



Fourteenth session

The Hague, 18-26 November 2015

**Report of the Court on the Proposed and
Supplementary Budgets****Executive summary*

This report addresses the request of the Committee on Budget and Finance to consider whether there is a need to amend the Financial Regulations and Rules in order to accommodate a situation whereby new needs arise after submission of the proposed programme budget but before the beginning of the financial year to which it pertains.

Request content:¹

The FRR contain two provisions for dealing with circumstances unforeseen at the time of adopting the budget which result in additional funding needs. Regulation 3.6 deals with the supplementary budget proposals requiring Assembly of States Parties approval, while regulations 6.6 and 6.7 deal with supplementary budget proposals to be financed using contingency funds and requiring detailed notification to the Committee. Both regulations are intended to cover situations arising during a financial period for which the budget has already been approved and is being implemented.

While the Court considers that these regulations meet their intended purpose, it is of the opinion that the FRR should also establish procedures for dealing with changes in circumstances that occur during the several months from the time when the budget is submitted for the Committee's consideration to the time when the budget is adopted by the Assembly. In this respect, the Court proposes introducing new regulation which would allow for the possibility of submitting supplementary budget proposals for the future financial period after the submission of the proposed budget and before the meeting at which the Committee considers the proposed programme budget. Consequently, the Court proposes amending regulation 3.5 to confirm that the Committee will submit its comments and recommendations on the proposed budget and supplementary budget to the Assembly for its decision. Finally, the Court also proposes amending regulation 6.6(b) to extend forward the time from which Contingency Fund notifications for the year to which the proposed budget pertains may be submitted, to the date when the Committee meeting ends. In other words, the Court is proposing that for any developments with relevant financial implications that take place after the submission of the proposed programme budget by the Court and before the consideration of the budget proposal by the Committee, the Court will submit a supplementary budget proposal. Similarly, for any such developments that take place after the consideration by the Committee of the proposed budget, the Court will be able to rely on notifications for possible use of the Contingency Fund for the financial period concerning the proposed budget.

* Previously issued as CBF/24/16.

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Thirteenth session, New York, 8-17 December 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 27.

I. Introduction

1. At its twenty-third session, the Committee on Budget and Finance (“the Committee”) recommended that the International Criminal Court (“the Court”) consider whether there is a need to amend the Financial Regulations and Rules (“FRR”) in order to accommodate a situation whereby new needs arise after the proposed programme budget has been submitted, but before the beginning of the financial year to which it pertains, and report to the Committee at its twenty-fourth session.
2. The Committee requested that in such a case both a detailed supplementary submission and a consolidated proposed programme budget document be presented to the Committee and the Assembly of States Parties (“the Assembly”).

II. Supplementary budget under current regulatory framework

3. Regulation 3.4 requires the Registrar to submit the proposed programme budget to the Committee at least 45 days before the meeting at which the Committee considers the budget. Subsequently, the proposed budget is first scrutinized by the Committee and then adopted by the Assembly in late November or early December.
4. The FRR contain two mechanisms (supplementary budget² and contingency fund³) to deal with circumstances unforeseen at the time of adopting the budget which result in additional funding requirements during the financial year to which the budget pertains.
5. Regulation 3.6 addresses supplementary budget proposals with respect to the current financial period requiring Assembly approval, while regulations 6.6 and 6.7 address supplementary budget proposals to be funded from the Contingency Fund and requiring a detailed notification to the Committee. Both regulations are intended to cover situations arising during a financial period for which the budget has already been approved and is being implemented.
6. However, unforeseen circumstances can also arise in the period between the time when the proposed budget is submitted (45 days before the Committee meeting) and the time when the budget is adopted by the Assembly, and the FRR do not specifically address this possibility.
7. In an effort to present a budget based on the most up-to-date assumptions, the Court has in the past submitted supplementary budgets to the proposed budget before the budget was adopted. Even though the FRR did not address this possibility, these supplementary budgets were treated as an integral part of the proposed budget and were adopted together with the proposed budget by the Assembly after the Committee’s consideration.
8. The Court is of the opinion that the approved budget should reflect the most up-to-date assumptions and the funding required to deliver on its mandate. Past experience supports the need to establish formal procedures for presenting supplementary budget proposals for the following financial period which have due regard for the fact that the Committee needs sufficient time to consider supplementary budget proposals and that it becomes very difficult for the Committee and States Parties to consider supplementary budget proposals after the autumn Committee meeting.

III. Proposed amendments to the FRR

9. For the reasons mentioned above, the Court proposes a twofold solution: (a) introduction of a new regulation on the submission of supplementary budgets to the proposed budget for the following year before the Committee meeting, triggering amendment of the subsequent regulation; and (b) amendment of Contingency Fund regulation 6.6(b) to cover new funding needs after the Committee meeting. The proposed amendments to the FRR are provided in the annex and are as follows:

² Regulation 3.6.

³ Regulation 6.6 and 6.7.

(a) New regulation 3.5 and related amendments:

3.5 Supplementary budget proposals may be submitted by the Registrar with respect to the following financial period, if circumstances unforeseen arising during the 60 days prior to the meeting of the Committee make it necessary. In this case, a detailed supplementary budget shall be submitted at least seven days prior to the meeting at which the Committee shall consider the proposed programme budget.

Given the limited time available to the Court for the preparation and submission of the supplementary budget according to the new regulation 3.5, it will be practically impossible to merge the supplementary budget into the proposed budget. However, the Committee will submit its comments and recommendations to the Assembly for both the proposed budget and the supplementary budget, together with a consolidated version of the budget tables. Therefore, it is proposed that the existing regulation 3.5 (henceforth regulation 3.6) be amended to include supplementary budgets, as follows:

3.6 The Committee on Budget and Finance shall consider the proposed programme budget and supplementary budgets and shall submit its comments and recommendations to the Assembly of States Parties. The Assembly shall consider the proposed programme budget and supplementary budgets and take a decision on them.

(b) Amendments to regulation 6.6:

6.6 There shall be established a Contingency Fund to ensure that the Court can meet:

- (a) Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
- (b) Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of the consideration of the proposed programme budget by the Committee on Budget and Finance; or
- (c) Costs associated with an unforeseen meeting of the Assembly of States Parties.

The level of the Fund and the means by which it shall be financed (i.e. by assessed contributions and/or cash surpluses in the budget) shall be determined by the Assembly of States Parties.

IV. Conclusion

10. The Court believes that with the requested amendments the full period from the submission to the adoption of the proposed programme budget is covered, should there be any need to cater for unforeseen circumstances which would impact the operations of the Court in the following year.

Annex

3.4. The Registrar shall submit the proposed programme budget for the following financial period to the Committee on Budget and Finance at least 45 days prior to the meeting at which the Committee shall consider the proposed programme budget. At the same time, the Registrar shall also submit the proposed programme budget to the State Parties.

3.5. Supplementary budget proposals may be submitted by the Registrar with respect to the following financial period, if circumstances unforeseen arising during the 60 days prior to the meeting of the Committee make it necessary. In this case, a detailed supplementary budget shall be submitted at least seven days prior to the meeting at which the Committee shall consider the proposed programme.

3.65. The Committee on Budget and Finance shall consider the proposed programme budget and supplementary budgets and shall submit its comments and recommendations to the Assembly of States Parties. The Assembly shall consider the proposed programme budget and supplementary budgets and take a decision on ~~it~~them.

3.67. Supplementary budget proposals may be submitted by the Registrar with respect to the current financial period if circumstances unforeseen at the time of adopting the budget make it necessary. In this case, the supplementary budget proposal shall be in a form consistent with the approved budget. The provisions of these Regulations shall be applicable to the proposed supplementary budget. Decisions of the Assembly of States Parties on the supplementary budget proposed by the Registrar shall be based on the recommendations of the Committee on Budget and Finance.

3.78. The Registrar may enter into commitments for future financial periods, provided that such commitments are for activities which have been approved by the Assembly of States Parties and are expected to occur or continue beyond the end of the current financial period.

6.6. There shall be established a Contingency Fund to ensure that the Court can meet:

- a) Costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; or
- b) Unavoidable expenses for developments in existing situations that could not be foreseen or could not be accurately estimated at the time of the consideration adoption–of the proposed programme budget by the Committee on Budget and Finance; or
- c) Costs associated with an unforeseen meeting of the Assembly of States Parties.

The level of the Fund and the means by which it shall be financed (i.e. by assessed contributions and/or cash surpluses in the budget) shall be determined by the Assembly of States Parties.

6.7. If a need to meet unforeseen or unavoidable expenses arises, the Registrar, by his or her own decision or at the request of the Prosecutor, the President or the Assembly of States Parties is authorized to enter into commitments not exceeding the total level of the Contingency Fund. Before entering into such commitments, the Registrar shall submit a detailed, supplementary budget notification to the Committee on Budget and Finance through its Chairperson. Two weeks after having notified the Chairperson of the Committee on Budget and Finance, and taking into consideration any financial comments on the funding requirements made by the Committee through its Chairperson, the Registrar may enter into the corresponding commitments. All funding obtained in this way shall relate only to the financial period(s) for which a programme budget has already been approved.