



**Cour  
Pénale  
Internationale**  

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**International  
Criminal  
Court**

Le Greffe  
The Registry

**Silvana Arbia  
Registrar**

**Presentation of the 2013 Proposed Programme Budget  
11<sup>th</sup> session of the Assembly of States Parties**

**CHECK AGAINST DELIVERY**

**The Hague, 16 November 2012**

Mr. President, Vice-Presidents,  
Your honours,  
Mme Prosecutor,  
Mme Ambassador President of the Assembly,  
Mr. Ambassador Vice-President of the Assembly,  
Excellencies,  
Ladies and Gentlemen,  
Dear colleagues and friends,

It is my great pleasure and privilege to address you once again, this time before your consideration of the Court's proposed programme budget for 2013.

Before I do so, let me first congratulate the newly elected members of the Board of Directors of the Trust Fund for Victims, as well as James Stewart, the recently elected Deputy Prosecutor of the ICC. I welcome you to the International Criminal Court and I look forward to working with you.

The significant financial constraints faced by the international community have made 2012 a challenging year for the Court. However, 2012 has also been a year of great achievement for the ICC. Among other successes, this year saw the Court's 10<sup>th</sup> anniversary, the first ever verdict and the unprecedented reparations order in the case against Mr Thomas Lubanga. I note with satisfaction that throughout this case no witness has been harmed or unprotected. In looking towards the future, the Registry will continue to ensure all necessary assistance to the Trust Fund for Victims in this novel reparations phase of international criminal justice.

As Registrar, I have always emphasized the importance of using the Court's resources efficiently. States entrust us with making optimal use of the resources that you grant us every year. The Court takes this mandate seriously and the Court has made it a priority to use its best endeavours to reduce expenses, to find efficiencies and to concentrate its efforts and resources on the most economical means of implementing its mandate. I will address some examples of these efficiencies throughout my presentation. However, in light of some of the interventions during the general debate, I want to make it very clear that the International Criminal Court is already an efficient international organization.

Madam President,

For 2012, States Parties approved a budget below the level of resources deemed necessary by the Court, and departing from the technical advice provided by the Assembly's subsidiary expert body, the Committee on Budget and Finance. Despite this, the Court has overcome the difficulties and has had a year of many successes so far.

The Court has proven itself as an efficient organization able to cope with a budget below our needs, while not adversely affecting its judicial and prosecutorial activities. In 2012, the Court proved, once again, to be a skilful and successful international organization with sound financial management.

An example of such efficiencies is the review of the legal aid policy undertaken by the Registry throughout this year as mandated by the Assembly. This review was based on technical criteria upholding fair trials standards and without prejudicing the balance between the parties and participants. This review has already delivered significant tangible savings to the Court's budget. We currently foresee a saving of over half a million Euros in 2012 as a result of the measures implemented last April. In the Supplementary Report submitted for the consideration of this Assembly for its adoption, the Registry identified a further potential saving of approximately 1.1 million Euros. I note that the Committee on Budget and Finance has commended the efforts of the Registry in this regard. I would like to thank H.E. Ambassador Leon Marc of Slovenia and Mr Irvin Høyland of Norway for their able facilitation of the legal aid review.

The Court continues to work towards ensuring a quality defence and representation of victims, which entails, *inter alia*, providing legal teams with the necessary resources to ensure a fair trial and meaningful participation of victims in the proceedings. The resources allocated in the proposed budget were determined with a view to ensuring that legal representatives and defence teams can work effectively in pursuit of their clients' needs.

I must continue to stress, however, that the most effective way to achieve substantial reductions in the costs of legal aid is by ensuring adequate cooperation from States in the tracing and recovery of the assets of suspects and accused individuals. In this regard, we welcome States' recent initiatives, including the debate this morning on Cooperation. These initiatives, guided by the facilitation of Her Excellency Ambassador Krutnes of Norway, seek to address the detrimental consequences of non-cooperation including its high costs, and how effective and prompt cooperation and support constitutes in and of itself an efficiency measure for the Court. We are continuously working towards efficiency and we welcome States as a partner in this endeavour.

Madam President,

Although the Court has been able to manage within the level of the approved budget, it was also able to limit the access to the Contingency Fund and reduce the amount of replenishment in 2013. Accordingly, with the forecasted implementation of the Contingency Fund for 2012 of approximately 2.2 million Euros, the Court foresees that it will access only 0.5 million Euros from the Fund.

I would like to emphasize that the Contingency Fund is an important tool that upholds the independence of the Court by enabling it to flexibly manage unforeseen or unquantifiable developments in its judicial or prosecutorial activities.

Despite these financial successes, some of the measures adopted by the Court to cope with the approved resources for 2012 cannot be termed as "efficiencies". Some measures have had a detrimental effect on the operations of the Court, threatening to lead to long-term inefficiencies and causing an under-implementation of the Court's planned activities if maintained.

As stated by President Song during his opening speech to this Assembly, “we have been responsible managers of the funds which the States Parties have provided. But this has come at a price. In the Judiciary, for example, we have learned that cutting legal support staffing beyond a certain point inevitably causes delay in judicial proceedings.” Madam Prosecutor also noted that while her Office has managed an increased workload without additional resources, further cuts cannot be absorbed without consequences for the operations of the Office of the Prosecutor.

The Court has sacrificed missions and operations to cope with the shortfall in the 2012 budget, as we did not have sufficient resources to cover all of our staff costs; we closed an operational courtroom in order to use its equipment as spare-parts for the other courtroom; and we sacrificed a number of important planned investments, including in the area of risk management and crisis readiness.

The Court delayed and postponed recruitment and cancelled a number of contract renewals. If maintained, these staff shortages will likely cause delays in the trial proceedings, possibly resulting in the extension of judges and additional costs for other parts of the Court involved in trial proceedings, not least the legal aid budget. These measures also increase the risk of serious complications in areas such as support to courtroom activities, protection of witnesses and victims, support to Counsel, field operations, and victims’ participation, among others.

Madam President, let me now address the proposed programme budget for 2013.

The budget proposal is the product of lengthy discussions among all organs of the Court, and also the result of valuable exchanges throughout the year with The Hague Working Group, the Study Group on Governance cluster II, and the Committee on Budget and Finance. Discussions have also taken place with other partners including civil society organisations.

In light of last year’s budget discussions, the Court has improved the quality and quantity of the information available to the Committee and the Assembly. We have produced a more extensive list of formal budgetary assumptions; described in the budget narrative the developments that could reasonably be expected in the Court’s casework; and we have discussed extensively the Court’s budget process with the Hague Working Group. While we are committed to providing further information and greater transparency, as noted by some delegations during yesterday’s debate, a number of these exercises are time consuming and costly, and may not prove useful.

As per past agreed practice, the Court applied a rigorous budgeting approach and included in the proposed budget provisions only for those activities with a high degree of certainty. The Court closely monitors the budget assumptions in order to ensure that the budget proposal includes adequate resources for all foreseeable activities that can be accurately quantified. These assumptions help the Court to quickly and accurately provide a costing for such scenarios as soon as they materialize. So, when the Chamber on 9 July set trial dates for both *Kenya* trials, the Court was able to submit a budget only four weeks later including a complete costing of these activities. This could not have been achieved without the invaluable inter-organ synergies and cooperation.

The Court is sensitive to the economic situation in many States Parties and has, therefore, presented a very conservative and lean budget proposal for 2013. The Court's budget reflects its mandate as determined by the States, and this proposed budget for 2013 is what is required to have a fully effective International Criminal Court. While efficiencies have been found in order to support a reduced budget, it needs to be borne in mind that excessive reductions can themselves create inefficiencies and impair performance. The Court has made enormous efforts to limit the request for resources in the proposed 2013 budget and to ensure that they are linked solely and directly to an increase in its judicial activity.

The 2013 proposed programme budget is for a total of 112.4 million Euros when excluding the 6 million Euros for the rent, which States must pay for the first time. In addition, when considering the savings achieved by the Registry through the abovementioned review of the legal aid policy, the total figure is reduced to approximately 111.3 million Euros. This represents a mere 2.3 percent increase over the approved budget for 2012 despite the significant increase in activities, notably, the start of two trial hearings in the Kenya situation.

I would like to acknowledge H.E. Ambassador Emsgård of Sweden and Mr. Cary Scott-Kemmis of Australia for their invaluable contributions as facilitators for the Budget within The Hague Working Group and the Budget Process in the Study Group respectively.

Madam President, allow me now to make an important clarification.

While it is clear that the Court should continue to be as efficient, lean and effective as possible, a policy of "zero-growth", as supported by some interventions during the General Debate, cannot be applied to the reality of the Court as an institution. Zero-growth has a strong negative connotation, which affects the morale of staff, detrimentally alters the working environment not just at the Court and in its discussions with States, but also in relation to situation countries.

The level of the budget must correspond to the level of the Court's activities; increasing when required by a higher workload and decreasing if activities go down. Nevertheless, "zero-growth" communicates to persons being investigated and to those involved in conflicts, that the Court is not to be feared, that its hands are tied, its threats empty, and that it cannot take on more cases despite its mandate of ending impunity. As I said at the opening, the Court must be able to grow; to grow its expertise, its productivity, its impact and its influence.

As you cannot have an apple without a tree, the judicial work of the Court is premised and reliant on all of the activities and operations performed by the Court's organs. All responsibilities carried out by the Court are either mandated in the Rome Statute and other core legal texts, mandated by express resolutions of the Assembly, or are mandated by provisions contained in bilateral voluntary agreements and other agreements. As such, every activity carried out by the ICC is part of its core mandate.

Madam President,

In 2013, States will have to pay the rent for the Court's interim premises for the first time, which amounts to 6 million Euros. The Court welcomes the notification from the Netherlands that it will reimburse 50 per cent of these costs until the Court relocates to the permanent premises in 2016. This gesture of support for the Court is a positive step in the direction of concluding an appropriate arrangement for these rental costs. Likewise, we commend the sincere gesture of support by Mexico for their contribution to the cost of the rent in 2013. We greatly appreciate the contributions of the Netherlands and Mexico; these initiatives demonstrate confidence in the work of the Court.

Madam President,

In the next year, the Court will undertake a thorough and independent review of its organizational structure in order to create a more efficient institution. The Committee on Budget and Finance agreed with the importance of the review to improve the Court's financial performance and to ensure that the entire organisation is aligned to deliver the Court's mandate. It is important to note that while budgetary savings may be achieved as a result of this undertaking, the review is not an immediate cost-cutting exercise: investments might first be required to implement proposed efficiencies.

Madam President, let me now turn to the work of the Committee on Budget and Finance.

I would like to express my deep appreciation for the very important and positive work of the Committee. I would like to thank in particular its Chair, Mr Giles Finkelstein and all of its members for their hard work and dedication both to the Court and to the task at hand. The report of the Committee at its 19<sup>th</sup> session was a culmination of a thorough and detailed technical review of the budget proposal with the Court. I would like to highlight the role of the Committee's Chair in forging a constructive relationship with Court, permitting continuous dialogue, support and promoting understanding through his guidance during the year.

The Committee noted improvements in the 2013 proposed budget and commended the Court for a number of cost saving initiatives. The Committee favourably received several reports submitted by the Court and endorsed the view that the Court should not be micro-managed in its operations. The Committee's approach has been conducive to the continued strengthening of trust between the Court and the Assembly, in particular by promoting better understanding of important technical issues. The Committee's guidance and expertise are essential to the continued development of the Court's legitimacy and trustworthiness.

The Committee found the Court's proposed budget to be, on the whole, reasonable and justified, and recommended reductions amounting to approximately 3 million Euros. The Committee Chair noted, and reported to The Hague Working Group, that these cuts go 'to the bone' and challenge the Court to the very limits of its operational capacity.

Madam President,

Taking the recommendations of the Committee, the forecasted access to the Contingency Fund, the voluntary contribution by Mexico and the offer of the Host State to reimburse 50 per cent of the cost of the rent, the total level of assessed contributions for 2013 will be 112.5 million Euros. This represents a 1.5 million increase over the 2012 total level of appropriations or 1.3 per cent overall increase. These figures reflect the compromise proposal put forward by the budget Facilitator. I must emphasize that had the additional costs for the rent not been required, the Court would have presented a budget proposal significantly below the level of the approved 2012 budget.

The Court welcomes this compromise proposal, which permits the Court to retain sufficient flexibility to allocate its resources as necessary. We are confident that this proposal, which represents a difficult but balanced compromise for all parties, will enable the Court to meet its needs within the limits of the Committee's recommendations.

Madam President,

The Court appreciates this renewed reciprocal understanding with States, which constitutes a positive foundation for building a more constructive relationship between the Court and its stakeholders in the years to come. Madam President, I would like to note your important contributions to this effect, as well as the contributions of H.E. Ambassador Markus Börlin as Vice-President of the Assembly and Chair of The Hague Working Group.

I know that we share the same goal of continuing to build an efficient and effective institution that can deliver fully its mandate. This responsibility cannot be upheld without the necessary resources and means to investigate, prosecute, defend, protect and assist victims and witnesses, represent and provide reparations to victims and adjudicate the crimes. Effective justice requires that the Court be adequately resourced to deliver its mandate.

I am deeply pleased to know that under your stewardship Madam President, as well as the skillful guidance of Mr. Finklestein and the able facilitation of Ambassador Emsgård, we will reach an outcome that recognizes both the importance of, and the growth in, the work of the Court with the means and flexibility to meet the challenges ahead.

Thank you.