



**Nineteenth Session of the Assembly of States Parties
The Hague, 14-16 December 2020**

**Briefing by
Ms. Monica Sanchez, Chairperson
Committee on Budget and Finance**

World Forum, King Willem Alexander room

15 December 2020

Mr. President,
Your Excellencies and Distinguished delegates,
Ladies and gentlemen,

I would like to thank you for the opportunity to address you today and to present the main outcomes of our discussions at the thirty-fourth and thirty-fifth sessions of the Committee on Budget and Finance (“the Committee”).

At the outset, I would like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions, and to the representatives of the Court for their availability and cooperation especially during these difficult times. I also extend my thanks and appreciation to the Executive Secretary and his team for their outstanding support.

Mr President,

During its thirty-fourth session, which was held virtually on 18-19 May and on 11-12 June 2020, the Committee focused on the consideration of the impact of the COVID-19 pandemic on the operation of the Court, as well as other time-sensitive matters such as the liquidity situation and the appointment of the new External Auditor. During its thirty-fifth session, which was held virtually from 14-25 September 2020, the Committee focused on the consideration of the 2021 proposed programme budget of the Court, and the budget performance of the Court in 2019. In addition, the Committee considered a range of issues including: the impact of COVID-19; the liquidity of the Court; and the work of its major programmes. Other major topics such as the IT/IM Strategy were also reviewed.

In addition, I would like to confirm that the Committee addressed the queries received from States Parties through the Budget facilitator, Ambassador Teran. The Committee welcomed such interaction with States Parties and the Assembly’s Subsidiary Bodies and considered that it leads to a better outcome.

I will now briefly outline the main observations of the Committee on the 2021 proposed programme budget, and budget performance for 2019.

A. Budgetary issues across major programmes

I. General observations and macro-analysis

The Court presented a proposed programme budget for 2021 of **€144,917.2 thousand**, excluding the host State loan, representing a decrease of €703.3 thousand (0.5 per cent) from the previous year.

The Committee noted that the budget for the Court had become stable and achieved near zero growth in the most recent five years (2017-2021).

The Committee noted that the 2021 proposed programme budget was impacted by an increase in staff costs of €6.5 million pursuant to the application of the United Nations Common System (“UNCS”). In addition, the provision of support by the Registry to additional judicial proceedings anticipated in 2021 was estimated to cost an additional €2.0 million.

In order to reduce the level of resource requirements for the 2021 budget, the Court applied a higher vacancy rate in Major Programme III, from 10 to 12 per cent (or €1.1 million reduction), and further reduced resources in the staff costs category by €2.8 million through unfunded positions and other reductions in staff and judges costs. Furthermore, the Court proposed reductions in non-staff costs through reductions in travel (€2.1 million), other non-staff costs (€0.4 million), operational requirements in country offices and field activities (€1.8 million), and the postponement of planned infrastructure improvements (€1.1 million).

However, the Committee noted that the majority of the cost reductions related to either postponement of recruitment or infrastructure investment, or anticipated travel restrictions into 2021. As such, these were considered largely one-time in nature and not a result of structural enhancements in the efficiency of the work of the Court.

II. Update on the situation regarding COVID-19

The Committee observed that the Court had perceived the detrimental effects of COVID-19 and thereby continued to exercise flexibility and versatility in its operations to ensure business sustenance, for example, prudent financial management, encouraging working at home, and voluntary shifts at the office in order to offer safety and security to the workforce.

The Committee also recognized the work of the CMT in its quest to craft comprehensive mechanisms that ensured sustainable operational activities, synergies and a transitional framework towards gradual shifts to the workplace. In addition, the Committee recollected that the Court was mindful of implementing and retaining all the savings and efficiencies in light of the unpredictability of the COVID-19 pandemic, which brings uncertainties.

The Committee was conscious that new ways of working have been adopted during the ongoing COVID-19 pandemic. These new practices, if maintained, could have a potential positive impact on the future operating costs of the Court. The Committee requested the Court to provide a plan to the Committee at its thirty-sixth session that demonstrates how, from within its current budget envelope, the Court intends to implement and benefit from these changes. The Committee was particularly keen to understand the impact these changes have on efficiency, operating costs, flexibility and resilience.

III. Budget Performance for 2019

The Committee considered the “*Report on activities and programme performance of the International Criminal Court for the year 2019*” and noted that in 2019, the Court’s total actual expenditure including the Contingency Fund amounted to €147.6 million, which represents 99.6 per cent of the approved 2019 budget of €148.1 million. The remaining balance of €0.5 million included unspent provisions of €0.3 million for the multi-year IT/IM Strategy project that would be carried forward to the 2020 year, thus the net unspent balance amounted to €0.2 million.

The implementation rate of the regular budget was 96.3 per cent or a total of €145.67 million against an approved budget of €148.13 million.

Four Contingency Fund notifications were submitted to the Committee with a total notified amount of €2.7 million, whereby €1.9 million was actually needed. The Committee welcomed the Court’s efforts in order to absorb the expenditures for unforeseen situations and developments within its regular budget.

IV. Budget performance in the first half of 2020

The Committee had before it the “*Report on Budget Performance of the International Criminal Court as at 30 June 2020*,” as well as the forecast performance as at 31 December 2020. The Committee noted that the implementation rate at mid-year was 52.4 per cent, or €76.25 million, against the 2020 approved budget of €145.62 million (excluding the host State loan). The Committee noted that this represented a decrease of 2.1 per cent compared to the implementation rate of 54.5 per cent as at 30 June 2019.

The forecast implementation rate for the Court as at 31 December 2020, including the interest and capital repayments of the host State loan, was estimated at 98.2 per cent (or €146.53 million) against the approved budget for 2020 of €149.21 million.

V. Liquidity

On the matter of liquidity of the Court, the Committee reiterated its concern regarding the trend of increasing arrears in recent years, which resulted in a significant risk of a liquidity shortfall. This risk had also been highlighted in the performance audit report of the External Auditor on the Court’s budget process.

Despite the prevailing difficulties and uncertainties due to the global economic situation, the Committee recommended that the Court, if liquidity issues are realised, seek to effectively manage the available resources throughout the remaining months of the year. In addition, in case a liquidity shortage occurred before the session of the Assembly, the Committee recommended that the Bureau, upon recommendation of the Committee, consider available options to deal with the situation.

The Committee recommended that the Court use and further develop different forms of interactions with States Parties to minimise the risk to liquidity as illustrated in the report. Upon the recommendation of the Committee the Secretariat of the Assembly has notified States Parties in arrears once again in November 2020 prior to the nineteenth session of the Assembly, highlighting the importance of their contributions for the budget and the financial stability of the Court, and for the States Parties themselves to regain their voting rights.

VI. Capital replacement

The Court presented medium-term and long-term capital replacement plans. The Committee recommended reassessing them in light of budgetary appropriations for 2021, taking into account the need to minimize operational risks for the Court and giving priority to maintenance over replacement whenever economically sensible, in line with the principle of sustainability.

VII. IT/IM Strategy

The Committee noted that the Court had followed the agreed investment plan for the Five-Year IT/IM Strategy, as indicated in the Court’s report. However, due to the COVID-19 crisis there had been delay in delivery of the major component of the strategy, the Judicial Workflow Platform, resulting in the Court requesting extension of the deadline of the Five-Year IT/IM Strategy by one year and use of Strategy funds of €158.0 thousand in 2022. Nonetheless, the total costs of the whole Five-Year IT/IM Strategy implementation would be €403.9 thousand lower than estimated in 2017.

VIII. Judges’ salaries and entitlements

The Committee observed that the lower number of judges in full-time service and a change in the pension scheme provider had resulted in a decrease of the requested resources for judges' pensions (from €1,574.4 thousand in 2020 to €921.9 thousand in 2021) in addition to other entitlements.

However, the Committee also noted that on 11 March 2021, a new Presidency will be elected, and in accordance with article 35(3) of the Rome Statute, it may decide, based on workload and in consultation with fellow judges, the extent to which any newly elected judge who is not a member of the Presidency shall be required to serve full-time. The Committee recommended that the Court make its utmost efforts to absorb all unforeseen expenditures in relation to the newly elected judges within the approved budget for 2021.

Mr President,

The Committee also addressed some institutional reform and administrative matters, namely Human resources matters pertaining to geographical distribution and gender balance.

a) Geographical distribution

The Committee noted that the Court listed measures and activities which had been taken in an attempt to mitigate the existing imbalances in geographical representation. The Committee reiterated its previous recommendations that the Court come back with a medium to long-term plan and well-defined objectives for addressing the situation.

The Court reported that the number of Professional staff who belong to non-ratified States Parties was 59 as of 31 July 2020, compared to 58 over the same period in 2019. The Committee recommended that whenever any of those 59 posts from non-ratified States became vacant the Court should try to fill it by recruiting candidates from non-represented and under-represented States.

b) Gender balance

The Court's report revealed significant gender imbalance in favor of male staff at the higher professional grade levels, and a reverse situation prevailed at the lower professional scale levels, where females comprised a majority of the total staff in those posts. The Committee recommended that the Court continue its efforts directed at narrowing gender disparity at the senior professional posts.

Mr President,

I will now report the Committee's key recommendations for the main major programmes.

I. Major Programme I: Judiciary

Travel costs

The Committee noted that the travel budget was proposed at the same level as in 2020 (€100.7 thousand) despite the fact that in the 2020 budget non-recurrent costs of €25.5 thousand were allocated for travel to attend the session of the Assembly in New York. The Committee believed such non-recurrent costs were not needed and should be removed from the 2021 proposed budget.

II. Major Programme II: The Office of the Prosecutor*Staff costs*

The Committee noted that, notwithstanding all efforts, the OTP requested one additional GTA position for an Associate Human Resources Liaison and Coordination Officer at (P-2) level for six months within the Immediate Office of the Prosecutor, in order to address the high demands placed on the OTP HR Liaison Office. However, the Committee was of the view that due to enhanced synergies and coordination with Registry's functions, such demand could be met within existing resources and thus recommended that the post should not be approved.

III. Major Programme III: Registry*Staff costs*

The Registry requested several new GTA positions. After careful review of the requests and taking into consideration the existing resources and the unique skill set required, the Committee recommended approval of all languages positions and one Associate Legal Officer (P-2) for six months only.

Legal aid

The Committee noted that an amount of €300 thousand had been allocated for duty and ad hoc counsel. Based on an examination of the actual duty and ad hoc counsel costs in the past, as well as the resources needed as at 30 June 2020 (€86,630 compared to €220 thousand approved in the budget), the Committee recommended to reduce the funds for duty and ad hoc counsel by €80 thousand.

IV. Major Programme VI: Secretariat of the Trust Fund for Victims*Staff costs*

The Committee noted that no new established posts were proposed by the STFV for 2021. The STFV requested an increase by €149.1 thousand (9.5 per cent) due to UNCS costs, which does not reflect an increase in staff capacity.

The STFV is applying 10 per cent as "Delayed recruitment factors" on its Professional and General Services budget line items. The requested amount for 2021 was €1.191.1 thousand for the Professional and General Services categories.

The Committee reviewed the trend of the implementation rate for the STFV and recommended the application rate for the "Delayed recruitment factors" be raised to 12 per cent, thus the reduction achieved would be €26.5 thousand.

The Committee recommended that the Assembly approve all GTA positions for the STFV.

V. Major Programme VII-6: Office of Internal Audit*Training*

The Committee noted that the requested budget included training costs of €28.8 thousand in order to provide the necessary continuing professional education for auditors. In response to a query from the Committee the Office indicated that it was considering the option of procuring a customized training course, to address its specific needs within the working environment of the Court, at an estimated cost of €25 thousand. The Committee therefore recommended a reduction of €3.8 thousand from training in 2021, and also recommended that the Office of Internal Audit

continue to seek value for money in its training options in the future, for example through online training courses run by institutions such as the Institute of Internal Auditors.

Mr President,

After carefully scrutinizing the 2020 proposed programme budget, its addendum and the justifications provided, the Committee recommended that total reductions could be achieved of €1.4 million. The adjusted 2020 proposed programme budget would thus amount to €146 million (or €149.6 million with host State loan). This represents an increase of €1.4 million (or 1 per cent) compared to the 2019 approved budget.

Mr President,

In regards to the **Independent Expert Review report**, the Committee did not have the chance to comment on this report as it was issued after the conclusion of the Committee's thirty-fifth session, however, on a personal note, I support this initiative and believed that there are good recommendations that will improve the work of the Court in the judicial and governance areas. The Experts pointed out the growing number of agenda items that are considered by the CBF members each session, which is due mainly to the extensive mandate of the CBF set up by the Assembly that the CBF 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. The Committee as a subsidiary body of the Assembly welcomes any opportunity to conduct a meaningful and productive dialogue with the State Parties and the Court for the benefit of the Court and international justice.

Moreover, in relation to the **review of the oversight bodies of the Court by the External Auditor**, the Committee supports this review and recommended that the External Auditor share the paper he prepared well in advance of the workshop that he intended to conduct in order to give sufficient time for proper review and analysis. I would also like to emphasize the importance of including the Committee in all the discussions about the review of the oversight bodies and be kept informed at all stages.

Mr President,

In conclusion, allow me reiterate that the Committee will continue analysing budgetary, financial and administrative matters on their technical merits, in line with its mandate. It will continue providing expert recommendations to the Assembly in close coordination with the other oversight bodies and based on the guidance by the Assembly.

Thank you for your attention.
