 AB, The Hague

III.3.1.1 Description

85. The Arc is made up of three connected buildings (called 'wings'), the main element of which is a 15 storey high-rise tower. The buildings almost entirely cover a piece of land of

²¹ Id.

²² The host State informed the Court and the Hague Working Group that it has surveyed the Hague real estate market and considered a number of other options, notably: 'The Ministry of Transport and Communications' 'The Monarch', Ypenburg, 'Houtrusthallen', 'Verhulstplein', 'The Hague New Central', 'Beatrixkwartier', 'Hoorwijk' and 'Binckhorst'.

5,259 m². The whole complex provides a rentable floor area of 21.333 m², which allows for the accommodation of approximately 800 to 850 staff members. It also houses an improvised deliberation room of 65 m² to cover the most urgent needs of Pre-Trial Chambers. In addition, there is a newly built 'D-wing' with a gross floor area of 6,371 m², with two courtrooms of 170 m² and 70 m² respectively and adjacent reception facilities.

86. The parking lot is located at a considerable distance from the Arc itself and provides space for 375 cars. There are no parking provisions for visitors, satellite vans, buses, etc.

87. The Arc is owned by a private bank, which may want to use its property for more profitable ends in the future. The current lease on the Arc expires in 2012. The municipality has indicated that it would not be in favour of extending the use of the Arc.²³

III.3.1.2 Analysis

88. The Arc could fit the current staffing levels of 850, but would leave no room for any flexibility. Furthermore, the Arc site has no space left for either horizontal or vertical expansion, thus not allowing for scalability either. Currently, the Court already needs and has acquired ancillary space for approximately 50 staff members at a different location in The Hague.

89. The Arc is not suited to the Court's work processes and has no scope for providing the required layout for important functional clusters. Although the Arc consists of three parts, these are not suited to the size of the organs. It would thus be necessary to spread the individual organs among different parts of the building. The waiting rooms for witnesses are located in the regular office area and do not have separate facilities (separate entrance, toilets, etc.). There is no separate corridor between the waiting area for witnesses/victims and the courtrooms and there is no separate working space for counsel for the defence, victims or States. Access for persons with disabilities is limited.

90. The Arc is far removed from the Detention Centre.

91. The Arc lacks the dignity of a court building. Its image as a modern office building does not correspond with the idea of a permanent universal court. It is not a welcoming building, is unsuited for receiving visitors and does not have adequate public galleries. There is no conference cluster in a semi-public part of the building. All conference rooms are in the restricted security area which visitors are not allowed to enter.

92. Both the nature of the building (high-rise) and the small distance between the security perimeter and the building make the Arc very difficult to secure. It is not possible to adapt the Arc to the security requirements of the Court. Its layout does not permit the full implementation of a four-level security concept. Certain organizational units are located in the wrong security zone and at some points the security zones overlap, which necessitates either raising the security level (which creates obstructions) or accepting unwarranted risks.

93. There is no safe area around the Arc for Court staff to repair to in the event of an evacuation – the building is surrounded by very busy streets. It is therefore difficult to implement an evacuation plan that would respect security requirements. There is also no space available for managing demonstrations without major disruption of public order.

²³ The Ministry of Foreign Affairs of the Netherlands has informed the Court that there are currently only temporary permits for the use of the Arc and the ICTY and that a request for renewal would not be favoured by the municipality of The Hague. The Ministry of Foreign Affairs of the Netherlands has further informed the Court that the outcome of the mandatory procedure for obtaining a permanent permit for the Arc or the ICTY seems uncertain.

III.3.2 ICTY

Location: Churchillplein 1, 2517 JW, The Hague.

III.3.2.1 Description

94. The ICTY accommodation is divided among three buildings:

95. The main building, which dates back to the 1950s, has a rentable floor area of 19,883 m² and can accommodate approximately 700 staff members spread over five storeys. The main building includes the three courtrooms. The total size of the land is 8,600 m²

96. In addition, there are two buildings which are located on different addresses in the vicinity of the main building. One provides office space for up to 200 and the other for 70 staff members.

97. There is an underground parking lot with space for 335 cars. In addition, there are 63 parking spaces inside the security fence. Visitors are able to use the car park of the neighbouring Congress Centre, but must pay to do so. There are no parking provisions for satellite vans or buses.

98. The Tribunal has three courtrooms but the public galleries of one of the courtrooms are too small. The courtrooms of the Tribunal are not suited to the participation of victims, counsel or State representatives.

99. The main building of the Tribunal premises is owned by a commercial real estate developer. The current lease on the main building of the Tribunal premises expires in 2011 at the latest. The municipality has indicated that it would not be in favour of extending the use of the Tribunal premises²⁴.

III.3.2.2 Analysis

100. The Tribunal premises have no capacity for accommodating the current International Criminal Court staffing levels. If this option is chosen, it would thus be necessary to construct additional office space. From a purely spatial point of view, there seems to be enough room for constructing such additional office capacity, but it is unclear whether the necessary permissions could be obtained. Vertical expansion of the existing buildings is not possible, which also limits the possibilities for scalability if no additional construction on the site is allowed.

101. The main part of the Tribunal premises consists of one large building and there is thus no possibility for visible separation of the organs. This could be remedied by additional construction on the same site, if building permits can be obtained.

102. The Tribunal premises are not suited to the Court's work processes and have no scope for providing the required layout for important functional requirements. The waiting rooms for witnesses do not have adequate facilities and there is no separate corridor between the waiting area and courtroom. The Tribunal provides no separate working space for counsel for the defence and no accommodation is provided for the participation of victims or States

²⁴ The Ministry of Foreign Affairs of the Netherlands has informed the Court that there are currently only temporary permits for the use of the Arc and the ICTY and that a request for renewal would not be favoured by the municipality of The Hague. The Ministry of Foreign Affairs of the Netherlands has further informed the Court that the outcome of the mandatory procedure for obtaining a permanent permit for the Arc or the ICTY seems uncertain.

representatives. The press facilities of the Tribunal premises are inadequate and there is no library that is open to the public. Access for persons with disabilities is limited.

103. The Tribunal is located in a dignified area, with museums, several embassies and other international organizations in the immediate vicinity. Although the architectural qualities of the Tribunal do project a measure of dignity, its stature does not measure up to that of a permanent universal court. The Tribunal premises are not welcoming and are unsuited for receiving groups of visitors.

104. The Detention Centre is within reasonable distance.

105. The Tribunal premises are low-rise, but they are too close to a road and the distance between the security perimeter and the buildings is very small. It is not possible to adapt the Tribunal premises to the security requirements of the Court. The layout of the Tribunal premises does not permit the full implementation of a four-level security concept and certain organizational units are located in the wrong security zone and at some points the security zones overlap, which necessitates either raising the security level of that part of the building (which creates obstructions) or running unwarranted risks. It is also difficult to implement an evacuation plan that would respect security requirements. There is some space available in front where demonstrations can take place, but this space would probably be lost to the required additional construction.

III.3.3 New permanent premises at the Alexanderkazerne

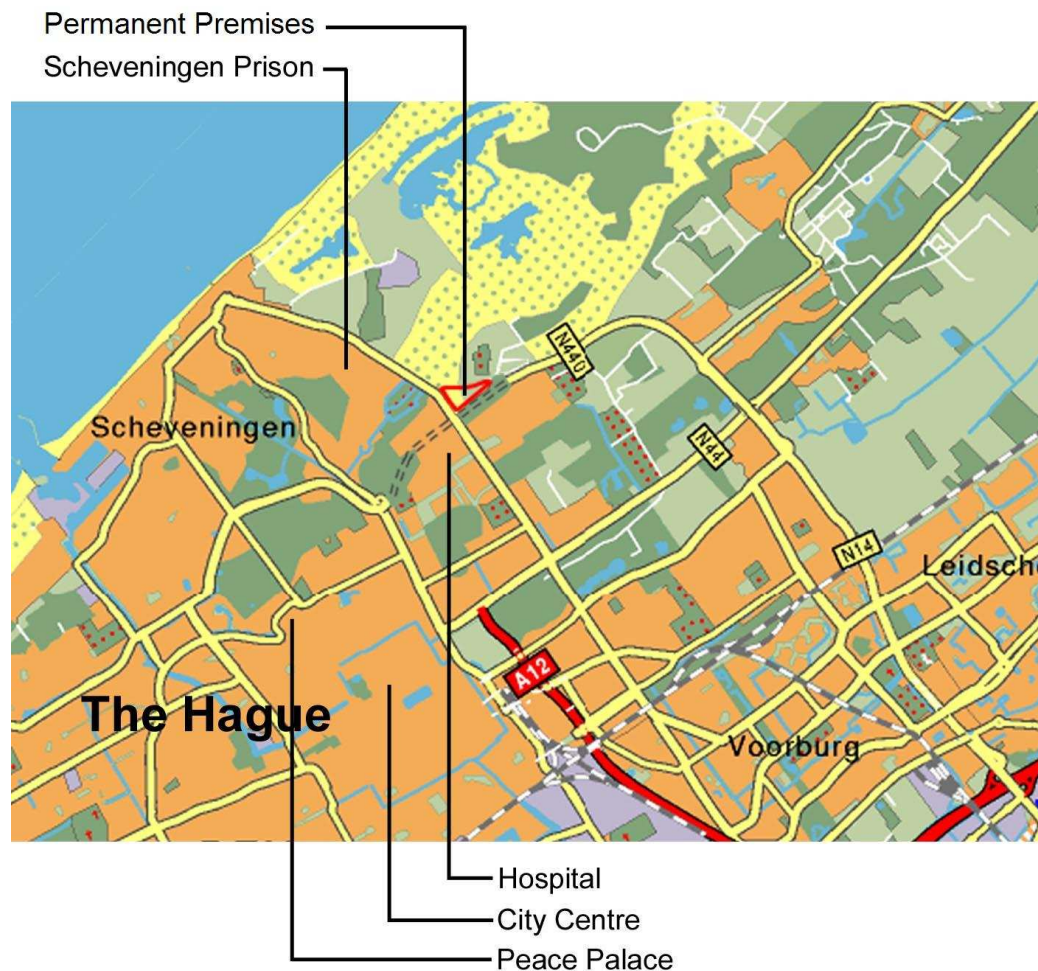
Location: Alexanderkazerne, Van Alkemadeaan, 2597 AK, The Hague

106. The site on which the permanent premises could be constructed is on the former military barracks of the Alexanderkazerne. The size of this site is 72,267 m². This size allows for the construction of the permanent premises as defined in the project presentation and leaves ample room for reorganization and expansion, using the basic model of a campus-like arrangement. The Alexanderkazerne would be available by 2009.

III.3.3.1 The location proposed by the host State

107. In 2001, the host State proposed that the International Criminal Court should be situated on the former site of the Alexanderkazerne in The Hague. The host State has stated that this site will be fully available by January 2009.

108. The location within the city and its relation and distance to the above-mentioned facilities is shown in the following map.



III.3.3.1.1 Characteristics

109. The International Criminal Court and the host State are confident that this location meets all requirements as defined above. Additional advantages of the Alexanderkazerne are:

- The size, which is large enough to host the International Criminal Court even with possible extensions in the future;
- The representative location near the city centre and at the same time adjacent to a nature reserve (dunes);
- Excellent conditions for security measures (former military area);
- Proximity to detention facilities at the penitentiary complex in Scheveningen;
- Proximity to a hospital and to the Peace Palace Library;
- Good accessibility, room for parking facilities and availability of public transportation;
- Absence of inhibiting building restrictions.

III.3.3.1.2 The site

110. The original site proposal by the host State comprised only one part of the Alexanderkazerne of approximately 30,000 m². This would have allowed a staffing level of up to 600-800, without options for further expansion on the same site. However, after the initial assumptions about the size of the organization had been reviewed, and in light of the “all on one site” principle, the host State has examined the possibility of making the entire site (i.e. 72,000m²) available to the International Criminal Court, and has confirmed that the complete site will be available by 2009.

111. The site plan below depicts the entire Alexanderkazerne site. The total site area is around 72,000 m². This rough plan shows the buildings to be constructed and the areas for possible future expansion. It should be emphasised that this plan is intended merely to give a general impression.



III.3.3.1.3 Legal ownership of the land and buildings

112. Under the terms of its additional financial bid, the host State will remain the owner of the land (see chapter IV.3). According to information provided by the host State and independent legal advice obtained by the Court, it is possible under Dutch law for the Court to be the legal owner of the buildings constructed on the land, even without being the owner of the land. This could be achieved when the host State, as the owner of the land, grants the

Court a ‘building right’²⁵ to construct its permanent premises on the land of the Alexanderkazerne. Such a building right leads to a horizontal division of the land and the building in terms of property law. The host State has indicated that it would be willing to grant the Court such a building right if the Alexanderkazerne option is chosen.

III.4 Conclusion

113. From the above analysis of the three options, it is clear that both the Arc and the ICTY impose more limitations on the planning of optimal premises for the Court. This is due to the fact that neither the Arc nor the Tribunal have been originally conceived of as courthouses. The solutions that can be arrived at on these locations are thus necessarily compromises. This is in contrast to the Alexanderkazerne, where a building can be constructed according to the requirements defined by the Court, including the necessary security and functional specifications.

114. At the same time, if sub-optimal solutions are acceptable, it appears that the Arc and the ICTY could be viable alternatives to purpose-built premises. However, they both have important structural drawbacks which should caution against choosing either of these two options without further analysing the implications of these limitations.

115. The Arc is severely limited in terms of flexibility and scalability. Even at current staffing levels, the building would not allow for any temporary growth of the organization if this were required due to a sudden but temporary increase in the Court’s workload. Moreover, the size of the land does not allow for any scalability. It should be noted also that the Arc as such does not comply with some of the most important requirements of the Court with regard to security.

116. The Tribunal as it is now would already be too small for the International Criminal Court in its current composition. The viability of the Tribunal thus depends entirely on whether or not it is possible to construct additional buildings on the empty space in front of the current site. If the necessary permits and agreements can be obtained to use this piece of land for construction, it would be possible to construct a building with the necessary flexibility but very limited scope for scalability. Such an arrangement would probably not fully comply with all requirements of the Court and would be sub-optimal in terms of security.

117. In the short term, these limitations may seem of less concern, but considering that the permanent premises is meant to be the seat of the Court for an indefinite period of time, it would seem advisable to choose the option that provides most possibilities for flexibility and scalability, regardless of the current size and composition of the Court.

118. For a definitive assessment that would offer a complete factual analysis of whether the International Criminal Tribunal for the Former Yugoslavia or the Arc could meet the requirements of the International Criminal Court, a feasibility study would be necessary as soon as the requirements have been defined and approved. However, these studies are costly and time-consuming exercises and careful consideration should be given to whether they are really necessary, especially in the light of the considerations above and the conclusions about the financial implications for all three options discussed below.

²⁵ The Dutch legal term for this right is “*opstalrecht*”.

IV. Costs

IV.1 Introduction

119. Knowledge about the costs of the future permanent premises is a key issue for all decisions related to the permanent premises. However, the precise cost of the project will be known only when it is finished. In the meantime, planning and decision-making have to be done on the basis of best possible estimates. In this respect, it is essential to note that the level of accuracy of the cost estimates depends on the precision of the information (e.g. drawings, specifications) available about the project. In other words, at this stage, where only tentative requirements are available and drawings of the project do not yet exist, only very rough cost estimates are possible.

120. This chapter will explain the main steps in the development of cost estimates, and will recapitulate the findings first presented in the “Financial Comparison of Housing Options”²⁶, especially in light of the additional financial bid by the host State.

121. In reference to the request by the Committee on Budget and Finance to “prepare firm and reliable estimates of the range of likely costs for construction at the Alexanderkazerne”, this chapter will explain the possibilities but also the limitations of cost estimates. Also, “... different possibilities for constructing and maintaining permanent premises in partnership with the private sector...” will be introduced, as well as a chapter on the differentiation of “... the essential features of permanent premises at the Alexanderkazerne from optional features...”.

122. Finally, a short introduction to **cost control strategies** is presented. Two objectives have to be matched: the need to meet the necessary requirements of the organization and at the same time the need to keep the costs as low as possible. The interaction between these objectives and the possible control mechanisms to track costs and avoid unnecessary overruns are discussed at the end of this chapter.

IV.2 Note on the development of cost estimates

123. The difficulty in preparing firm and reliable estimates of the range of likely costs, as requested by the Committee on Budget and Finance, can mainly be attributed to the fact that most construction projects are prototypes. The permanent premises of the International Criminal Court are also clearly a unique project and the possibility for drawing conclusions about costs from other projects is thus necessarily limited. This does not mean that for individual parts of the project (e.g. offices or courtrooms), approximate cost predictions could not be made on the basis of experience with existing projects, but the total price of the project will depend on many other factors as well. Every project has its own specificities, which distinguishes it from all others, ranging from detailed differences (e.g. different interior) to more substantial differences, for example the security systems, technical requirements or structural design. As long as there is no clarity about all these factors, it is simply not possible to provide cost estimates with a reasonable degree of reliability. Moreover, a number of uncertainties will remain, even when the project has been more precisely defined.

124. These uncertainties with an impact on the costs are mainly the following:

1. Precision of user’s requirements

At the beginning of the design period, only main requirements are formulated and

²⁶ Report on the future permanent premises of the International Criminal Court –financial comparison of housing options (ICC-ASP/4/23).

these are then continuously translated by the design consultant into concrete plans. In dialogue with the design consultants, the definition of the requirements and the design become increasingly precise. By the end of the design phase, the user requirements are to a large extent consolidated and cost estimates can therefore be much more precise.

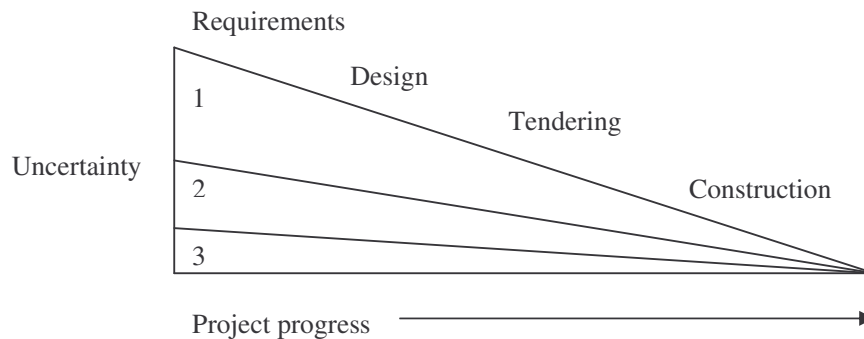
2. **Development of construction prices**

Since the construction will take place at a yet unknown point in time in the future, the development of the construction prices is an uncertainty which will decrease as time goes by.

3. **Perfection of design and tendering documents**

For a project of this size and complexity, the documents prepared by the design consultants will consist of thousands of pages and drawings, usually prepared under time pressure. A certain margin of imperfection in these documents can hardly be avoided. Trying to create documents with 100% perfection would slow down the process significantly, and, due to the delay, would bring about more financial damage than some corrections during the process. There will thus inevitably be some mistakes and inaccuracies, which will have to be corrected during the construction phase.

The level of uncertainty concerning costs decreases as the project progresses, as depicted in the following diagram:



125. A typical sequence is the development of increasingly precise cost estimates in several steps:

1. **Cost assumption ($\pm 25-15\%$)**

With the first rough requirements and design studies, a first rough cost assumption can be developed. The margin of error is, depending on the precision of the available information, 15-25% or more.

2. **Cost estimate ($\pm 20-10\%$)**

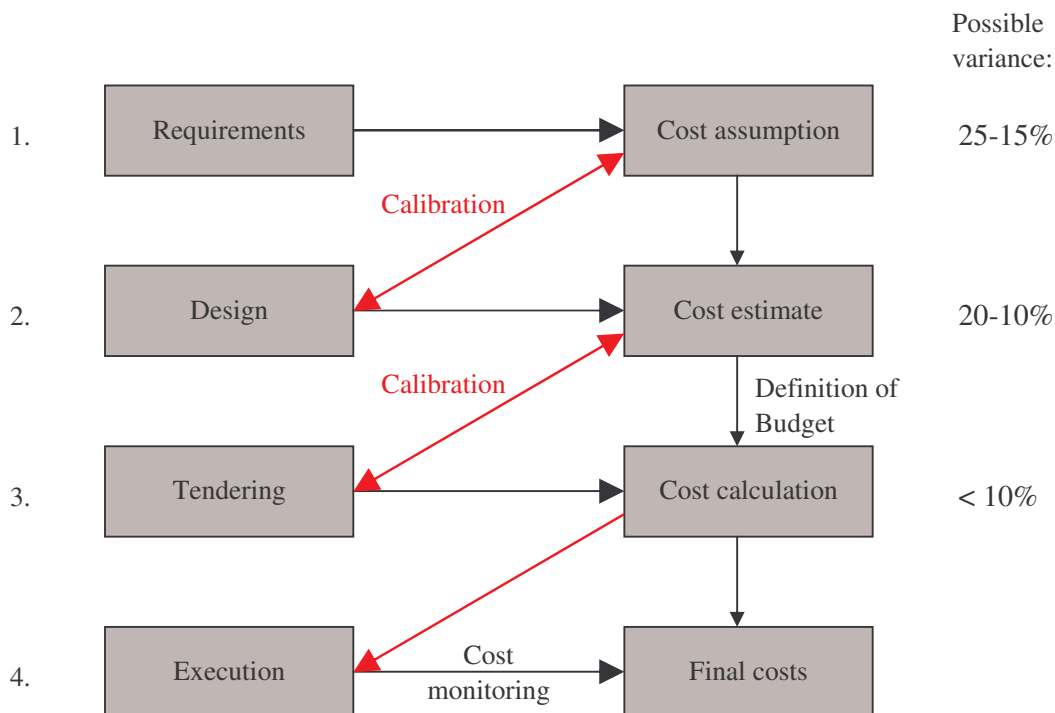
The next step, usually called the cost estimate, is typically done together with more precise design documents (e.g. scale 1:100 and descriptions of construction and materials used). Depending on the precision of the documents, this estimate can already reach a precision of 20-10%.

3. **Cost calculation ($\leq 10\%$)**

The most precise estimate, often referred to as the cost calculation, is based

on the exact drawings and specifications used for the tendering process. The definition of requirements has reached a high grade of perfection, but some uncertainty about the actual market prices remains.

126. The following diagram illustrates the sequence of increasingly precise cost forecasts:



127. At the current stage of the planning, the Court can provide only very tentative cost assumptions for each of the three options. Accordingly, the numbers provided in this chapter should be treated only as an indication of the likely range of costs and not as cost predictions of any kind.

128. Cost estimates can be prepared by a number of parties, e.g. construction companies, architects, or special cost advisors. Construction companies have a clear commercial interest and are therefore not necessarily the most objective source. Independent cost advisors specialized in the construction industry, acting in cooperation with the design consultant, are probably the best choice for obtaining reliable cost estimates.

129. It is important to point out in this respect that the budget ceiling, or the maximum amount to be spent on the project, is usually defined after the cost estimate, i.e. at a time when there is sufficient certainty about the requirements, the design and the respective costs.

IV.3 The additional financial bid by the host State

130. During the fourth session of the Assembly of States Parties, the representative of the host State announced the terms of an additional financial bid²⁷ related to the permanent premises of the Court. The additional financial bid consists of the following:

²⁷ Letter dated 25 January 2006 from the Minister for Foreign Affairs of the host State to the President of the Assembly of States Parties, (ICC-ASP/4/37).

- **Land (Alexanderkazerne) free of charge**
The host State offers the land of the Alexanderkazerne site free of charge while retaining the ownership of the land; the costs related to making the site ready for construction works to start will be borne by the host State.
- **Loan of up to € 200 million at 2.5% over 30 years**
For the financing of the costs of purpose-built new premises (i.e. construction costs, fees, and fixed interior costs), the host State will provide a favourable loan to the amount necessary, to a maximum of €200 million, to be repaid over a period of 30 years, at an interest rate of 2.5 per cent.
- **Architectural competition paid for by host State**
The host State will bear the costs related to the selection of an architect. This selection process will be presided by the State Architect of the Netherlands.

Conditions

131. The additional financial bid applies only to purpose-built new premises on the Alexanderkazerne site. Accordingly, the additional financial bid does not have any impact on the calculations for the comparison of the Arc or the ICTY. Its impact is exclusively on the calculations for the costs of the planned purpose-built permanent premises as outlined in the project presentation²⁸. However, for ease of comparison with the other two options, the duration of the assumed loan for the Arc and the ICTY was extended from 25 years²⁹ to 30 years for all three options.

IV.4 Financial comparison of the three housing options

132. The financial comparison shall support the decision-making to select one or more of the options for the further planning effort. This does not necessarily imply that the other options are finally dropped. In the case of the Arc, the options require less planning effort than the others, depending on the maximum staffing level³⁰, and could therefore be kept as an alternative until sufficient information about the other option(s) is available and a final decision for one or the other can be made.

133. It is important to recognize that underlying this comparison is an important limitation: since it is at this stage not yet possible to prepare precise cost estimates (recall previous chapter), it is not possible to provide a real comparison between the actual costs for the three options.

134. It seems nevertheless possible to compare the relative cost differences of the various options. By applying the same basic assumptions to all three options, it is possible to arrive at conclusions about the cost differences. It may not be possible at this stage to prepare precise cost estimates, but it does seem possible to draw initial conclusions about which of the three options is likely to be the least expensive.

135. The financial comparison is a complicated venture. A hypothetical levelling was necessary to bring the three options to a comparable size and quality in order to calculate and

²⁸ Report on the future permanent premises of the International Criminal Court: project presentation (ICC-ASP/4/22).

²⁹ Assumption for the loan and interest rate as referred to in the report on the future permanent premises of the International Criminal Court –financial comparison of housing options (ICC-ASP/4/23), para. 4.5.1.

³⁰ If the maximum staffing level remains under 850, the Arc can be used without significant changes. Once the maximum staffing level surpasses the capacity of the Arc, additional office space will need to be rented or constructed, which would require more substantial planning work.

compare the costs of the three options. Moreover, it should be pointed out that the figures applied throughout are rather conservative, so that the results presented here are expected to be at the higher end of the possible range. The calculations are based on benchmarks from other comparable projects³¹ and have been applied equally for all three options.

IV.4.1 Options

136. The options compared in this chapter are the same as in the chapter on housing options, i.e. the current interim premises at the “Arc”, the International Criminal Tribunal for the Former Yugoslavia, and the new premises on the site of the former Alexanderkazerne.

1. Arc

Gross floor area:	32,910 m ²
Maximum capacity:	850 staff
Year of construction:	1993
Building quality in 2012: ³²	Good.



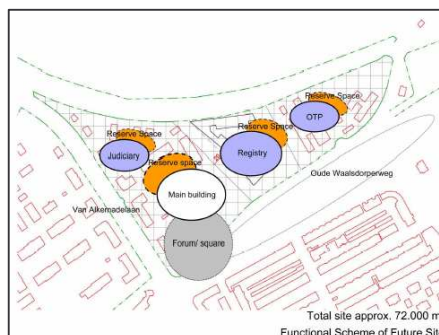
2. ICTY

Gross floor area:	24,548 m ²
Maximum capacity: ³³	700 staff
Year of construction:	1956
Building quality in 2012: ³²	Major reconstruction necessary to attain required quality.



3. Alexanderkazerne

Gross floor area:	A function of requirements
Maximum capacity:	A function of requirements
Year of construction:	To be determined
Building quality in 2012:	New



For more detailed information please refer to chapter III on housing options.

³¹ Main sources of information are: Drees & Sommer Project Management Consultants and Jones Lang Lasalle.

³² The building quality of the Arc and the ICTY has been assessed by visual inspection. No detailed technical due diligence-analysis has been carried out.

³³ The main building can host a maximum of 700 staff. To host the ICTY staff level of more than 1,000 staff in the year 2003/2004, two additional buildings have been rented.

IV.4.2 Methodology

137. As can be seen from the short description above, the three options are rather different in size and quality. Two of them, the Arc and the ICTY, are existing buildings, while the permanent premises on the Alexanderkazerne would be newly designed and built. Also, while the first two options would be (partly) for rent, the development of permanent premises on the “Alexanderkazerne” is assumed to be an ownership model.

	Age	Max. capacity	Ownership
Arc	10 years old	850 staff	Rent / own
ICTY	50 years old	700 staff	Rent / own
Alexanderkazerne	New	No limitation	Ownership

138. As many of the most relevant parameters are different, the comparison of such different options is like comparing “cheese and chalk”. For example, it would not be appropriate to compare the costs of a building for 700 staff to a building for e.g. 1100 staff, nor would it be appropriate to compare the condition of a new building with that of a 50-year old building, without levelling of the options first.

IV.4.2.1 Levelling of options

139. For a correct and fair comparison, all three options have to be brought to a comparable size and quality. The requirements as defined in the chapter on requirements shall serve as the references for this levelling. With regard to the required size, three hypothetical scenarios of maximum work places, as defined in II.5.4 have been used:

- A maximum capacity of 850 (the present staffing level);
- A maximum capacity of 1100; and
- A maximum capacity of 1450.

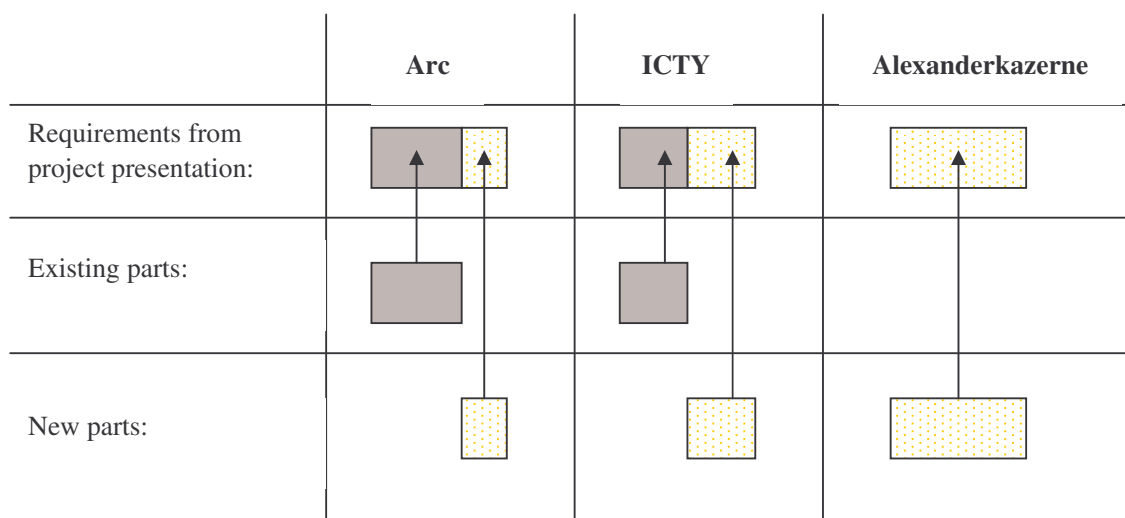
140. These requirements have been translated into a respective functional programme³⁴ of gross floor area (GFA) + area for parking. For more detailed information please refer to chapter II on requirements.

141. While the option “Alexanderkazerne” would be designed according to these requirements, the two other options are hypothetically brought up to the same size and quality level by adding floor area and improving the building quality where necessary, depending on the required building size and the state of the existing parts³⁵.

³⁴ Original room schedule study for 1,300 staff by the host State, later recalculated for 850/1,100/1,450 staff.

³⁵ Improvement of building quality applies to the ICTY only.

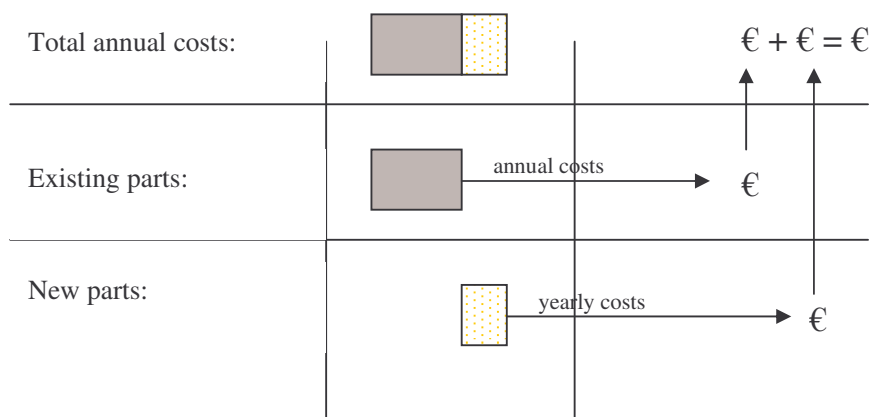
The following chart depicts this approach of levelling:



142. It is important to recognize that the Arc and the ICTY are not, and cannot be completely brought to the same level as the Alexanderkazerne. The present calculations thus assume that the existing parts will remain largely as they are (apart from the necessary renovation works that are required for the International Criminal Tribunal for the Former Yugoslavia, even if they do not satisfactorily meet the requirements of the Court.

IV.4.2.2 Financial comparison

143. The financial comparison of the three options follows the same logic as described above: Annual costs are estimated for the new building parts and added to the rent for the existing building. The same parameters are used for all three options.



144. For each of the options, different parameters are important. While the costs for an existing building part are mainly defined by the rent, the costs for a new building part will be largely influenced by the construction costs. The following chapter explains the individual parameters for each option.

145. All costs used in the following calculations are at the 2005 price level. In chapter V, they are aggregated and extrapolated to the price level of 2012.

IV.4.3 Basic assumptions

146. The overall cost of each option is comprised of the sum of the individual parameters. Some of the parameters apply to all options (e.g. the operating costs) while others apply only to the existing, rented parts or only to the new building parts.

147. The following matrix shows the parameters and their relevance for each of the options:

	Arc	ICTY	Alexander-kazerne
Existing parts:			
• rent for buildings	X	X	-
• costs for the necessary reconstruction and adjustment	-	X	-
• rent for the parking space	X	X	-
• operating costs	X	X	-
• maintenance costs	(X) ³⁶	(X) ³⁶	-
New parts:			
• cost of the land	-	X	X
• cost of the construction of new office space	-	X	X
• rent for additional office space	X	-	-
• cost of the construction of new parking space	X	X	X
• cost of external works/landscaping	X	X	X
• operating costs	X	X	X
• maintenance costs	X	X	X

148. For each of the parameters shown here, a figure has to be established. The figures chosen are explained in the following paragraphs.

149. Financing costs are taken into consideration within the individual parameters, and explained further in chapter IV.4.3.5. The financing conditions that an organization like the International Criminal Court should be able to achieve on the market remain to be determined – except for the Alexanderkazerne, where the additional financial bid of the host State is known – therefore the following figures can only be preliminary rough assumptions. The exploration of financing methods and subsequent fine-tuning (financial engineering) will be an important task in the development of the permanent premises.

³⁶ Included in the rent.

IV.4.3.1 Rent

150. For the Arc and the ICTY, the annual rent (without operating costs) as indicated by the host State has been taken into consideration for the existing premises.

	Main building:	Parking:
Arc ³⁷ :	5,311,200 € per year	296,738 € per year
ICTY:	2,540,900 € per year	379,100 € per year

IV.4.3.2 Construction costs

151. The construction costs are estimated on the base of square-meter benchmarks of similar projects (court buildings, offices, high-security buildings such as banks, prisons), taken from a database with detailed information on more than 1000 projects.

152. The square-meter costs for the different options are extremely different. The Arc is considered to be handed over by the host State in a good state, whereas the Tribunal will need major reconstruction to be suitable for the International Criminal Court. The premises on the site of the Alexanderkaserne will be constructed entirely new.

153. The construction costs per m² (chapter IV.4.3.2.4) are comprised of the basic construction costs (chapter IV.4.3.2.1 –IV.4.3.2.2) and the incidental building costs (chapter IV.4.3.2.3).

IV.4.3.2.1 Necessary reconstruction

154. The following assumptions have been made to estimate the reconstruction costs:

Arc:	0 €/m ²	The assumption here is that the building is in good condition and will be handed over in a condition that is comparable to a new building.
ICTY:	1100 €/m ²	The underlying assumption is that only the concrete core and the main structure of the façade can be reused. All building technology, windows, interior, etc. will be renewed.

IV.4.3.2.2 New construction

155. Due to the high security and functional needs of the premises, conservative assumptions (i.e. at the higher end of the market range) have been taken into consideration for the estimate of the building costs for the new parts.

³⁷ Until 2012, the premises of the Arc are provided free of rent. The rent of € 5.3 million is, according to the information provided by the host State, the rate according to local market conditions.

Construction costs

Offices building ³⁸ :	1650 €/m ²
Courtrooms, conference centres, etc.:	2100 €/m ²
Underground ³⁹ parking:	600 €/m ²

156. The assumption for the building costs are based on the Drees & Sommer database, which includes detailed costs of more than 1000 projects. A medium office standard and high complexity has been assumed. Construction costs are based on German DIN 276 (groups 300 and 400), and include construction works (building pit, foundations, external walls, internal walls, floors and ceilings, roofs, structural fitments and other construction-related activities) and services (sewage, water and gas systems, heat supply systems, air treatment systems, power installations, telecommunications, transport systems, building automation and other services-related activities). The figures are net prices and do not include any fees, taxes or surcharges.

157. Furniture, computers, special systems, etc. are not included.

158. A different study⁴⁰ suggests for office space a range between 1,362 €/m² – 1,811 €/m². Therefore, the assumption of 1,650 €/m² seems to be in a realistic range.

159. However, the figures are first rough estimates based on the information available and serve in this case for a comparison of the three options. More accurate cost estimates can be done only after further definition of requirements and first design studies (compare chapter IV.2)

IV.4.3.2.3 Incidental building costs

160. The incidental building costs comprise the costs for designers, project managers, management, permission fees, samples, tests, etc. They are, depending on complexity, between 16% and 20% of the overall construction costs. Because of the increased planning effort in case of reconstruction, the incidental building costs are around 4% higher. The following figures are chosen because of the high complexity, especially in terms of security:

- 20% for new construction; and
- 24% for reconstruction and refurbishment.

161. The costs for an architectural competition are usually included in the incidental costs. However, in the additional financial bid, the host State offers to bear these costs for the option Alexanderkaserne. Accordingly, an estimated amount of 3 million Euros have been deducted from the costs for this option.

IV.4.3.2.4 Total construction costs per square meter

162. The total construction costs per square meter consist of the construction costs (IV.4.3.2.1 to IV.4.3.2.3), and the incidental costs.

³⁸ Note: For all three options, costs for interior finishes (carpeting etc.) are included; costs for furniture are not included.

³⁹ Underground, but not underneath the building.

⁴⁰ Gardiner & Theobald, International Construction Cost Survey.

	Reconstruction:		New parts:			
	Arc	ICTY	Offices	Courtrooms, Conf..rooms, etc.	Parking (underground)	Land- scaping
Construction costs	0 €	1,100 €	1,650 €	2,100 €	600 €	73 €
Incidental building costs	24%	24%	20%	20%	20%	20%
Total (/m² GFA)	0 €	1,364 €	1,980 €	2,520 €	720 €	88 €

IV.4.3.2.5 External works

163. External works comprise anything done external to or outside of the building, such as landscaping (soft landscaping) and circulation areas and roads or pathways (hard landscaping) that are on the site. The underlying assumption is that 30% of the land is covered with buildings and the remaining 70% is therefore subject to external works. Costs for external works are estimated to be at an average level of 88€/m² incl. 20% incidental costs.

850 Work places

	Size of land	Price	Total	Annual
Arc (incl. in rent)	0 m²	88 €/m²	0 €	0 €
ICTY	2,474 m²	88 €/m²	216,719 €	13,099 €
Alexanderkazerne	50,400 m²	88 €/m²	4,415,040 €	206,355 €

1,100 Work places

	Size of land	Price	Total	Annual
Arc (incl. in rent)	4,123 m²	88 €/m²	0 €	0 €
ICTY	6,597 m²	88 €/m²	577,917 €	34,931 €
Alexanderkazerne	50,400 m²	88 €/m²	4,415,040 €	206,355 €

1,450 Work places

	Size of land	Price	Total	Annual
Arc (incl. in rent)	9,896 m²	88 €/m²	0 €	0 €
ICTY	12,370 m²	88 €/m²	1,083,595 €	65,496 €
Alexanderkazerne	50,400 m²	88 €/m²	4,415,040 €	206,355 €

IV.4.3.2.6 Calculation of required area

164. The difference between the required staffing level and the maximum capacity of the Arc (850) and the Tribunal (700) determines the requirement for additional area. Therefore, office space for additional staff has to be rented or built for the Arc and the ICTY.

165. An important distinction is the differentiation between “variable” space that depends on the staffing level (e.g. office space) and “fixed” space that is independent of the staffing level, e.g. the public entrance area or the court rooms (see also chapter II.5).

166. For the Arc and the ICTY it has been assumed that the fixed area (courtroom etc.) does already exist, although the existing areas would not meet the standard of purpose-built courtrooms.

850 Work places

	Capacity	Additionally required	Average m ² per staff (GFA)	Required new variable area	Required new fixed area
- Arc	850	0	23.6 m ²	0 m ²	0 m ²
- ICTY	700	150	23.6 m ²	3534 m ²	0 m ²
- Alex.	0	850	23.6 m ²	20027 m ²	14543 m ²

1,100 Work places

	Capacity	Additionally required	Average m ² per staff (GFA)	Required new variable area	Required new fixed area
- Arc	850	250	23.6 m ²	5890 m ²	0 m ²
- ICTY	700	400	23.6 m ²	9425 m ²	0 m ²
- Alex.	0	1100	23.6 m ²	25918 m ²	14543 m ²

1,450 Work places

	Capacity	Additionally required	Average m ² per staff (GFA)	Required new variable area	Required new fixed area
- Arc	850	600	23.6 m ²	14137 m ²	0 m ²
- ICTY	700	750	23.6 m ²	17671 m ²	0 m ²
- Alex.	0	1450	23.6 m ²	34164 m ²	14543 m ²

IV.4.3.2.7 Total construction costs

167. The table below shows the total new construction costs for the different options and scenarios:

850 Work places

	Size	Price	Total	Annual
Arc				
- Variable area	0 m ²	180 €/m ²	(rent)	0 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	0 park.	791 €/park.	(rent)	0 €
ICTY				
- Variable area	3534 m ²	1,980 €/m ²	6,997,777 €	416,810 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	0 m ²	720 €/m ²	(existing)	0 €
Alexanderkazerne				
- Variable area	20027 m ²	1,980 €/m ²	39,654,069 €	1,677,595 €
- Static area	14543 m ²	2,520 €/m ²	36,649,426 €	1,677,382 €
- Parking area	12531 m ²	720 €/m ²	9,022,569 €	421,706 €

1,100 Work places

	Size	Price	Total	Annual
Arc				
- Variable area	5890 m ²	180 €/m ²	(rent)	1,060,269 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	106 park.	791 €/park.	(rent)	83,542 €
ICTY				
- Variable area	9425 m ²	1,980 €/m ²	18,660,738 €	1,111,493 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	2065 m ²	720 €/m ²	1,487,077 €	89,884 €
Alexanderkazerne				
- Variable area	25918 m ²	1,980 €/m ²	51,317,031 €	2,211,389 €
- Static area	14543 m ²	2,520 €/m ²	36,649,426 €	1,677,382 €
- Parking area	15086 m ²	720 €/m ²	10,862,031 €	507,680 €

1,450 Work places

	Size	Price	Total	Annual
Arc				
- Variable area	14137 m ²	180 €/m ²	(rent)	2,544,646 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	259 park.	791 €/park.	(rent)	204,504 €
ICTY				
- Variable area	17671 m ²	1,980 €/m ²	34,988,885 €	2,084,050 €
- Static area	0 m ²	2,520 €/m ²	(existing)	0 €
- Parking area	5888 m ²	720 €/m ²	4,239,692 €	256,262 €
Alexanderkazerne				
- Variable area	34164 m ²	1,980 €/m ²	67,645,177 €	2,958,701 €
- Static area	14543 m ²	2,520 €/m ²	36,649,426 €	1,677,382 €
- Parking area	18663 m ²	720 €/m ²	13,437,277 €	628,045 €

(For the calculation from total to annual, please refer to chapter IV.4.3.5)

IV.4.3.3 Size and cost of land

IV.4.3.3.1 Size

168. For the Arc and the ICTY, the existing buildings do not provide sufficient capacity to accommodate a staffing level of more than 700 and 850 persons respectively. Therefore, additional office space will have to be rented or constructed (compare chapter IV.4.3.2.6). For the purpose of comparability, it is assumed that the ratio between the required gross floor area of the buildings and the required land is 1:1.

169. According to the additional financial bid, the cost for the land of the Alexanderkazerne is reduced to zero.

IV.4.3.3.2 Cost

170. In the light of this comparison, a local market value⁴¹ of 500€/m² has been assumed.

850 Work places

	Size of land	Market price	Total	Annual
Arc	0 m ²	0 €/m ²	(incl. in rent)	0 €
ICTY	3,534 m ²	500 €/m ²	1,767,115 €	103,808 €
Alexanderkazerne	20,027 m ²	0 €/m ²	(acc. to new bid)	0 €

⁴¹ Market value as indicated by the host State (see Future permanent premises of the International Criminal Court: financing models (ICC-ASP/4/CBF.1/INF.1), page 10).

1,100 Work places

	Size of land	Market price	Total	Annual
Arc	0 m ²	0 €/m ²	(incl. in rent)	0 €
ICTY	9,425 m ²	500 €/m ²	4,712,308 €	276,822 €
Alexanderkazerne	25,918 m ²	0 €/m ²	(acc. to new bid)	0 €

1,450 Work places

	Size of land	Market price	Total	Annual
Arc	0 m ²	0 €/m ²	(incl. in rent)	0 €
ICTY	17,671 m ²	500 €/m ²	8,835,577 €	519,042 €
Alexanderkazerne	34,164 m ²	0 €/m ²	(acc. to new bid)	0 €

IV.4.3.4 Operating and maintenance costs

171. Operating costs comprise mainly electricity, heating, sewage, local authority charges, cleaning and other normal running expenses.

172. Maintenance costs include inspection, overhaul, repair, preservation and the replacement of parts. Maintenance activities keep an asset in good working condition throughout its estimated useful life.

IV.4.3.4.1 Operating costs

173. The assumptions for operating costs are derived from a survey of European office buildings⁴². In the case of a high-rise building like the Arc, the operating costs are on average approximately 10% higher.

Arc (Highrise)	46.20€/m ² /year
ICTY	42.00€/m ² /year
Alexanderkazerne	42.00€/m ² /year

174. Optimisations and savings in the operating costs of the new building parts are desirable and likely to be achieved. However, according to the approach followed in this report, a conservative assumption would be that the operating costs for the old and new building parts are similar⁴³.

The table below shows the expected yearly operating costs.

850 Work places

	Size	Price	Annual
Reconstruction			
- Arc	32,910 m ²	46.8 €/m ²	1,540,188 €
- ICTY	24,548 m ²	42.0 €/m ²	1,031,016 €
New construction			
- Arc	0 m ²	42.0 €/m ²	0 €
- ICTY	3,534 m ²	42.0 €/m ²	148,438 €
- Alexanderkazerne	34,571 m ²	42.0 €/m ²	1,451,971 €

⁴² Jones Lang Lasalle, Office service charge analysis report 2004.

⁴³ Except the difference that arises from the fact that the Arc is a high-rise tower.

1,100 Work places

	Size	Price	Annual
Reconstruction			
- Arc	32,910 m ²	46.8 €/m ²	1,540,188 €
- ICTY	24,548 m ²	42.0 €/m ²	1,031,016 €
New construction			
- Arc	5,890 m ²	42.0 €/m ²	247,396 €
- ICTY	9,425 m ²	42.0 €/m ²	395,834 €
- Alexanderkaserne	40,461 m ²	42.0 €/m ²	1,699,367 €

1,450 Work places

	Size	Price	Annual
Reconstruction			
- Arc	32,910 m ²	46.8 €/m ²	1,540,188 €
- ICTY	24,548 m ²	42.0 €/m ²	1,031,016 €
New construction			
- Arc	14,137 m ²	42.0 €/m ²	593,751 €
- ICTY	17,671 m ²	42.0 €/m ²	742,188 €
- Alexanderkaserne	48,708 m ²	42.0 €/m ²	2,045,721 €

IV.4.3.4.2 Maintenance costs

175. For maintenance, servicing and inspection, the following benchmarks⁴⁴ have been applied, as average figures for 25 years:

New space	20 €/m ² /year
Rented space ⁴⁵	5 €/m ² /year (for small repairs not covered by the rent)
New parking (underground)	8 €/m ² /year
Rented parking ⁴⁶	2 €/m ² /year
External surfaces/landscaping	18 €/m ² /year

176. Taking into consideration that the entire land of the Alexanderkaserne (72.000m² minus the area covered by the building) would be used and maintained by the International Criminal Court, the related area is relatively larger than under the other options.

⁴⁴ Source: Drees & Sommer Facility Management Consultants.

⁴⁵ Assumption, exact figure depending on renting conditions.

⁴⁶ Assumption, exact figure depending on renting conditions.

The following table shows the maintenance costs for the different parts.

850 Work places

	Size	Price	Annual
Rented			
- Arc	32,910 m ²	5 €/m ²	164,550 €
- Arc parking	9,375 m ²	2 €/m ²	18,750 €
- ICTY	24,548 m ²	5 €/m ²	122,740 €
- ICTY parking	9,950 m ²	2 €/m ²	19,900 €
New construction			
- Arc	0 m ²	20 €/m ²	0 €
- ICTY	3,534 m ²	20 €/m ²	70,685 €
- Alexanderkazerne	34,571 m ²	20 €/m ²	691,415 €
New parking			
- Arc	0 m ²	8 €/m ²	0 €
- ICTY	0 m ²	8 €/m ²	0 €
- Alexanderkazerne	12,531 m ²	8 €/m ²	74,277 €
External / Landscaping			
- Arc	0 m ²	18 €/m ²	0 €
- ICTY	2,474 m ²	18 €/m ²	44,531 €
- Alexanderkazerne	50,400 m ²	18 €/m ²	907,200 €

1,100 Work places

	Size	Price	Annual
Rented			
- Arc	32,910 m ²	5 €/m ²	164,550 €
- Arc parking	9,375 m ²	2 €/m ²	18,750 €
- ICTY	24,548 m ²	5 €/m ²	122,740 €
- ICTY parking	9,950 m ²	2 €/m ²	19,900 €
New construction			
- Arc	5,890 m ²	20 €/m ²	29,452 €
- ICTY	9,425 m ²	20 €/m ²	188,492 €
- Alexanderkazerne	40,461 m ²	20 €/m ²	809,222 €
New parking			
- Arc	2,640 m ²	8 €/m ²	5,281 €
- ICTY	2,065 m ²	8 €/m ²	16,523 €
- Alexanderkazerne	15,086 m ²	8 €/m ²	96,123 €
External / Landscaping			
- Arc	4,123 m ²	18 €/m ²	18,555 €
- ICTY	6,597 m ²	18 €/m ²	118,750 €
- Alexanderkazerne	50,400 m ²	18 €/m ²	907,200 €

1,450 Work places

	Size	Price	Annual
Rented			
- Arc	32,910 m ²	5 €/m ²	164,550 €
- Arc parking	9,375 m ²	2 €/m ²	18,750 €
- ICTY	24,548 m ²	5 €/m ²	122,740 €
- ICTY parking	9,950 m ²	2 €/m ²	19,900 €
New construction			
- Arc	14,137 m ²	20 €/m ²	70,685 €
- ICTY	17,671 m ²	20 €/m ²	353,423 €
- Alexanderkazerne	48,708 m ²	20 €/m ²	974,153 €
New parking			
- Arc	6,463 m ²	8 €/m ²	12,927 €
- ICTY	5,888 m ²	8 €/m ²	47,108 €
- Alexanderkazerne	18,663 m ²	8 €/m ²	126,708 €
External / Landscaping			
- Arc	9,896 m ²	18 €/m ²	44,531 €
- ICTY	12,370 m ²	18 €/m ²	222,657 €
- Alexanderkazerne	50,400 m ²	18 €/m ²	907,200 €

IV.4.3.5 Financing costs

177. Besides the rent, the construction costs, the costs for the land, the operating costs and maintenance costs, the financing costs are the last crucial parameter of the total costs. In the additional financial bid, the host State offers a loan at 2.5% interest for a project on the site of the Alexanderkazerne. However, the final financing conditions that an organization like the International Criminal Court should be able to achieve remain to be negotiated also for the other projects. Therefore the following figures can only be first rough assumptions, as far as the Arc and the ICTY are concerned. The exploration of financing methods and subsequent fine-tuning (financial engineering) will be an important task in the development of the permanent premises.

178. For the purpose of this comparison, the same favourable market conditions have been assumed for all three options.

IV.4.3.5.1 Interest rate assumptions

179. Interest rate assumptions for a 30-year loan:

For the ICC 4.5%

For an external investor 5%

180. The financing costs for the Alexanderkazerne take into consideration the additional financial bid of the host State, in this case the conditions of the loan (2.5% over 30 years).

Interest rate assumptions for a 30 year loan:

For the ICC on the site of the Alexanderkazerne 2.5%

IV.4.3.5.2 Financing scheme for the reconstruction of the International Criminal Tribunal for the Former Yugoslavia

181. It is assumed that the reconstruction and refurbishment of the International Criminal Tribunal for the Former Yugoslavia will be carried out by the owner of the building, i.e. an external investor. During the subsequent rent period (as of 2012), these costs would then be reflected in the rent for the Court.

182. Before the long-term loan during the rent period, building projects are often (pre-) financed by bridge loans. A bridge loan, as a type of short-term loan, is typically used to cover the financial demands during the construction phase while alternative long-term funding is still being arranged.

183. The assumed interest rate is 5%. For the redistribution of the costs for the bridge loan, a discount rate of 8% has been applied.

184. For detailed calculations please refer to appendix 1 (Total -> annual costs)

IV.4.3.5.3 Financing of new parts

185. In contrast to the rented (existing) building parts of the Arc and the ICTY, the new building parts are assumed to be financed with a typical ownership (annuity) model with a payback period of 30 years.

186. For the land, these financing costs are required from the beginning, since the land has to be bought entirely. With regard to the financing costs for the construction, however, in the initial phase only a part (e.g. 50%⁴⁷) of these financing costs arise. This is because the need for financing is spread over the period of construction (at the very beginning the required loan which must be financed is very low, whereas at the end the entire loan is needed).⁴⁸

For detailed calculations please refer to appendix 1 (Total -> annual costs)

IV.4.3.6 Other considerations

187. The costs are extrapolated to the price level of 2012 with an average annual inflation rate of 3.0%, which leads to an increase of 23% compared to 2005.

188. Furniture, furnishing and inventory will be similar for all three options and are usually not part of the building costs. Therefore these items are not taken into consideration here.

189. Taxes are not considered. It still remains to be clarified by the host State whether and to what extent the Court will be subject to taxes and other charges.

IV.4.4 Financial comparison

IV.4.4.1 Comparison of total annual costs

190. Based on the assumptions explained earlier in this chapter, the following table provides the main cost components that add up to total annual costs, following the same pattern as the model introduced in the methodology: the annual costs for both the existing parts and the new parts are determined, and then added up to arrive at the total annual costs for each option.

⁴⁷ Simplified formula.

⁴⁸ Simplified formula: Cost of bridge loan = Cost (of land or construction) x interest rate x time (years).

850 work places

	Arc	ICTY	Alexanderkazerne
Price level 2005	7,331,426 €	7,851,460 €	7,107,900 €
Relative difference	100.0%	107.1%	97.0%
Price level 2012	9,016,729 €	9,656,306 €	8,741,820 €

1,100 work places

	Arc	ICTY	Alexanderkazerne
Price level 2005	8,775,921 €	9,286,820 €	8,114,719 €
Relative difference	100.0%	105.8%	92.5%
Price level 2012	10,793,275 €	11,421,617 €	9,980,080 €

1,450 work places

	Arc	ICTY	Alexanderkazerne
Price level 2005	10,802,470 €	11,344,314 €	9,524,265 €
Relative difference	100.0%	105.0%	88.2%
Price level 2012	13,285,675 €	13,952,076 €	11,713,644 €

191. In light of the ongoing discussion on staffing levels, the costs have been calculated for different staffing levels, including a maximum of 850, which would allow the organization to remain in the Arc, once other occupants have vacated those parts of the building which they currently occupy.

192. This shows clearly that even if the staffing level were to be limited to the maximum capacity of the Arc, it would still be less expensive to accept the host State's additional financial bid and move to the Alexanderkazerne.

193. In this context it is also important to recall paragraphs 48 and 49, which state that it is not necessary to take a final decision on staffing levels now. These figures must be continuously updated in the coming years and will be incorporated into the design once consolidated figures are available.

IV.4.5 Conclusion

194. From the above, the following main conclusions can be drawn:

- a) The financial comparison of the three options in light of the additional financial bid by the host State shows cost advantages of the Alexanderkazerne.
 - a. Remaining in the interim premises of the Arc would be, depending on the staffing level, up to 11% more expensive than moving to the Alexanderkazerne.
 - b. Depending on the staffing level, the reuse and extension of the Tribunal would be up to 16% more expensive than moving to the Alexanderkazerne.

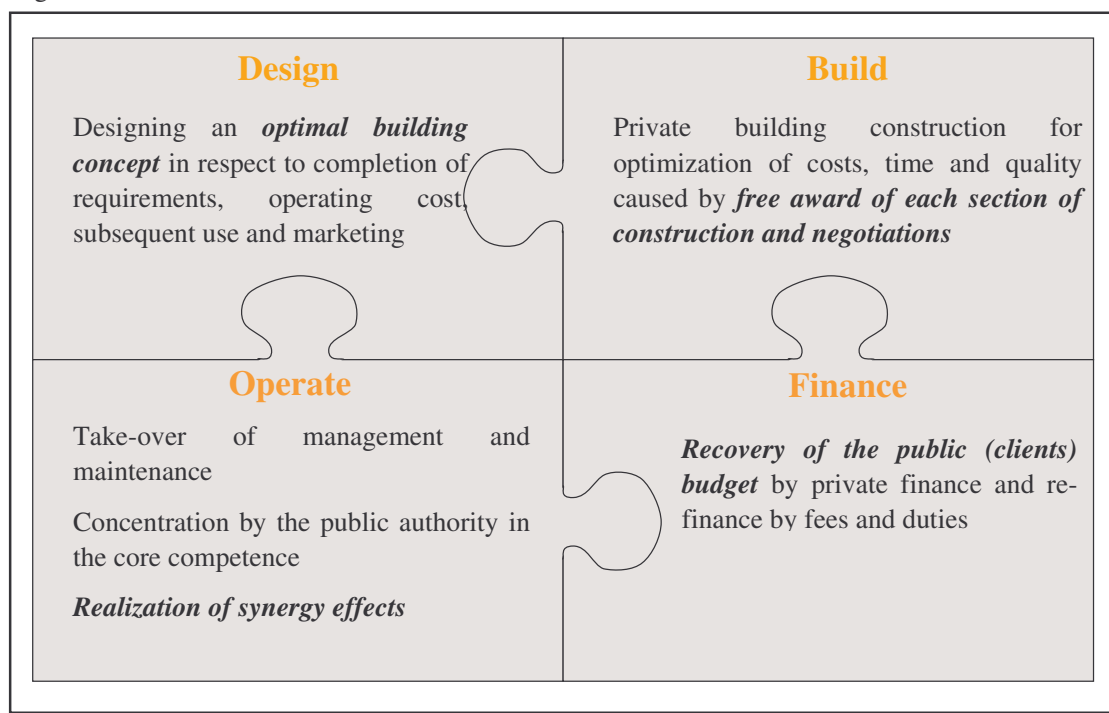
- b) The Alexanderkazerne appears to be the least expensive option even if the ultimate size of the organization (estimated staffing levels) is limited to the capacity of the Arc. New purpose-built premises seem to be the cheapest option in every conceivable long-term scenario.

IV.5 Private sector involvement in construction and maintenance

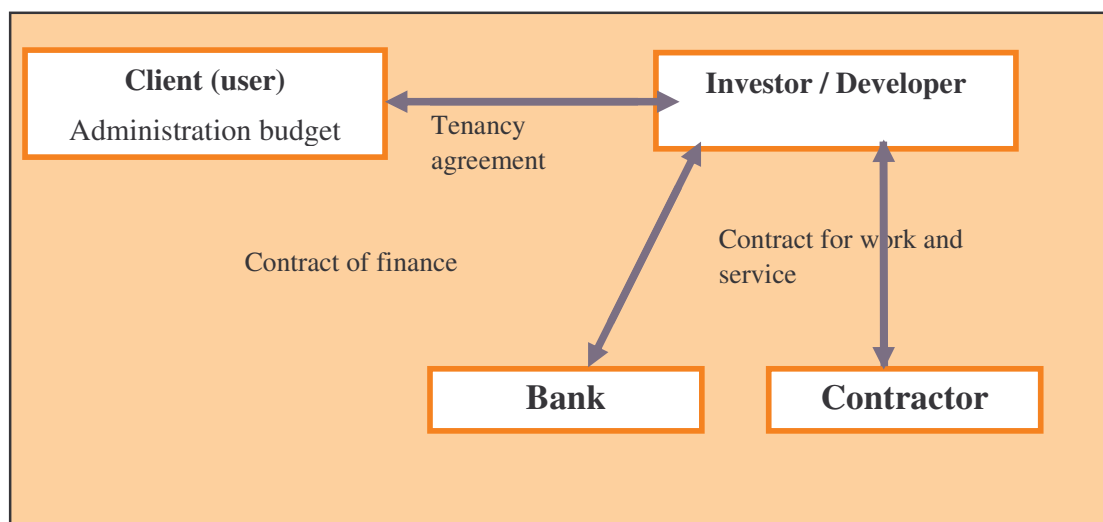
195. Making use of the private sector in the construction and maintenance of a building becomes more and more popular in light of the shortage of public funds. While co-operation with the private sector can offer some advantages, its limitations must also be kept in mind. Whether the project can be subject to such cooperation, and what the respective limitations and risks would be, should be carefully analysed.

IV.5.1 Basic ideas

196. The underlying ideas and the role of the private partner are shown in the following diagram:



197. The role of the private partner would be in between the end-user (or client) and the contractor/financing partners, as depicted simplified in the following diagram:



IV.5.2 Possibilities

198. Besides the “classic” procurement method with separate parties (e.g. for design, construction, etc.) directly contracted by the client, two main methods are worth being mentioned in this early phase, namely the so-called:

- Investor model,
in which a private company acts as the project developer and later rents the premises to the user; or a
- Public/private partnership,
in which a special purpose vehicle (project company) is set up jointly by the client/user and a private company.

In both cases, generally speaking, the client/user is mainly interested in using private know-how for a financially more efficient set-up, and in return offers a margin of discretion.

IV.5.3 Advantages and Disadvantages

199. The main advantages and disadvantages of each model are:

	Advantages	Disadvantages
“Classic” procurement	<ul style="list-style-type: none"> + Client is “in the driver’s seat” + Flexibility in changes throughout the project 	<ul style="list-style-type: none"> - Client assumes all risks - Capital strain of the client’s budget - Multitude of contracts - Capital strain of the client’s budget
Investor model	<ul style="list-style-type: none"> + Early risk transfer + Promises efficiency in costs and time + Use of private capital and know-how + Optimization over life-cycle + Fixed rent + No obligation after the end of the contractual agreement 	<ul style="list-style-type: none"> - Limited influence on design and building (!) - Limited flexibility in case of changes - (Usually) sale of land or real estate - Purchase price after term of contract is guided by the current market value (the expected increase in value is on the investor’s side)
PPP	<ul style="list-style-type: none"> + Governed by partnership idea + Services performed from one source + Promises efficiency in costs and time + Payments linked to performance + Use of private capital and know-how + Optimization over life cycle + Innovative capabilities + Land or real estate in ownership of public authority 	<ul style="list-style-type: none"> - Limited influence on design and building (!) - Long-term contracts - Risks of sub-optimal risk allocation - Complex contract - Cost of bidding process

200. Due to the Court's uncertainty about its future requirements (in particular the number of staff and therefore size of the premises), it is important to recognize that the limited influence on the design and therefore on the building, in particular, could be a major limitation for this particular project.

IV.5.4 Conclusion

201. Cooperation with the private sector (investor model, PPP or mixed forms) can offer the use of private know-how and a financially more efficient set-up. However, in order to make full use of these advantages, it would be necessary to provide the private sector with detailed requirements beforehand. Also, any cooperation with the private sector it requires complex negotiations about the project at an early stage.

202. On the other hand, the "classic" procurement way (design development followed by tendering to find a construction company) offers much more room for manoeuvre for changes during the design period – an advantage which seems especially important since the Court is still growing and developing its structure and size.

203. In theory, all options could be subject to cooperation with the private sector. However, the fact that both Arc and the ICTY are privately owned may add to the complexity and even further limit the Court's influence on the design. For a final assessment, further analysis would be necessary after a decision is made on which option to pursue. At this stage, the level of information about the project that is available does not allow a more concrete consideration of cooperation with the private sector.

IV.6 Cost control strategies

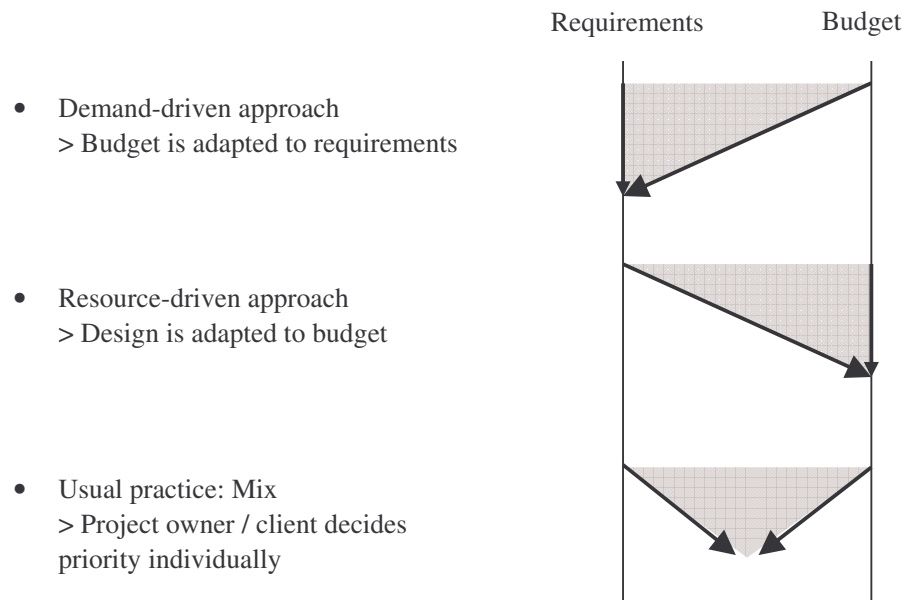
204. Costs control should comprise not only the tracking of costs after they have occurred (accounting), but also the proactive management of costs. In this sense, cost control has one primary goal, namely to avoid costs that were not foreseen.

205. In order to do this, the client has to develop a clear understanding of which costs are foreseen. This means that a detailed description of the building is linked to the costs. A simple rule applies here, as explained earlier in this chapter: The better the description, the better the cost forecasts. It is therefore recommended to fix the final budget only after sufficient clarity on the description exists.

206. Ideally, the requirements and the costs match perfectly. In this case, cost management can be reduced to accounting. However, in most cases, the requirements and the costs deviate to some extent (compare chapter IV.2, Note on the development of cost estimates). In this case, either the costs or the requirements (or both) have to be adapted.

IV.6.1 Basic strategies

207. Two basic approaches prevail: the budget-driven approach and the demand-driven approach. In the budget-driven approach, the budget stays fixed and the requirements are adapted to the budget. This means that compromises in quality and quantity often have to be made. The demand-driven approach on the other hand holds on to the requirements and adjusts the budget if necessary.



208. Both approaches almost never appear in their pure form. In the usual practice, the project owner decides the priority individually – often it is more important to keep the budget, but sometimes it is necessary to fulfil the requirements and therefore accept an increase in the costs.

IV.6.2 Dealing with cost changes

209. Cost changes can be either avoided, or justified and accepted.

- Avoidance is supported by the following actions:
 - Ensure to the largest possible extent that all requirements are identified;
 - Base costs on realistic estimates (avoid wishful thinking);
 - Select experienced partners (designer, consultants etc.);
 - Have figures checked by external project management;
 - Ensure proactive cost management by project management.
- Acceptance of cost changes should be accompanied by the following actions:
 - Identify all changes;
 - Identify all costs involved (also hidden costs) and impacts on schedule;
 - Approval by the client before purchase order;
 - Keep track of cause, justification and approvals.

210. It must be emphasized that the client/project owner is always in the “driver’s seat”. The designer and other consultants make suggestions, but the final decision for cost increase stays always with the client/project owner.

211. Changes throughout the process are in practice often triggered by the client, for example due to changes in the organizational structure. It must be clear that also these changes must be accurately tracked in order to make the client aware of the financial consequences and to avoid problems in the justification of costs at a later stage.

V. Schedule for purpose-built premises

V.1 Introduction

212. The time it takes until the Court could move into another building is an important question when discussing the permanent premises, especially in light of the additional costs that will be incurred after the rent-free period (see chapter V.6). This chapter therefore provides an overview of the major phases and the steps necessary to finish the project⁴⁹.

213. The original goal was to move into new premises in 2012, at the end of the rent-free period, at the latest. Moving into permanent premises at a later point might not only have organizational consequences due to continued sub-optimal working conditions, but would also have financial implications due to the costs of delay.

V.2 Major steps

214. The project can be divided into the following main phases and steps:

Initiation phase:

- Initiation phase:
 - Further definition of user’s detailed requirements (in particular functions, relations and size);
 - Feasibility study (optional)
 - Rough cost estimate based on user’s requirements;
 - Decision on project ownership;
 - Clarification of funding;
 - Clarification of project organization;
 - Selection of designer, design competition;
 - Optimization of competition design (if necessary).
- Design phase:
 - Preliminary design;
 - Detailed design;
 - Specification of technical requirements;
 - Cost estimates with increasing precision;

⁴⁹ Depending on the scale of additional construction and refurbishment of the other options, this schedule may provide an indication for this option as well.

- Construction permit;
- Tendering;
- Preparation of awards.
- Execution phase:
 - Execution planning;
 - Awarding of construction contract(s);
 - Construction;
 - Acceptance of works and services;
 - Relocation;
 - Remedy of deficiencies, enforcement of warranty claims;
 - Verification and payment of final invoices.

V.3 Influencing factors

215. The schedule for a project of the complexity of the Court's premises is influenced by numerous factors, including:

- Support from the Assembly of States Parties;
- Sustained support from the host State;
- Timely decision-making;
- Time of approval periods;
- Quality of companies (designer, consultants, contractor, etc.);
- External risks (e.g. strike).

V.4 Duration

216. The duration of each phase and the total duration of the project are difficult to estimate at this early stage with so many unknowns. Based on experience with similar projects, circumstances and procedures, the following rough assumptions can be suggested:

- **Initiation phase: min. 1.5 years**

The duration of the initiation phase is the most difficult to estimate, since many decisions depend on the agreement of many stakeholders (e.g. Assembly of States Parties, International Criminal Court, host State, etc.) and could therefore be time-consuming. However, it can be said that a period of 1.5 years for the above-mentioned items should be considered as the minimum.

- **Design phase: min. 2 years**

The design phase includes not only the design and description of specifications itself, but also numerous meetings with stakeholders, approval periods and preparation of the execution phase. A period of some 2 years seems to be a realistic minimum for this phase.

- **Execution phase: about 3.5 years + about 1 year**

For a project of this size and complexity, a construction period of some 3 to 3.5 years is typical, followed by a wrap-up phase of about one year.

217. Totalling up these rough estimates, it can be said that the project is likely to take some 7 years until the Court can move into the new premises. Assuming a “green light” to go ahead with one of the options after the next Assembly of States Parties at the end of 2006, this would mean that the building could be in operation in 2013/2014.

218. A more detailed discussion on the schedule and possibilities of reducing the total project time can be held after there is greater clarity on basic project parameters (site, size etc.).

V.5 Next steps

219. As already indicated by the Assembly of States Parties at its 2005 session, there is a need, on the one hand, to “complete [the Court’s] staffing estimation and strategy planning“, while at the same time “continu[ing] further preparatory and planning work on the detailed requirements of the permanent premises”⁵⁰. Both are necessary, regardless of which option is ultimately chosen.

220. As explained earlier in this report (see paras. 48, 49), it is not immediately necessary to have the final staffing levels to continue further preparatory and planning work. These figures must be continuously updated in the coming years and will be integrated in the design once consolidated figures are available.

221. Also, it does not seem advisable to determine the budget ceiling at this time, when only very tentative information on the project is available.

222. However, in order to avoid unnecessary and possibly expensive delays, limiting the further work to one of the options seems to be the next important milestone. Furthermore, work on the other parts of the initiation phase should be intensified significantly:

- Further definition of user’s detailed requirements (in particular functions and size);
- Feasibility study (optional);
- Rough cost estimate based on detailed user’s requirements;
- Decision on project ownership;
- Clarification of funding;
- Clarification of project organization;
- Selection of designer, design competition.

⁵⁰ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part III, resolution ICC-ASP/4/Res.2, adopted by consensus at the 4th plenary meeting, held on 3 December 2005.

V.6 Costs of delay

223. It is important to be aware that with each year of delay the project incurs additional costs:

- a) Cost of renting the Arc after the rent-free period.

Each year of delay will cost one year of rent for the Arc (plus rent for additional space if required), because the Court would have to stay longer in the rented building and the ownership period of the Alexanderkaserne would start one year later.

The yearly rent for the Arc, including parking, is currently approximately € 5.6 million without operating and maintenance costs. The costs for the Alexanderkaserne for 850 staff would be approximately € 4 million without operating and maintenance costs, considering the favourable loan and the free land provided in the additional financial bid of the host State.

- b) Reduction of buying power of the loan offered by the host State.

The building costs will increase with inflation, but the loan is limited to € 200 million. In other words, the loan is worth less and less every year. If used for example in 2012, the € 200 million would have a higher buying power than the same € 200 million have in the year 2015. Assuming an average inflation rate of 3%, this would mean a reduction of buying power of approximately € 6 million every year.

List of Relevant Documents

Host State

- Statement by the Minister for Foreign Affairs of the Kingdom of the Netherlands, Jozias J. van Aartsen, delivered at the eighth session of the Preparatory Commission, on 25 September 2001 (PCNICC/2001/INF/3).
- (ICC Task Force) Future permanent premises of the International Criminal Court: financing models, 17 March 2005 (ICC-ASP/4/CBF.1/INF.1).
- Letter dated 25 January 2006 from the Minister for Foreign Affairs of the host State to the President of the Assembly of States Parties (additional financial bid) and appendix containing information on the additional Dutch bid for the permanent premises of the International Criminal Court in the Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Resumed Fourth session, New York, 26 - 27 January 2006 (ICC-ASP/4/32), annex IV.

ASP

- Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Third session, The Hague, 6 - 10 September 2004 (ICC-ASP/3/25), paras. 22 – 24.
- Resolution ICC-ASP/4/Res.2 on permanent premises in Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November – 3 December 2005 (ICC-ASP/4/32), p. 318, available at: http://www.icc-cpi.int/asp/asprecords/ASP_4thsession.html.
- Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November – 3 December 2005 (ICC-ASP/4/32), para. 39.

Bureau

- Report of the Bureau on the permanent premises of the Court, 18 November 2005 (ICC-ASP/4/28).

CBF

- Report to the Assembly of States Parties regarding discussions on the permanent premises of the Court, 17 August 2004 (ICC-ASP/3/17).
- Report of the Committee on Budget and Finance (March 2004), 19 August 2004 (ICC-ASP/3/22), paras. 9–11.
- Report of the Committee on Budget and Finance (August 2004), 13 August 2004 (ICC-ASP/3/18), paras. 100–103.
- Report of the Committee on Budget and Finance on the work of its fourth session, 15 April 2005 (ICC-ASP/4/2), paras. 26–39.
- Report of the Committee on Budget and Finance on the work of its fifth session, 21 October 2005 (ICC-ASP/4/27), paras. 80–87.

- Report of the Committee on Budget and Finance on the work of its sixth session, 4 May 2006 (ICC-ASP/5/1), paras. 31 – 45.

ICC

- Report to the Assembly of States Parties on the future permanent premises of the International Criminal Court: housing options, 9 March 2005 (ICC-ASP/4/1).
- Report on the future permanent premises of the International Criminal Court: project presentation, 18 October 2005 (ICC-ASP/4/22).
- Report on the future permanent premises of the International Criminal Court – financial comparison of housing options, 18 October 2005 (ICC-ASP/4/23), as requested by the Committee on Budget and Finance at its fourth session, held in The Hague from 4 to 6 April 2005.
- Report on the future permanent premises of the International Criminal Court – interim report on the composition of estimated staffing levels, 18 October 2005 (ICC-ASP/4/24), as requested by the Committee on Budget and Finance at its fourth session, held in The Hague from 4 to 6 April 2005.
- Report on the future permanent premises of the International Criminal Court – financing methods used for the premises of other international organizations, 18 October 2005 (ICC-ASP/4/25), as requested by the Committee on Budget and Finance at its fourth session, held in The Hague from 4 to 6 April 2005.
- Report on the future permanent premises of the International Criminal Court – update of financial comparison of housing options, 4 April 2006 (ICC-ASP/5/CBF.1/1), as requested by the Committee on Budget and Finance at its fourth session, held in The Hague from 4 to 6 April 2005.
- Report on the Court Capacity Model, 4 April 2006 (ICC-ASP/5/CBF.1/6).

Frequently asked questions – FAQ

224. What will be the total cost of construction of the permanent premises project on the Alexanderkazerne?

It is not possible at this time to give exact estimates about the total cost of constructing purpose-built permanent premises on the site of the Alexanderkazerne.

The main cost drivers will of course be the overall size of the premises, which depends in large part on the decision on maximum staffing levels at the seat of the Court, and the design chosen. Both are still unknown.

Results of preliminary calculations as contained in this report (see chapter IV.4.4.1) indicate that the maximum loan of € 200m, as offered by the host State, will be sufficient to realize the future permanent premises.

To calculate more accurate estimates, it is indispensable to have a decision on the staffing level and to have at least a preliminary design study. The planning process should therefore continue, in order to get a clearer idea about the project and its cost.

For more information please refer to chapter IV of this report.

225. What will be the total annual cost, after 1 July 2012, for staying at the Arc?

This will depend mainly on the following factors:

- The rent for the entire Arc complex (including the D-wing and the part currently occupied by Eurojust). The host State has informed the Court that the current rental price would be € 5,311,200 per year (without operating costs).*
- The rent for the parking lot and buildings at Saturnusstraat. The host State has informed the Court that the current rental price would be € 296,738 per year. However, as there are currently plans to construct additional office space on the Saturnusstraat site, the rent may go up considerably.*
- The overall staffing levels. These will determine whether additional office space must be rented or constructed. Currently, the average rent for quality office space in The Hague is +/- €180 per m².*

It should be noted, however, that the current lease for the Arc and Saturnusstraat site expires in or around 2012 and that it is thus uncertain whether the International Criminal Court will be able to continue renting these premises and if so, at what price.

226. Which of the three options (Arc, ICTY or Alexanderkazerne) is the least expensive?

The Court has made a preliminary study (in advance of a decision on staffing levels and a design), which indicates that the Alexanderkazerne would probably be the cheapest option over a period of 30 years. Second is the Arc. The most expensive option seems to be the ICTY. The advantage for the Alexanderkazerne is more pronounced when the scale of the project increases.

In light of the additional financial bid of the host State (land free of charge, subsidised loan), it seems reasonable to expect that the Alexanderkazerne will offer the least expensive option, regardless of the ultimate size of the premises.

For more information please refer to chapter IV.4.4 of this report.

227. What portion of the total costs of the three options are taxes and other charges levied by the host State?

So far, the Court has made all its cost assumptions exclusive of taxes and other charges. It still remains to be clarified by the host State whether and to what extent the Court will be subject to taxes and other charges.

228. How is it possible that it is cheaper to build a new building on the Alexanderkazerne than to stay at the Arc?

Under market conditions, it would probably not be cheaper to build new premises at the Alexanderkazerne, when compared to the Arc. However, with the additional financial bid of the host State, the Alexanderkazerne becomes the cheaper option, when considered over an extended period of time. Not only does the Court not have to pay for the land, it can also finance the project with a subsidised loan over 30 years. Moreover, after the building is financed, the Court can be the owner of the building and would thus not have to pay any rent anymore.

For more information please refer to chapter IV of this report.

229. How is it possible that it is cheaper to build a new building on the Alexanderkazerne than to convert the existing ICTY building?

In the first place, the ICTY building is not large enough even to house the current ICC staffing level. It would thus be necessary to acquire additional land to construct an extension to the existing building.

Secondly, the ICTY building is around 50 years old and needs to be thoroughly renovated.

Thirdly, the additional financial bid of the host State does not apply to the ICTY.

For more information please refer to chapter IV of this report.

230. What is the difference in operating and maintenance costs for owned premises versus rented premises?

There can be cost advantages in operating costs and maintenance costs, when these services are provided by external facility managers. However, external facility management can also be provided if the building is owned by the Court.

A detailed assessment of the advantages and disadvantages of this possibility should be made at a later stage.

The implication of the design on the operating and maintenance costs should be considered during the design phase. Optimization in this phase can significantly reduce the long-term costs of operation and maintenance.

231. What will be the costs if there is a delay in the project for purpose-built premises and no final solution is ready by July 2012?

It is important to be aware that each year of delaying the project for purpose-built premises incurs additional costs, i.e. the costs for renting the Arc (see also para. 225 in this chapter), and a reduction of the buying power of the loan offered by the host State.

For more information please refer to chapter V.6 of this report.

232. Would it be cheaper to go on the private market for the realisation and maintenance of the permanent premises project?

There is no general answer to this question. On the one hand, the private sector will charge a profit for their services, on the other hand it may have advantages in efficiency.

This question should be addressed at a later stage in the project, together with the question of project ownership.

For more information, as far as available at this stage, please refer to chapter IV.5 of this report.

233. What are the main financial risks involved in the permanent premises project?

The permanent premises are a very large and complex project that involves significant financial contributions by the States Parties. Risks can have their origin in various fields, which may be classified as people-related risks (e.g. negligence, human error, change management), external events (e.g. disaster, terror, political change, strike), system-related risks (e.g. problems with applications, transactions, infrastructure) or process-related risks (e.g. lack of communication, unclear responsibilities). All of these risks can have financial implications.

A detailed study on risks, including a risk matrix, should be carefully prepared together with the decision on project ownership and project organization (who bears which risks?), well before entering into major contracts with the design consultants and construction companies.

For a first, preliminary outlook on financial risks and cost control strategies, please refer to chapter IV.6 of this report.

234. Apart from the Arc, ICTY or Alexanderkazerne, are there any other realistic options in The Hague?

Yes, it would be possible to find other locations that could house the Court. However, according to a survey carried out by the host State, none of these other options would offer significant advantages over the Arc, ICTY or Alexanderkazerne.

For more information please refer to chapter III of this report.

235. What will be the staffing level for the permanent premises?

This still needs to be decided. The final word on the staffing level lies with the States Parties but the Court will endeavour to facilitate this decision by providing the Assembly with the necessary information. To that end, the Court has developed a so-called Court Capacity Model, which allows the number of human resources required for a certain level of activity to be calculated.

For more information please refer to chapter II.5 of this report.

236. How many staff members can be housed in the Arc?

The entire Arc building (including the D-wing and the part currently occupied by Eurojust) has a maximum capacity of around 850 work places. This would not allow for any more flexibility.

For more information please refer to chapter II.5 of this report.

237. What are the costs for building too big?

Building too big can be understood in several ways, for example as building complete offices (including interior finishes, etc.) that allow a more flexible use, or as providing the only building shell for a later fit out. The costs for building too big could be clustered in three main groups, namely the costs for the building shell, the costs for interior and fit out, and the costs for operation and maintenance. Depending on the required flexibility, one or all of these costs may be relevant.

The decision about the size of the building and the total staffing level rests with the same body (i.e. the Assembly), the risk for building too big seems rather unlikely.

238. What are the costs for building too small?

Building too small can have serious implications on the effectiveness of the organization and should be avoided. A certain margin of flexibility (see also chapter II.5.4) is therefore recommended.

Future expansions can and should be taken into consideration in the planning and design phase in order to reduce extra costs and especially the loss of time. The Court would therefore be in favour of already planning the scalability of its premises at the earliest possible stage.

239. If a decision is made this year (end of 2006), when can the purpose-built premises on the Alexanderkazerne realistically be finished?

It is not possible to give any precise date at this stage of the development of the project, but experience shows that a project of this scale and complexity can be finished in roughly 7 years. This would mean that the Court could move in 2013.

For more information please refer to chapter V of this report.