

**Eighth session**

The Hague

18-26 November 2009

**Report on budget performance of  
the International Criminal Court as at 31 March 2009\*****A. Introduction**

1. The Assembly of States Parties (“the Assembly”), by its resolutions ICC-ASP/7/Res.4 of 21 November 2008, approved a budget of €101,229.9 for the year 2009. In accordance with the request of the Committee on Budget and Finance (“the Committee”),<sup>1</sup> the Registrar presents herewith the report on the budget performance of the International Criminal Court (“the Court”) for the first three months of the year 2009.

**B. Overview of budget performance of the International Criminal Court**

2. The programme budget for 2009 is based on the assumption that in four situations the Prosecutor will pursue investigative steps in a total of at least five cases. The Court expects two trials to be underway during 2009: *The Prosecutor v. Thomas Lubanga Dyilo* and *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*.

3. Table 1 shows the resource utilization of the Court by item of expenditure. The current level of implementation is at 32.2 per cent which is 8.5 percent greater than the first three months of 2008.

4. Most annual contracts have been obligated at the beginning of the year, which is reflected in Table 1 below where some non-staff costs such as “contractual services” and “general operating expenses” are above the quarterly average. Concerning staff cost, the Court’s continuous recruitment efforts have resulted in an implementation rate of 22.1 per cent versus 19.7 per cent for the same period last year.

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\* Previously issued as ICC-ASP/8/CBF.1/10 and Add.1.

<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourth session, The Hague, 28 November - 3 December 2005* (International Criminal Court publication, ICC-ASP/4/32), part II.B.6(a), para. 14.

**Table 1: Budgetary performance 2009: resource utilization by item of expenditure – Total ICC (thousands of euros)**

<b>Basic</b>	Approved budget 2009	Expenditure as at 31 March 2009 <sup>1</sup>	Unencumbered balance as at 31 March 2009	Implementation rate in % as at 31 March 2009
	[1]	[2]	[1]-[2]=[3]	[2]/[1]=[4]
Judges	5,812	2,549	3,263	43.9
<i>Sub-total judges</i>	5,812	2,549	3,263	43.9
Staff costs	55,191	12,223	42,968	22.1
General temporary assistance	8,322	2,433	5,889	29.2
Temporary assistance for meetings	1,237	164	1,073	13.3
Overtime	343	72	271	21.0
Consultants	553	33	520	6.0
<i>Sub-total staff costs</i>	65,645	14,925	50,720	22.7
Travel	5,053	1,065	3,988	21.1
Hospitality	70	14	56	20.1
Contractual services incl. training	8,986	4,902	4,084	54.6
General operating expenses	13,207	7,801	5,406	59.1
Supplies and materials	1,278	700	578	54.8
Equipment	1,179	679	500	57.6
<i>Sub-total non-staff costs</i>	29,773	15,161	14,612	50.9
<b>Total ICC</b>	<b>101,230</b>	<b>32,635</b>	<b>68,595</b>	<b>32.2</b>

<sup>1</sup>Includes commitments of €2.3 million

5. Further details by basic and situation-related budget are provided in tables 1(a) and 1(b) of annex I.

6. The following table 2 shows the budget performance by major programme. The implementation rates in major programme II (Office of the Prosecutor), major programme IV (Secretariat of the Assembly of States Parties), major programme VI (Secretariat of the Trust Fund for Victims) and major programme VII (Project Office for the Permanent Premises) are below the arithmetical schedule of 25 per cent after the first three months. The expenditure in major programme II is almost on schedule, the marginal deviation of 1.5 per cent does not warrant further analysis at this stage because such small deviations occur frequently as a result of expenditures never being entirely linear. Major programme IV has a lower implementation rate which is attributable to a peak in expenditures during the Assembly of States Parties meeting at the end of the year. Major programme VII is not expected to incur costs until the later part of the year when the project office will be recruited. Major programmes I (Judiciary) and III (Registry) are above the year to date implementation rate. In the case of the Registry, this is due to the majority of Court contracts residing within the Registry for services and goods relevant to all organs and major programmes and being obligated at the beginning of the year. Major programme I is above the Court-wide implementation rate due to the judges' pension premiums being paid in January.

**Table 2: Budget performance 2009: summary by major programme (thousands of euros)**

	Approved budget 2009 [1]	Expenditure as at 31 March 2009 [2]	Unencumbered balance as at 31 March 2009 [1]-[2]=[3]	Implementation rate in % as at 31 March 2009 [2]/[1]=[4]
Major programme I Judiciary	10,332	3,592	6,740	34.8
Major programme II Office of the Prosecutor	25,529	6,011	19,518	23.5
Major programme III Registry	60,223	21,885	38,338	36.3
Major programme IV Secretariat of the Assembly of States Parties	3,343	773	2,570	23.1
Major programme VI Secretariat of the Trust Fund for Victims	1,301	271	1,030	20.8
Major programme VII Project Office for the Permanent Premises	502	103	399	20.5
<b>Total ICC</b>	<b>101,230</b>	<b>32,635</b>	<b>68,595</b>	<b>32.2</b>

### C. Recruitment

7. Building on the last year's Court-wide focus on recruitment, the first quarter of 2009 has been the most productive in the Court's recruitment history, with 93 vacancies filled in the first three months. This remarkable number is a consequence of the Court's improved recruitment processes and of the Court's budgetary cycle which created combined opportunities for recruitment at the beginning of 2009. The results continue to illustrate the positive developments in the Court's efforts to meet its budgeted targets.

**Table 3: Staffing - Approved versus filled posts by post type (P and GS staff)**

	Approved* [1]	Filled [2]	Under recruitment [3]	Advertised not under recruitment [4]	Vacant not advertised [5]	Forecasted filled 31 December [2+3+4+5=6]
Major programme I	43	38	3	0	2	43
Major programme II	215	206	6	1	2	215
Major programme III	462	400	47	7	8	462
Major programme IV	9	4	5	0	0	9
Major programme VI	8	4	3	0	1	8
Major programme VII	3	2	1	0	0	3
<b>Total ICC</b>	<b>740</b>	<b>654</b>	<b>65</b>	<b>8</b>	<b>13</b>	<b>740</b>

\* Excluding elected officials

### Recruitment status and trends

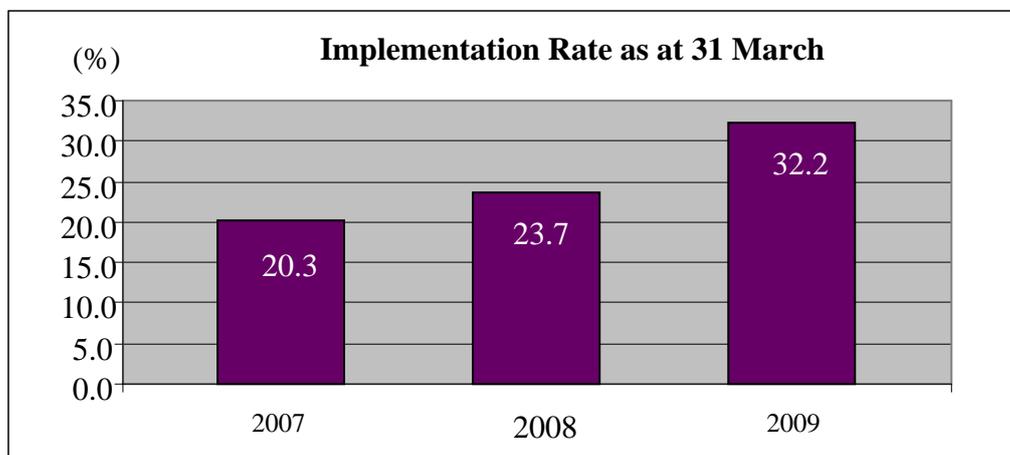
First quarter 2009

- a) 93 vacancies filled in first quarter 2009: 33 in January, 46 in February, 14 in March;
- b) 14 separations: 3 in January, 7 in February, 4 in March;
- c) 8 internal placements against vacancies: 3 in January, 3 in February, 2 in March.
- d) Net increase of staff for first quarter is 67.

### D. Overview of resource utilization for basic and situation-related activities

Figure 1 below compares the first quarter implementation rate of the Court for the years 2007, 2008 and 2009.

**Figure 1: Comparison between first quarter performance for the period 2007-2009 – Total ICC**



9. The Court's basic budget component has incurred expenditure amounting to €17.5 million which yields a 35.5 per cent implementation rate.

10. The Court's situation related budget reflects continuing operations in Chad (Darfur case), the Democratic Republic of the Congo, Uganda and the Central African Republic. During the first three months of 2009, the Court has incurred expenditure amounting to €15.1 million which yields a 29.1 per cent implementation. The majority of this expenditure relates to "staff costs", "general temporary assistance", "general operating expenses" and "contractual services".

## Annex I

**Table 1(a): Budgetary performance 2009: resource utilization by item of expenditure – Basic budget (thousands of euros)**

<b>Basic</b>	Approved budget 2009	Expenditure as at 31 March 2009	Unencumbered balance as at 31 March 2009	Implementation rate in % as at 31 March 2009
	[1]	[2]	[1]-[2]=[3]	[2]/[1]=[4]
Judges	5,812	2,549	3,263	43.9
<i>Sub-total judges</i>	5,812	2,549	3,263	43.9
Staff costs	27,493	6,187	21,306	22.5
General temporary assistance	2,419	1,018	1,401	42.1
Temporary assistance for meetings	1,166	120	1,046	10.3
Overtime	217	63	154	29.1
Consultants	101	16	85	15.8
<i>Sub-total staff costs</i>	31,396	7,404	23,992	23.6
Travel	1,053	185	868	17.6
Hospitality	70	14	56	20.1
Contractual services including training	3,125	1,399	1,726	44.8
General operating expenses	6,405	5,115	1,290	79.9
Supplies and materials	851	492	359	57.8
Equipment	644	367	277	57.0
<i>Sub-total non-staff costs</i>	12,148	7,572	4,576	62.3
<b>Total ICC</b>	<b>49,356</b>	<b>17,525</b>	<b>31,831</b>	<b>35.5</b>

**Table 1(b): Budgetary performance 2009: resource utilization by item of expenditure – Situation-related budget (thousands of euros)**

<b>Situation-related</b>	Approved budget 2009	Expenditure as at 31 March 2009	Unencumbered balance as at 31 March 2009	Implementation rate in % as at 31 March 2009
	[1]	[2]	[1]-[2]=[3]	[2]/[1]=[4]
Judges	0	0	0	0.0
<i>Sub-total judges</i>	0	0	0	0.0
Staff costs	27,698	6,036	21,662	21.8
General temporary assistance	5,903	1,415	4,488	24.0
Temporary assistance for meetings	71.1	44	27	61.9
Overtime	126.5	9	118	7.1
Consultants	451.2	17	434	3.8
<i>Sub-total staff costs</i>	34,249	7,521	26,729	22.0
Travel	3,999	880	3,119	22.0
Hospitality	0	0	0	0.0
Contractual services including training	5,861	3,503	2,358	59.8
General operating expenses	6,802	2,686	4,116	39.5
Supplies and materials	427.1	208	219	48.7
Equipment	535.2	312	223	58.3
<i>Sub-total non-staff costs</i>	17,624	7,589	10,035	43.1
<b>Total ICC</b>	<b>51,874</b>	<b>15,110</b>	<b>36,764</b>	<b>29.1</b>

## Annex II\*

### A. Introduction

1. During its seventh session, the Assembly of States Parties (“the Assembly”) requested the Registrar to report to the Committee on Budget and Finance (“the Committee”) and the Assembly on all judicial decisions which have significant impacts on the budget.<sup>1</sup> The recommendation followed the observation of the Committee that “there would be risks if decisions within the Court continued to push costs up without a corresponding understanding and acceptance in the Assembly of the need to fund the costs.”

### B. Judicial decisions having potential significant financial implications

2. The Court is considering how best to ensure comprehensive and transparent reporting to the Committee and the Assembly in the context of future performance reports and the annual proposed programme budget. This would include, first and foremost, the definition of criteria to determine what exactly the term “significant impact” would encompass. For the purposes of the present report, the Court informs the Committee that the following judicial decisions taken during the period 1 January to 15 April 2009 may have significant financial implications:

#### Decision of the Presidency

3. On 10 March 2009, in response to an application for judicial review of a decision of the Registrar, the Presidency found that the right of Mr. Mathieu Ngudjolo Chui to receive visits of his family members in accordance with the Regulations of the Court imposed a correlative obligation on the Court to fund such visits in light of his particular circumstances. Noting the detainee’s indigence, the substantial distance between his family and the detention centre and the inability of the detainee or his family to pay the costs of the visit, the Presidency determined that his right to receive family visits could only be effective and tangible if funded by the Court. The Presidency therefore required the Registrar to ensure appropriate provision in the budget of the Court for funding family visits when circumstances so dictate. At the same time, the Presidency concluded that there is no right to unlimited funded family visits and that the extent of the obligation to fund such visits is restricted by available resources, so long as any restrictions do not render the right ineffective.

#### *Estimated financial implications*

4. The approximate forecasted costs are €1,500 per annum, taking into account the current circumstances of the three indigent detained persons at the Court’s detention centre, as well as the composition of their respective families.

#### Decision of Trial Chamber I

5. In the case the *Prosecutor vs. Thomas Lubanga*, Trial Chamber I found that the provision of duty counsel under article 55 of the Rome Statute extended to witnesses at risk of self-incrimination under rule 74 of the Rules of Procedure and Evidence. These are expenditures that were not foreseen to be covered by the legal aid programme of the Court.

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\* Previously issued as ICC-ASP/8/CBF.1/10/Add.1.

<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Seventh session, The Hague, 14-22 November 2008* (International Criminal Court publication, ICC-ASP/7/20), vol. I, part II, paragraph 13.

*Estimated financial implications*

6. The financial implications are estimated at €4,200 per witness at risk of self-incrimination in the *Lubanga* trial. It remains to be seen whether other Chambers will adopt a similar ruling.

**Decision of the plenary of judges**

7. Following the election of six judges at the first resumption of the seventh session, the judges organized themselves into Divisions in accordance with article 39 of the Statute. Two judges consequently assigned to the Appeals Division, Judge Akua Kuenyehia and Judge Anita Ušacka, have previously participated in cases as members of Pre-Trial Chamber I. The situation may arise where they will not be able to sit on certain appeals during the course of their tenure in the Appeals Division.

*Estimated financial implications*

8. The financial implications of this decision cannot be estimated at this stage.