

Resolution ICC-ASP/18/Res.1

Adopted at the 9th plenary meeting, on 6 December 2019, by consensus

ICC-ASP/18/Res.1

Resolution of the Assembly of States Parties on the proposed programme budget for 2020, the Working Capital Fund for 2020, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2020 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2020 proposed programme budget of the International Criminal Court (“the Court”) and the related conclusions and recommendations contained in the reports of the Committee on Budget and Finance (“the Committee”) on the work of its thirty-second¹ and thirty-third² sessions,

A. Programme budget for 2020

1. *Approves* appropriations totalling €149,205,600 in the appropriation sections described in the following table:

| <i>Appropriation section</i> | <i>Thousands of euros</i> |
|--|---------------------------|
| Major Programme I Judiciary | 12,081.5 |
| Major Programme II Office of the Prosecutor | 47,383.4 |
| Major Programme III Registry | 75,916.9 |
| Major Programme IV Secretariat of the Assembly of States Parties | 3,316.7 |
| Major Programme V Premises | 2,270.0 |
| Major Programme VI Secretariat of the Trust Fund for Victims | 3,226.1 |
| Major Programme VII-5 Independent Oversight Mechanism | 704.7 |
| Major Programme VII-6 Office of Internal Audit | 721.2 |
| <i>Subtotal</i> | 145,620.5 |
| Major Programme VII-2 Host State Loan | 3,585.1 |
| Total | 149,205.6 |

2. *Notes* that those States Parties that have opted for the one-time payment in respect of the permanent premises and have made such payments in full will not be assessed for the contributions corresponding to Major Programme VII-2 Host State Loan, amounting to €3,585,100;

3. *Further notes* that these contributions as well as the portion of the approved budget for Major Programme IV amounting to €479.7 thousand to be financed from the 2017 cash surplus, as exceptionally decided in section F, paragraph 1 of the present resolution, will bring down the level of the 2020 programme budget appropriations that need to be assessed for contributions by States Parties from €149,205,600 to €145,140,800, and that this amount will be assessed following the principles described in section E;

¹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1.

² *Ibid.*, part B.2.

4. *Further approves* the following staffing tables for each of the above appropriation sections:

| | <i>Office of the Judiciary</i> | <i>Prosecutor Registry</i> | <i>Secretariat, Assembly of States Parties</i> | <i>Secretariat, Trust Fund for Victims</i> | <i>Independent Oversight Mechanism</i> | <i>Office of Internal Audit</i> | <i>Total</i> |
|-----------------|--------------------------------|----------------------------|--|--|--|---------------------------------|--------------|
| USG | - | 1 | - | - | - | - | 1 |
| ASG | - | 1 | 1 | - | - | - | 2 |
| D-2 | - | - | - | - | - | - | - |
| D-1 | - | 3 | 3 | 1 | 1 | - | 9 |
| P-5 | 3 | 18 | 22 | 1 | - | 1 | 45 |
| P-4 | 3 | 36 | 44 | 1 | 4 | 1 | 90 |
| P-3 | 21 | 77 | 83 | 1 | 2 | - | 185 |
| P-2 | 12 | 79 | 90 | 1 | - | 1 | 183 |
| P-1 | - | 25 | 5 | - | - | - | 30 |
| <i>Subtotal</i> | <i>39</i> | <i>240</i> | <i>248</i> | <i>5</i> | <i>7</i> | <i>3</i> | <i>545</i> |
| GS-PL | 1 | 1 | 15 | 2 | - | - | 19 |
| GS-OL | 11 | 79 | 312 | 3 | 2 | 1 | 409 |
| <i>Subtotal</i> | <i>12</i> | <i>80</i> | <i>327</i> | <i>5</i> | <i>2</i> | <i>1</i> | <i>428</i> |
| Total | 51 | 320 | 575 | 10 | 9 | 4 | 973 |

B. Working Capital Fund for 2020

The Assembly of States Parties,

Recalling that the Working Capital Fund was established to ensure that the Court be able to meet short-term liquidity problems pending receipt of assessed contributions,³

Noting the recommendation of the Committee at its twenty-seventh session to reinstate the Working Capital Fund to represent approximately one month's expenditure of the Court's 2016 approved budget (€11.6 million),⁴

Further noting that the Committee recommended a consideration of a multi-year funding timetable,⁵

1. *Notes* that the Working Capital Fund for 2019 was established in the amount of €11.6 million;

2. *Further notes* that the current level of the Working Capital Fund is €9.1 million, and *also notes* that the Court will replenish the Working Capital Fund to the level of €11.54 million, exceptionally using the available cash surplus from 2017, in line with the recommendation of the Committee;⁶

3. *Resolves* that the Working Capital Fund for 2020 shall be established in the amount of €11.6 million, and *authorizes* the Registrar to make advances from the Fund in accordance with the relevant provisions of the Financial Regulations and Rules of the Court;

³ Financial Regulations and Rules 6.2.

⁴ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part B.2, para. 144.

⁵ *Ibid.*, para. 148.

⁶ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 179.

4. *Takes note* of the recommendation of the Committee⁷ at its thirty-second session that the Working Capital Fund be maintained at one month of the Court's expenditure, therefore recommending an increase of the notional level to €12.3 million, and *notes* that States Parties will continue to consider this matter in The Hague Working Group facilitation on the budget; and

5. *Decides* that the Court may only use the surplus funds and funds received from the payment of outstanding contributions to reach the established level of the Working Capital Fund.

C. Outstanding contributions

The Assembly of States Parties,

Welcoming the report of the Bureau on the arrears of States Parties,⁸ and in particular the conclusions and recommendations contained in that report,⁹

1. *Urges* all States Parties to make timely payments of assessed contributions and *requests* the Court and States Parties to make serious efforts and take necessary steps to reduce the level of arrears and outstanding contributions as far as possible to avoid liquidity issues for the Court, and *further requests* the Court to communicate to the Committee all information concerning outstanding contributions in advance of the nineteenth session of the Assembly of States Parties;

2. *Welcomes* the Court's development of guidelines,¹⁰ consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112, paragraph 8 of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans, *encourages* States Parties in arrears and subject to the provisions of article 112, paragraph 8, to work voluntarily, in coordination with the Court, to develop such payment plans, and *further requests* the Court to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget, including via the monthly financial reports provided to States Parties; and

3. *Takes note* of the recommendations of the Committee¹¹ and the External Auditor¹² concerning liquidity issues and *notes* that States Parties will continue to consider this matter in The Hague Working Group facilitation on the budget.

D. Contingency Fund

The Assembly of States Parties,

Recalling its resolutions ICC-ASP/3/Res.4 establishing the Contingency Fund in the amount of €10,000,000 and ICC-ASP/7/Res.4 requesting the Bureau to consider options for replenishing both the Contingency Fund and the Working Capital Fund,

Recalling further that the Contingency Fund was established to ensure that the Court can meet: a) costs associated with an unforeseen situation following a decision by the Prosecutor to open an investigation; b) unavoidable expenses for developments in existing situations that could not be accurately estimated at the time of the adoption of the budget; and c) costs associated with an unforeseen meeting of the Assembly,¹³

Taking note of the advice of the Committee in the reports on the work of its eleventh, thirteenth, nineteenth and twenty-first sessions,

⁷ *Ibid.*, part B.1, para. 66.

⁸ ICC-ASP/18/34.

⁹ *Ibid.*, paras. 15 and 16.

¹⁰ ICC-ASP/18/6.

¹¹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2. para. 193.

¹² Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 9.

¹³ Financial Regulations and Rules 6.6.

Recalling that the Assembly, at its sixteenth session decided that, should the Contingency Fund fall below €5.8 million by its seventeenth session, the Assembly would assess the need for its replenishment, bearing in mind the report of the Committee on Budget and Finance,¹⁴ and regulation 6.6 of the Financial Regulations and Rules,

1. *Notes* that the current level of the Contingency Fund is €5.2 million;
2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2020; and
3. *Requests* the Bureau to keep the €7.0 million threshold under review in light of further experience on the functioning of the Contingency Fund.

E. Scale of assessment for the apportionment of expenses of the Court

The Assembly of States Parties,

1. *Decides* that for 2020, the contributions of States Parties shall be assessed in accordance with an agreed scale of assessment, based on the scale adopted by the United Nations for its regular budget applied for 2019-2021,¹⁵ and adjusted in accordance with the principles on which the scale is based;¹⁶ and
2. *Notes* that, in addition, any maximum assessment rate for the largest contributors and for the least developed countries applicable for the United Nations regular budget will apply to the Court's scale of assessment.

F. Financing of appropriations for 2020

The Assembly of States Parties,

Noting its resolution ICC-ASP/18/Res.7 on the Review of the International Criminal Court and the Rome Statute system,

Noting also the decision of the Bureau to establish a Committee on the Election of the Prosecutor,

Noting further the addendum to the proposed programme budget of the Court for 2020 proposing the level of resources to fund the Independent Expert Review and the work of the Committee on the Election of the Prosecutor, as well as the recommendations of the Committee on Budget and Finance to approve additional resources to this end amounting to €479.7 thousand,

1. *Decides* that, on an exceptional basis, for the year 2020, the amount of €479.7 thousand of the budget appropriations approved by the Assembly for Major Programme IV shall be financed using the cash surplus from 2017;
2. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan, as well as the portion of the approved budget for Major Programme IV to be financed from the 2017 cash surplus, will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €145,140,800;
3. *Resolves* that, for 2020, assessed contributions for the budget amounting to €145,140,800 of the budget appropriations approved by the Assembly under section A, paragraph 1 of the present resolution, will be financed in accordance with regulations 5.1 and 5.2 of the Financial Regulations and Rules of the Court; and
4. *Emphasizes* that this formula does not constitute a precedent for financing the regular budget of the Court.

¹⁴ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2.

¹⁵ A/RES/73/271.

¹⁶ Rome Statute of the International Criminal Court, article 117.

G. Premises of the Court

The Assembly of States Parties,

Noting the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,¹⁷

1. *Approves* the commencement of capital replacement for the premises of the Court at the level of €425 thousand in 2020, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Emphasizes* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary, *requests* the Court to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible, and *invites* the Court to submit a long-term plan and estimates for capital replacement in line with these principles;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process;
4. *Welcomes* the intention of the Committee to review the medium and long-term plans and estimates for capital replacement, as well as financial and administrative mechanisms, at its thirty-fourth session¹⁸ and *invites* the Committee to undertake a detailed analysis and evaluation of the proposed budget taking into account the need for prioritization;
5. *Takes note* of the recommendation of the Committee¹⁹ regarding a mechanism for *pro bono* expert advice from States Parties in the planning and implementation of capital replacement, and *invites* States Parties to further explore this possibility and put forward suggestions in this regard;
6. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, and *requests* that a report on the topic be submitted for consideration by the nineteenth session of the Assembly; and
7. *Welcomes with appreciation* the artwork donations to the premises of the Court made by several States Parties in 2019.

H. Transfer of funds between major programmes under the 2019 approved programme budget

The Assembly of States Parties,

Recognizing that under regulation 4.8 of the Financial Regulations and Rules no transfer between appropriation sections may be made without authorization by the Assembly,

1. *Decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2019 should costs for activities which were unforeseen or could not be accurately estimated be unable to be absorbed within one major programme, whilst a surplus exists in other major programmes, in order to ensure that appropriations for each major programme are exhausted prior to accessing the Contingency Fund.

I. Audit

The Assembly of States Parties,

¹⁷ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, paras. 76-83, and part B.2, paras. 107-117.

¹⁸ *Ibid.*, part B.2, para 114.

¹⁹ *Ibid.*, para. 116.

Having regard to the Charter of the Audit Committee, adopted at its fourteenth session,²⁰ as amended,

Noting the reports of the Audit Committee on the work of its ninth and tenth sessions,²¹

Further noting the recommendations of the Committee on Budget and Finance concerning audit matters,²²

1. *Welcomes* the reports of the Audit Committee on the work of its ninth and tenth sessions;
2. *Decides* to extend the term of the External Auditor, the *Cour des comptes*, for a further year, so as to include the financial statements of the Court and the Trust Fund for Victims for 2020;
3. *Notes* that a detailed selection procedure for procurement of an External Auditor will be completed in time for the nineteenth session of the Assembly of States Parties;
4. *Decides* to re-appoint Ms. Elena Sopková as a member of the Audit Committee for a term of three years starting on 1 January 2020, while serving as an active member of the Committee on Budget and Finance;
5. *Takes note* of the recommendations made by the *ad hoc* Selection Panel and *decides* to re-appoint Mr. Samir Abu Lughod (Jordan) and to appoint Ms. Clarissa Van Heerden (South Africa) as members of the Audit Committee for a term of three years starting on 1 January 2020;
6. *Requests* the External Auditor to conduct an evaluation of the oversight bodies of the Court as part of its work in 2020, replacing the performance audit, and to recommend possible actions on their respective mandates and reporting lines, while fully respecting the independence of the Court as a whole; and
7. *Takes note* of the proposed amendments to the Charter of the Audit Committee contained in annex III to the report of the Audit Committee on its tenth session, *requests* the Audit Committee to provide more detailed background information on the proposed amendments, and *decides* to consider those amendments, including any additional information provided by the Committee and taking into consideration the outcome of the evaluation to be undertaken by the External Auditor, in order to take a decision as appropriate.

J. Budget Management Oversight

The Assembly of States Parties,

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor and the Registry are dynamic and updated on a regular basis;
2. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor and the Registry;
3. *Welcomes* the report of the Office of the Prosecutor on the implementation of its Strategic Plan for 2016-2018, and *requests* the Court to continue to assess, develop and apply the lessons learned contained therein;
4. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;

²⁰ *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. II, part B.3, annex IV.

²¹ AC/9/5 and AC/10/5, available on the website of the Audit Committee at https://asp.icc-cpi.int/en_menus/asp/AuditCommittee.

²² *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, paras. 231-257.

5. *Recalls* its invitation to the Court to hold annual consultations with the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year, including on use of and improvements on performance indicators;
6. *Invites* the Court, the Office of the Prosecutor and the Registry to report annually to the Assembly on the implementation of the Strategic Plans; and
7. *Notes* the oversight roles of the Audit Committee, the Committee on Budget and Finance, the External Auditor, the Independent Oversight Mechanism, and the Office of Internal Audit, and *recommends* that these bodies continue to expand their coordination in order to improve the timely exchange of information and reporting of results amongst them, the organs of the Court, the Bureau, and the Assembly, to optimize their oversight capacities, and to avoid duplication of competence and work.

K. Development of budget proposals

The Assembly of States Parties,

1. *Requests* the Court to present a sustainable budget proposal for its 2021 programme budget, based on transparent and strict financial assessments and needs-analysis. Proposed increases above the level of the 2020 approved budget should be requested only when necessary for the purpose of mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;
2. *Recalls* that the proposed programme budget should present the costs for the following year by first highlighting the costs of maintaining current activities, then proposing changes to those activities including full costings of such changes;
3. *Invites* the Court to continue to ensure a stringent internal budgetary process steered by the Registry as part of an annual cycle taking into account past expenditure and leading to a sound and transparent budget proposal, thus allowing the Court to manage its financial situation responsibly, *encourages* the Court to make all efforts to ensure a balanced budget, as appropriate, across organs, and *emphasizes* that the Court should strive to present accurate and sustainable budget proposals based on robust forecasts;
4. *Welcomes* the recommendation of the External Auditor²³ that the Court question the nature of current appropriations when preparing the annual budget proposal, to avoid a gradual drift in budget appropriations;
5. *Recalls* the conclusions of the External Auditor with regard to financial trade-offs²⁴ and *further recalls* that States Parties support the Court in many ways, also outside the normal budgetary process;
6. *Welcomes* the constructive dialogue between the Committee on Budget and Finance and the Court at the thirty-second session of the Committee on the presentation of budget proposals and *requests* the Court to set Court-wide annual efficiency targets and to present an annex to the 2021 programme budget on the achievements of these efficiency targets, as well as detailed information which clearly distinguishes, to the extent possible, between savings, efficiencies, non-recurrent cost reductions and additional cost reductions achieved in 2020 and estimations for 2021, and which, as recommended by the External Auditor,²⁵ refers to those savings and efficiencies which result from genuine managerial initiatives and have an impact on the baseline; and
7. *Further welcomes* the recommendations of the Committee in relation to the presentation of the budget proposals and the efforts made by the Court in this regard, *encourages* continued improvement, and *notes* that the Committee will be updated ahead of its thirty-fourth session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties.

²³ Final audit report on the budget process of the International Criminal Court (ICC-ASP/18/2/Rev.1), recommendation 2.

²⁴ *Ibid.*, para. 213.

²⁵ *Ibid.*, recommendation 3.

L. A strategic approach to an improved budgetary process

The Assembly of States Parties,

Bearing in mind the independence and confidentiality required to allow the Judiciary and the Office of the Prosecutor to carry out its duties,

1. *Emphasizes* the central role that the report of the Committee on Budget and Finance has on budget discussions in preparation for the Assembly sessions, and *requests* the Committee to ensure that its reports are published as soon as possible after each session;
2. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee in both working languages of the Court;
3. *Stresses* the utmost importance of achieving economies of scale, streamlining activities, identifying potential duplications and promoting synergies within as well as between the different organs of the Court;
4. *Welcomes* the Court's continued efforts to fully implement the "One-Court principle" when establishing the proposed programme budget, which has resulted in improvements to the budgetary process;
5. *Welcomes* the inclusion of comparative tables in the report of the Committee showing the yearly increases in approved programme budgets 2013-2019 and budget allocation per active investigation in Major Programme II and *invites* the Court to include updated versions of these tables in future budget proposals;
6. *Welcomes* the continued work of the Court on the topic of performance indicators as an important tool to fulfil its functions, in particular with regard to effective leadership and management, and *encourages* the Court to continue this work in light of the recommendations of the External Auditor and to share with States Parties any update on the development of performance indicators;
7. *Invites* the Board of Directors of the Trust Fund for Victims to consider the recommendations of the Committee on the Secretariat of the Trust Fund for Victims, *encourages* the Secretariat of the Trust Fund for Victims to continue its close coordination with the other organs of the Court, *takes note* of the report on the evaluation which expresses some concerns on the administration of the Secretariat of the Trust Fund for Victims by the Independent Oversight Mechanism, *regrets* the late submission of that report to the President of the Assembly, and *decides* to examine the conclusions and recommendations contained therein, through the Bureau and its working group, in order to identify measures with a view to improve operations and increase its efficiency and effectiveness in the implementation of the mandate, at the nineteenth session of the Assembly;
8. *Notes* the importance of frequently reconsidering the value of current activity, including any opportunities for redeployment,²⁶ and *recalls* that careful prioritization is an important principle of efficient and effective management and is key to achieving successful outcomes;
9. *Requests* the Court, in consultation with the Committee, to continue to develop its budgetary process, guided by the Registry, by:
 - (a) Further strengthening the "One-Court principle" by ensuring that the budget process and its underlying assumptions and objectives are based on coordinated and robust strategic planning and prioritization;
 - (b) Further enhancing dialogue and information sharing between the Court and States Parties on the assumptions, objectives and priorities which underpin the draft programme budget at an early stage;

²⁶ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 27.

(c) Employing maximum flexibility in the management of its human resources in reacting to unexpected situations, and to the extent possible redeploying resources based on actual workload requirements;

(d) Continuing to explore ways to preserve the Court's long-term ability to deliver on its mandate effectively and efficiently, while being mindful of the financial constraints of States Parties;

(e) Enhancing the dialogue and information sharing between the Court and States Parties on potential medium-term cost drivers with a view to enhancing budget predictability; and

(f) Continuing to make all efforts to ensure accurate forecasting and expenditure in all budget lines;

10. *Requests* the Court to continue submitting its annual report on activities and programme performance including, as appropriate, relevant information on the approved budget, expenditure and variance at the sub-programme level with all budget lines, as well as the provisional expenditures and revenues for all trust funds administered by the Court, also being provided by the Court in its financial statements;

11. *Welcomes* the monthly financial reports provided by the Court to States Parties, showing monthly figures on cash flow, balances of the General Fund, the Working Capital Fund and the Contingency Fund, the status of assessed contributions, and monthly and annual cash flow forecasts, and *emphasizes* the usefulness of these reports; and

12. *Commits* itself to financial practices which give utmost priority to the annual budget cycle and *calls for* a restrictive use of multi-annual funds administered outside the cycle.

M. Human Resources

The Assembly of States Parties,

Recalling its decision, during its fifteenth session,²⁷ to approve the implementation of all the elements of the new compensation package applicable as of 1 January 2017, in alignment with the changes and timelines approved by the United Nations General Assembly,

Noting the report of the Committee on Budget and Finance on the work of its twenty-eighth session, which welcomed the development of the policy put forward by the Court regarding the compensation review package,²⁸

Noting also that the Court submitted the amended text of the Staff Rules relating to the United Nations education grant, special education grant and related benefits to the Committee on Budget and Finance at its thirty-second session and that the Committee recommended that the Assembly approve the proposed changes,²⁹

1. *Welcomes* the work undertaken by the Court to implement the changes with respect to the new compensation package for staff members in the Professional and higher categories in conformity with the United Nations common system standards;

2. *Takes note* of the text of the amended provisional Staff Rules relating to the United Nations education grant, special education grant and related benefits, and *notes* that the Court intends to promulgate the amended Staff Rules in early 2020;

3. *Notes* the Administrative Instruction on the Classification and Reclassification of Posts promulgated by the Registrar,³⁰ *requests* the Committee to continue monitoring the implementation of the Administrative Instruction at its thirty-fourth and thirty-fifth sessions and to report to the Assembly, *decides* to approve the reclassifications recommended by the Committee for 2020, *also decides* that no new requests for reclassifications should be

²⁷ ICC-ASP/15/Res.1, section N, para. 1.

²⁸ *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.1, para. 105.

²⁹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1, para. 121.

³⁰ ICC/AI/2018/002, 22 November 2018.

submitted by the Court until the new review of the Administrative Instruction is finalized,³¹ *stresses* that reclassifications of posts cannot be used as a promotion tool or as a consequence of increased workloads and *recalls* the importance of fairness and transparency in all Human Resources decision-making;

4. *Notes* the External Auditor's recommendations that the Court strive to apply a unified set of Human Resources management policies³² and develop and publish an ethics charter,³³ and *encourages* the Court to update States Parties on the implementation of those recommendations; and

5. *Encourages* prudent management of the Court's human resources to ensure full budget discipline, and *notes* that all new staff of any category, including temporary, must be properly justified.³⁴

N. Referrals by the Security Council

The Assembly of States Parties,

Noting with concern that, to date, expenses incurred by the Court due to referrals by the United Nations Security Council³⁵ have been borne exclusively by States Parties,

Recalling that, pursuant to article 115 of the Rome Statute, expenses of the Court and the Assembly shall be provided, *inter alia*, by funds of the United Nations, subject to the approval of the General Assembly, in particular in relation to the expenses incurred due to referrals by the Security Council,

Mindful that, pursuant to article 13, paragraph 1, of the Relationship Agreement between the Court and the United Nations, the conditions under which any funds may be provided to the Court by a decision of the General Assembly of the United Nations shall be subject to separate arrangements,

1. *Notes* the report of the Registry on the approximate costs allocated so far within the Court in relation to referrals by the Security Council,³⁶ and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €65 million, borne exclusively by States Parties;

2. *Encourages* States Parties to continue discussions on a possible way forward on this issue; and

3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the nineteenth session of the Assembly.

O. Five-Year Information Technology and Information Management Strategy

The Assembly of States Parties,

Noting the recommendation of the Committee at its thirty-first session with regard to multi-year budgeting of the Five-Year Information Technology and Information Management Strategy ("the Strategy"),³⁷

Recalling its request³⁸ to the Court to provide the Committee, at its thirty-second session, with a solution within the parameters of the Financial Regulations and Rules for the transfer of unspent funds of the Strategy, caused by objective delays in procurement, from one financial year to the following,

³¹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 43.

³² Final audit report on Human Resources Management (ICC-ASP/17/7), recommendation 2.

³³ *Ibid.*, paras. 238-240.

³⁴ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 37.

³⁵ United Nations Security Council resolutions 1593 (2005) and 1970 (2011).

³⁶ ICC-ASP/18/28.

³⁷ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 104.

³⁸ ICC-ASP/18/Res.4, section P, para. 1.

Noting the recommendation of the Committee at its thirty-third session³⁹ that the Court continue to implement the Strategy on the basis of the maximum cost estimates for the years 2019-2021 as presented in the report of the Committee on the work of its thirty-first session (2019: €2,168.5 thousand; 2020: €2,072.5 thousand and 2021: €2,559.5 thousand),⁴⁰

1. *Decides*, in view of the nature of this long-term project, that a portion of the 2019 approved budget for the Strategy amounting to €307,000, and resulting from objective delays in procurement, shall remain available in 2020; and
2. *Requests* the Registrar to report annually to the Assembly, through the Committee, on the implementation of the Strategy.

P. Amendments to the Rules of Procedure of the Committee on Budget and Finance

The Assembly of States Parties,

Noting its consideration in 2018 and 2019 of the proposed amendments to the Rules of Procedure of the Committee on Budget and Finance, and *recalling* its request to the Committee to provide more detailed background information on the proposed amendments, and its request to The Hague Working Group to discuss the proposed amendments and any additional information in the context of the budget facilitation,

1. *Takes note* of the proposed amendments to the Rules of Procedure of the Committee on Budget and Finance as contained in annex IV of the report of the Committee on the work of its thirty-second session;⁴¹
2. *Notes* that the proposed amendments and relevant background information were considered by the Assembly, bearing in mind that the Assembly of States Parties is the only decision-making body having the necessary authority to review its resolutions;
3. *Decides* to adopt the Rules of Procedure of the Committee on Budget and Finance as contained in annex I to this resolution; and
4. *Also decides* to include this issue as part of the overall Review of the International Criminal Court and the Rome Statute system.⁴²

³⁹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.2, para. 86.

⁴⁰ *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. II, part B.2, para. 98, table 5.

⁴¹ *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. II, part B.1.

⁴² ICC-ASP/18/Res.7.

Annex

Amended Rules of Procedure of the Committee on Budget and Finance

I. Sessions

Rule 1

Frequency of sessions

The Committee on Budget and Finance (hereafter referred to as “the Committee”) shall meet when required and at least twice per year.¹

Rule 2

Place of sessions

In general, the Committee shall meet at the seat of the Court. Sessions of the Committee may be held at another place, if the Committee and/or the Assembly of States Parties (hereafter referred to as “the Assembly”) so decides.

Rule 3

Convening of sessions

1. Sessions of the Committee shall be convened at the request of:
 - (a) The Assembly;
 - (b) The majority of the members of the Committee; or
 - (c) The Chairperson of the Committee.
2. Before the Chairperson organizes a session of the Committee, he/she shall consult the members of the Committee, including on the date and duration of the session.
3. Any session of the Committee called pursuant to a request of the Assembly shall be convened as soon as possible but no later than sixty days from the date of the request, unless the Assembly decides otherwise.

Rule 4

Notification of members

The Chairperson, via the Executive Secretary,² shall notify the members of the Committee as early as possible of the date and duration of each session.

II. Agenda

Rule 5

Drawing up of the provisional agenda

The provisional agenda for each session of the Committee shall be drawn up by the Executive Secretary in consultation with the Chairperson of the Committee, whenever possible, and shall include:

- (a) All items proposed by the Assembly;
- (b) All items proposed by the Committee members;

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First session, New York, 3-7 February 2003* (ICC-ASP/1/3/Add.1), ICC-ASP/1/Res.4, annex, para. 4.

² Refer to rule 16.

- (c) All items proposed by the Chairperson;
- (d) All items proposed by any member of the Committee; and
- (e) All items proposed by the Court.

Rule 6

Communication of the provisional agenda

The provisional agenda for each session of the Committee shall be communicated to the members of the Committee, the Court and States Parties as early as possible in advance of the session, but at least twenty-one days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Committee, the Court and the States Parties of the Assembly sufficiently in advance of the session.

Rule 7

Adoption of the agenda

1. At the beginning of each session, the Committee shall adopt its agenda for the session, on the basis of the provisional agenda.
2. The Committee may, if necessary, amend the agenda, provided that no item referred to it by the Assembly be deleted or modified.

III. Functions of the Committee

Rule 8

Functions

1. The Committee is a subsidiary body of the Assembly composed of independent experts elected by the Assembly.³
2. The Committee shall be responsible for the technical examination of any document submitted to the Assembly that contains financial or budgetary implications or any other matter of a financial, budgetary or administrative nature, as may be entrusted to it by the Assembly. In particular, the Committee shall review the proposed programme budget of the Court and shall make the relevant recommendations to the Assembly. The Committee shall also consider reports of the Audit Committee⁴ and the External Auditor concerning the financial operations of the Court and shall transmit them to the Assembly together with any comments which it may deem appropriate.

Rule 9

Incompatible activities and confidentiality

1. Members of the Committee shall have no financial interest in any activity relating to matters upon which the Committee has the responsibility to make recommendations. They shall not disclose, even after termination of their functions, any confidential information coming to their knowledge by reason of their duties for the Committee.
2. Members of the Committee shall not be eligible to assume any other functions at the International Criminal Court during their term.
3. Members of the Committee shall inform the Chairperson⁵ about any potential conflict of interest they might have or that may arise. Members finding themselves in such a situation shall not participate in the consideration of matters to which the conflict relates and shall not vote on such matters. If the Chairperson has any conflict of interest, the

³ ICC-ASP/1/Res.4.

⁴ At its fourteenth session, the Assembly approved the re-establishment of the Audit Committee. *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. II, part B.3, paras. 140-145 and annex IV.

⁵ Or Vice-Chairperson if the member in this case is the Chairperson.

Committee members should be informed and the Vice-Chairperson will chair the consideration of the matter.

IV. Members of the Committee

Rule 10

Election and term of the Chairperson and the Vice-Chairperson

1. Each year at its first meeting, the Committee shall elect a Chairperson and a Vice-Chairperson from among its members.
2. The Chairperson and the Vice-Chairperson shall be elected for a term of one year, ending on the day before the first session in the following calendar year, and shall be eligible for re-election twice.

Rule 11

Acting Chairperson

1. In the absence of the Chairperson, the Vice-Chairperson shall take his/her place and exercise his/her functions.
2. If the Chairperson ceases to hold office pursuant to rule 15, the Vice-Chairperson shall take his/her place and exercise his/her functions until the election of a new Chairperson.

Rule 12

Powers of the Chairperson

1. The Chairperson, in the exercise of his/her functions, remains under the authority of the Committee.
2. In addition to exercising the powers conferred upon him/her elsewhere in these rules, the Chairperson may declare the opening and closing of each meeting of the Committee, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He/she shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Committee and over the maintenance of order at its meetings. The Chairperson may, in the course of the discussion of an item, propose to the Committee the limitation of time to be allowed to speakers, the limitation of the number of times each member may speak on any question, the closure of the list of speakers or the closure of the debate. He/she may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.
3. The Chairperson shall represent the Committee at relevant meetings, to support the work of the Committee or may delegate another member to do so. The Chairperson shall report to all members on any such meetings.

Rule 13

Powers of the Acting Chairperson

The Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

Rule 14

Rapporteur

The Committee may appoint one of its members as Rapporteur at each session.

Rule 15**Replacement of the Chairperson or the Vice-Chairperson**

If the Chairperson or the Vice-Chairperson ceases to be able to carry out his/her functions or ceases to be a member of the Committee, he/she shall cease to hold such office and a new Chairperson or Vice-Chairperson shall be elected for the unexpired term.

V. Secretariat**Rule 16****Duties of the Secretariat**

1. The Committee is assisted by the Secretariat of the Assembly of States Parties (ASP Secretariat). An Executive Secretary from within the ASP Secretariat has been designated for this purpose.⁶ Additional resources as and when these are required may be allocated by the Head of the ASP Secretariat.
2. The Executive Secretary reports to the Chair of the Committee on all issues of substance pertaining to the work of the Committee but remains a member of the ASP Secretariat in line with the management structure of the Court.⁷
3. The Executive Secretary, a staff member of the Secretariat, shall receive, translate, reproduce and distribute recommendations, reports and other documents of, and provided to, the Committee, interpret statements made at meetings, prepare and circulate, when it is so decided, records of the session, have custody and proper preservation of the archives of the Committee and, generally, perform all other work that the Committee may require.
4. The Executive Secretary will fulfil such duties by coordinating between the Committee members and the respective units of the Court.
5. The Executive Secretary shall be responsible for all the arrangements that may be necessary for the meetings, including ensuring that the Committee has all the pertinent documents (in line with the agenda of the meeting) to be able to undertake its work.
6. The Executive Secretary shall keep the members of the Committee informed of any questions that may be brought before it for consideration.
7. The Executive Secretary shall provide to the Committee, at its request, information and reports on questions specified by the Committee.

VI. Conduct of business**Rule 17****Conduct of business**

As far as conduct of business is concerned, the proceedings of the Committee shall be governed by general practice as reflected in the Rules of Procedure of the Assembly.

VII. Decision-making**Rule 18****Voting rights**

Each member of the Committee, including the Chairperson, shall have one vote.

⁶ *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. II, part B.2, para. 122.

⁷ ICC-ASP/2/Res.3.

Rule 19
Decision-making

1. As a general rule, decision-making in the Committee should be by consensus. If all efforts to reach a decision by consensus have been exhausted, decisions shall be taken by a majority of members present and voting.
2. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

Rule 20
Meaning of the phrase “members present and voting”

For the purposes of these rules, the phrase “members present and voting” means members present and casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.

Rule 21
Conduct of voting

The Committee shall apply *mutatis mutandis* the rules relating to the conduct of voting in the Rules of Procedure of the Assembly.

Rule 22
Elections

All elections shall be held by secret ballot and the procedure shall be conducted by the Secretariat.

Rule 23
Conduct of elections

The Committee shall apply *mutatis mutandis* the rules relating to elections in the Rules of Procedure of the Assembly.

VIII. Languages

Rule 24
Languages of the Committee

In line with rule 38 of the ASP Rules of Procedure, Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Committee. The Committee can decide which language(s) to use among these six languages as working languages.

Rule 25
Interpretation

Statements made in any of the six languages of the Committee shall be interpreted into the other five languages, if requested by any Committee member and in line with the relevant rules.

Rule 26
Other languages

1. Any member may make a statement in a language other than the languages of the Committee. In this case, he/she shall himself/herself provide for interpretation into one of the languages of the Committee.
2. Interpretation into the other languages of the Committee (by the interpreters of the Court where possible) may be based on the interpretation given in the first such language.

Rule 27**Translation of documents**

All recommendations and other documents of the Committee shall be published in the languages of the Committee, which are also the official languages of at least one State Party to the Rome Statute, unless otherwise decided by the Chairperson of the Committee.⁸

IX. Meetings**Rule 28****Meetings**

1. The meetings of the Committee shall be held in private closed session, unless the Committee decides otherwise.
2. The Committee may decide to issue a communiqué through the Executive Secretary.

X. Review of the Rules**Rule 29****Review of the Rules**

The Rules of Procedure may be reviewed, if and when necessary. Any proposed amendments shall be approved by the Assembly.

⁸ ICC-ASP/7/Res.7.