

ASSEMBLY OF STATES PARTIES
COMMITTEE ON BUDGET AND FINANCE

**Statement of the Chair of the Committee on Budget and Finance to the
Assembly at its tenth session in New York, 12-21 December 2011**

Thursday, 15 December 2011

Please allow me Mrs Intelmann to congratulate you on your election as President of the Assembly of States Parties, and also to congratulate the two new Vice-Presidents, Ambassadors Ken Kanda, from Ghana, and Markus Börlin, from Switzerland.

Excellencies, Ladies and Gentlemen,

It is an honour to present the reports of the 16th and 17th sessions of the Committee on Budget and Finance. You will have noticed that the workload of the Committee has considerably increased, and that, within the time limits and with the resources available, we have proposed a series of recommendations that we hope will contribute to ensuring the approval of a balanced budget that guarantees the normal operation of the Court.

The proposal for 2012 budget has been particularly challenging, due to the increasing workload of the Court in the context of a difficult international financial context.

Furthermore the status of the contribution shows a trend of higher level of arrears which might significantly affect the cash flow of the Court and impact on the future use of the working capital fund.

One of the challenges States will have to decide whether they want a Court driven by demand or rather a Court driven by resources. This draws further attention to the need for the Assembly to provide strategic guidance to the Court on how to manage increase costs both from known cost drivers and new situations.

When considering the proposed programme budget, the main focus is on reviewing the resource request against anticipated activities and past use. However, the Assembly may wish to consider whether alternative mechanisms both for financing and for delivering certain services may also be an avenue to accommodate increased desirable activity.

Also there are major cost drivers identified that require a reflection by the Assembly on how to be better addressed. In order to offer some guidance to address these major cost drivers, the Committee made the following strategic considerations:

1. Major cost drivers include legal aid and new situations, including Security Council referrals. Legal aid spending in the *Lubanga* case will likely exceed €3 million before the end of the trial. Under the current legal aid system, costs will continue to grow. The Committee notes with satisfaction that its recommendation to review the legal aid system is under consideration. As a contribution to this political discussion, the Committee has provided in its report an annex with further details and some possibilities for potential changes of the current legal aid system.

2. The new situations of Cote d'Ivoire and the United Nations Security Council referral's for Libya represent additional financial impact on the 2012 proposed programme budget. In light of the unpredictability in Libya case, the Committee recommended that the Prosecutor assess events on the ground and re-evaluate the needs of the Office, to determine if the requested resources required at the same level or whether further reductions on the 2012 proposed budget can be made. Due to the very late submission of this information, received only last Friday, I will make specific comments orally for this situation, as well as

with respect to the supplementary budget for Côte d'Ivoire and 2gv costs. A table with adjustments proposed will be distributed.

3. The Committee has been encouraging the Court to identify known or knowable significant multi-year cost drivers including capital replacement, premises and staff costs and to present them clearly to the Assembly in order to ensure clearly identifiable expense forecasting. In order to be able to forecast better cost increases for the future years, the Committee recommended that the Court produce a medium term expenditure forecast as an annex to the 2012 proposed programme budget and for each annual budget thereafter.

4. Furthermore, the Committee also recommended the Court to reconsider its process for establishing the proposed programme budget and report to the Committee on this matter at its eighteenth session. The Court would need to ensure that the fiscal context is well understood by all programmes and sub-programmes and that a real prioritization process is established.

5. Another major cost driver is staff costs, which represents more than two thirds of the annual budget. The Committee has continued to recommend that freeze on established posts remain in place till the Court make a study on its staffing structure with adequate justifications.

6. Outreach is an important area to help build and maintain support for the Court internationally. However, outreach is fragmented across the Court with different organs and programmes pursuing different forms of outreach. While some fragmentation may be necessary, at some point the Court will require guidance as to the level and type of outreach that is appropriate within the regular budget for this stage of the Court's development.

A. Macroanalysis

7. The Court's 2012 proposed programme budget was €117.7 million, representing an increase of €14,125,100 or 13.6 per cent over the approved budget level for 2011. The Court identified the major cause for the increase as the Libya situation as a whole, budgeted at €7.2 million and an increase in legal aid, amounting to €4.9 million.

8. Crucially, these figures do not include the supplementary budget that the Court has submitted last week to cover the costs for the situation in Côte d'Ivoire, and for the 2gv for the permanent premises amounting in total €5.3 million. Therefore, the total 2012 proposed programme budget was €123 million.

9. However, the Court's proposed budget excludes a number of expenses that States Parties may have to face, such as the African Union Liaison Office, budgeted at €432,400 and replenishment of the Contingency Fund of €2.2 million which might bring it up to the minimum level of €7 million. So, in fact, the worst-case budget scenario was a total of €125.6 million.

10. The Committee has made recommendations in its seventeenth session, where the total impact of such recommendations was calculated by the Court and resulted in a total amount of adjustments of €5.6 million.

11. This recommendation is based on specific analysis by major programme and on general cross cutting recommendations as follow:

12. Given the significant increase in the workload, the Committee recommended that the Internal Audit Office's 2012 proposed budget would be exempted from all cross-cutting recommendations.

13. The Committee observed that there was an overall proposed increase in staff costs of €2.96 million. The majority of this increase was due to increments on salaries and a portion was attributed to the decision of the Court to enhance the conditions of service for professional staff serving in the field. In this respect, the Committee recalled its concern about this decision without the prior approval of the Assembly. The Committee recommended that the increases of staff salary and enhanced conditions of service in the field be absorbed within each major programme. This would also apply to GTA staff. The Committee also reiterated its previous recommendation to the Court to enter into contact

with the International Civil Service Commission to better explain how and on what terms the United Nations common system had been implemented in the Court.

14. The Committee noted the 19 per cent overall increase in travel for the Court. While some of this was clearly situation-related, the Committee observed that there was also a level of travel for routine or discretionary business. The Committee recommended that each major programme cut its travel budget by 10 per cent.

15. With regards to training, the Committee noted that in a number of cases the training appeared to be recurrent or routine. In order to promote greater prioritisation, the Committee recommended that training be frozen at the 2011 approved budget level.

16. The Committee noted with concern the 74 per cent increase in the projected use of consultants, with large increases in almost all major programmes. While the use of consultants was certainly justified in some cases, the Committee was particularly concerned that excessive use of consultants could undermine budgetary discipline and relieve the Court of making best use of established and GTA staff. For that reason the Committee recommended that the budget for consultancy be reduced by 10 per cent.

17. The Committee reviewed a number of requests for increases for supplies and materials. However, in light of the large increases in the 2011 approved budget and the forecast implementation rate of 95 per cent for 2011, the Committee recommended that the level for supplies and materials be maintained at the 2011 approved budget level.

18. The Committee agreed with the Court that the vacancy rate should be maintained at 8 per cent for Major Programme II and at 10 per cent for all other major programmes. The Committee recommended that the vacancy rates also be applied to GTA staff at 8 per cent.

(g) Libya

19. The Court had made a notification to access the Contingency Fund for the amount of €4 million in 2011 for the Libya referral. In the proposed regular budget the Court identified a need for €7.2 million to cover the Libya situation.

20. The Committee held in-depth discussions with the Court on the needs for the Libya situation. It was clear at the time of this session, there were still many uncertainties given the rapidly unfolding events and fluid situation on the ground, including the possible decision by the Libyan authorities to undertake domestic proceedings.

21. The Committee proposed that the Assembly take a step approach to the funding for Libya and present revised estimates before the Assembly.

22. The Court submitted revised estimates for Libya for a total amount of €6.4 million.

23. The OTP proposes to put into a trigger two scenarios of €2.1 and €1.2 million. After consideration of different elements, the Committee agreed with its approach.

24. With respect to MPIII, the Registry proposed to put into a trigger €265,000 and requested €1.6 million. The Committee noted that activity is expected only for half of the year and therefore a reduction of 50% is recommended. The Committee recommended to put into the trigger an amount of €798,600, and recommended an amount of €798,600 for the budget.

25. The total amount for scenario 1 in the trigger represents €3 million, which if materialize should be funded by the Contingency Fund.

26. With respect to scenario 2 for an amount of €1.2 million, given the uncertainties, the Committee is of the view that it should be brought forward in 2013 budget and absorb any requirements for 2012. Therefore, this represents an overall reduction on the regular budget of €4.1 million.

27. Regarding the proposed supplementary budget in document ICC-ASP/10/10/Add.2, the Committee considered the supplementary proposed budget for Cote d'Ivoire, and made recommendations by major programme.

28. As a coherence methodology with the rest of the budget, the Committee decided that crosscutting measures should be applied in the case of consultants (10%), travel (10%), training (same level of 2011) and supplies and materials (same level as 2011). However, the Committee did not apply the 8% vacancy rate on GTA but instead recommended deeper cuts for each major programme. A similar approach for contractual services. In addition, the Committee recommended a 25% reduction in general operating expenses.

MP I:

29. Regarding para. 16, there is a request of GTA for 36 months at professional level and 24 months at general service level. Given that after February resources that are currently being used for the Kenya situation should be able to be liberated and redeployed, the Committee was of the view that only 10 months of the requested resources would be required in order to ensure an expeditious process. It therefore recommended that a provision of €346,170 be approved with a total reduction of €69,000.

MP II:

30. With respect to Major Programme II, the Committee observed that in para. 24 there was a request for additional resources for the Investigation Division, representing one additional P-3 and two additional P-2 positions for a total amount of €202,700. The Committee noted that in para. 86 lit c of the 2012 proposed programme budget document, “the Prosecutor is planning to absorb the additional resources required in the event that it is authorized by the Chambers to open an investigation into Côte d’Ivoire” and therefore this should be absorbed, representing a reduction of €202,700. Along with the cross cutting recommendations on travel, consultants and contractual services, the Committee recommends an overall reduction of €233,150.

MP III

31. Concerning Paras. 35 and 36, the Committee has already made recommendations regarding the redeployment of staff from the field to headquarters in paras. 105 and 109 of its report and it notes that these are the same resources contained in paras. 229 and 230 of the 2012 proposed programme budget document.

32. Furthermore, the justification provided in the PPB 2012 on why these positions are needed, didn’t convince the committee. In conclusion, the Committee recommended that the requested professional and general services posts not be approved.

33. As for the GTA, MPIII requested a total amount of €440,400. The Committee recommended 50% reduction amounting to €220,200. The Committee has observed that similar requirements have been included in the 2012 proposed budget or are not directly related to the situation in Côte d’Ivoire, thus the Committee was of the opinion that the many of the requirements included in the supplementary budget could be met with the resources approved within the proposed budget.

34. As for the contractual services, an amount of €144,600 was requested. The Committee recommended 50% reduction amounting to €72,300.

35. It was noted that the amount of €576,900 for Counsel for Victims is difficult to justify, taking into account the level of expenditure in the past, where the Court never spent such a significant amount and the fact that the Court has stated that it would generally start with one victim legal team unless a demonstrated conflict appeared. Furthermore, the Committee noted that €55,500 was also requested for the OPCV for this situation. Therefore, we recommend a 50% reduction amounting to €288,450.

36. The total reduction for MPIII would be €524,510.

2GV

37. Regarding the 2gv costs presentation, the Committee noted with regret that the Court has not respected the 45 days period as stated by Rule 3.4 of the FRR and we would expect this not to be repeated.

38. It was noted that the amount proposed for 2gv was €904,100 in the supplementary budget. After considering the information provided, where it was noted that the proposed budget was built in 2 parts: 1) GTA resources for an amount of €456,300 and part 2) with respect to contractual services representing an amount of €447,800.

39. The Committee noted that it is important to ensure that the process moves on expeditiously and it agreed with GTA resources requested.

40. Taking into consideration that some items included in the 2gv proposed budget such as contractual services could be adjusted to reach the initial total amount requested by OC of €847,000, the Committee recommended a round figure of €60,000 to be reduced.

Conclusion

41. The total reduction amount for the whole supplementary proposed budget would amount to €1.3 million.

B. Other issues

42. The Committee received the information on the selection process and tender procedure of the external auditor. According to its mandate, the Committee recommended to the Assembly the appointment of the proposed External Auditor and it confirmed that the procedure has been duly observed taking into account its previous recommendation on the importance of rotation of the external auditor.

43. Also the Committee noted with satisfaction the results of the consultations on interim premises whereby facilitators were able to lower the overall rent of interim premises and clarify the responsibility for rehabilitation costs.

Madam President,

44. Before closing, I wish to offer my thanks on behalf of the Committee to the Court officials and all its staff with whom the Committee has worked this year. We appreciate the excellent dialogue we have had with the Court. I also wish to thank Mr. Renan Villacis and the staff of the Secretariat of Assembly who have worked very hard to service the Committee.

45. I wish to thank all my colleagues in the Committee on Budget and Finance for their valuable contribution to the Committee, and I would like to congratulate the incoming elected ones.

46. As this session would be my last one, I would like to express what a great honor was for me to serve on the Committee since its inception. I am particularly pleased to note that the Committee has become a valued part of the governance of the Court; where our dialogue with the Court is productive and based in trust; and the Assembly considers our advice carefully in making its decisions.

Thank you.

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