



Assembly of States Parties

Distr.: General
3 December 2010

Original: English

Ninth session

New York, 6-10 December 2010

[Draft] resolution on permanent premises

The Assembly of States Parties,

Recalling resolution ICC-ASP/4/Res.2, which emphasized that “the Court is a permanent judicial institution and as such requires functional permanent premises to enable the Court to discharge its duties effectively and to reflect the significance of the Court for the fight against impunity”, and *reiterating* the importance of permanent premises to the future of the Court,

Recalling resolution ICC-ASP/6/Res.1, adopted on 14 December 2007 at the 7th plenary meeting of the sixth session of the Assembly, resolution ICC-ASP/7/Res.1, adopted on 21 November 2008 at the 7th plenary meeting of the seventh session of the Assembly, resolution ICC-ASP/8/Res.5, adopted on 26 November 2009 at the 8th plenary meeting of the eighth session of the Assembly, and resolution ICC-ASP/8/Res.8, adopted on 25 March 2010 at the 10th plenary meeting of the eighth session of the Assembly,

Noting the report of the Oversight Committee on the permanent premises,

Expressing its firm intention that the permanent premises should be delivered within the €190 million budget (at 2014 price levels) as per resolution ICC-ASP/6/Res.1, and *recognizing* the importance of effective and efficient decision-making, clear lines of authority, stringent risk identification and management, and strict control of design changes for ensuring that the project is delivered to cost,

Mindful of the reports of the Committee on Budget and Finance on the work of its fourteenth and fifteenth sessions and the recommendations contained therein,¹

Noting the recommendations of the External Auditor²,

Welcoming the steps taken by the Oversight Committee to review the current governance arrangements of the permanent premises project, and the participation of the Court and the host State in this joint effort,

Noting the Court’s wish for a good quality building that is delivered on time and within budget,

Welcoming the fact that 25 States Parties have committed to making a one-time payment in accordance with the principles contained in resolution ICC-ASP/7/Res.1, annex III, as at 19 November 2010, in an amount of € 32.4 million, of which € 17.6 million have already been received,

Noting with appreciation that the host State has accepted the refund of funds drawn from the loan for a value of € 1.4 million, in light of the incoming one-time payments, thus avoiding the accrual of interest in the years 2010 and 2011;

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Ninth session, New York, 6-10 December 2010 (ICC-ASP/9/20)*, vol. II, part B.1. and B.2.

² ICC-ASP/9/13.

Noting that the end of the construction phase of the permanent premises is foreseen for mid 2015, and that the rent free period of the interim premises ends in June 2012,

Noting the steps taken by the Court with regard to costs related to the rent and maintenance of the interim premises, including operating costs, utilities and enhancement of different elements, and *welcoming* further steps by the Court in this respect,

Recalling the relevant provisions of the Rome Statute, and *noting* that the Financial Regulations and Rules and internal and external audit arrangements of the Court are applicable to the project,

I. Project: budget and timeliness

1. *Expresses* its appreciation to the Project Board and the Oversight Committee for the progress made on the permanent premises project since the eighth session of the Assembly;
2. *Notes with satisfaction* the signature of the contract with schmidt hammer lassen architects, on 24 February 2010;
3. *Welcomes* the finalization of the preliminary design of the permanent premises project and *approves* the overall budget for the project at no more than €190 million (at 2014 price levels) and the revised cash-flow scheme contained in annex I;
4. *Takes note of* and *approves* the revised total gross floor area of no more than 50,560 square meters;
5. *Notes* that the completion date for the permanent premises continues to be 2015, and *encourages* the Project Director, in consultation with the Oversight Committee, to continue to identify ways to mitigate any delay and its consequences;
6. *Authorises* the Project Director, to increase the budget amount for each project phase by no more than 10%, subject to the approval of the Oversight Committee, under the condition that the overall budget of €190 million is not exceeded;
7. *Welcomes* the decision adopted on the Building Delivery Strategy;

II. Governance

8. *Reaffirms* the important role of States Parties, through the Oversight Committee, the Court and the host State in the permanent premises project, in particular by developing a shared vision and ownership for the project, and *requests* the Oversight Committee, in cooperation with the Court and the host State, to continue its examination of the governance structure, with a view to strengthening the Project, and to implement any adjustments that may be required on a provisional basis until approved by the Assembly of States Parties;
9. *Stresses* the importance of effective coordination and communication between the Project Director, the Court and the host State at all levels and stages of the permanent premises project;
10. *Stresses* the importance of full involvement and participation by the host State at all stages and levels of the project and *further expresses* its appreciation to the host State for its ongoing cooperation;
11. *Reiterates* the important role of the Project Director in providing strategic leadership and overall management of the project, and recalling his responsibility for meeting the project's goals, timelines and costs, and quality requirements, as provided in resolution ICC-ASP/6/Res.1, *requests* the Oversight Committee to review, in cooperation with the Court, the financial framework for the project, and *invites* the Registrar to delegate authority to the Project Director where necessary and at an appropriate level, in accordance with the Financial Regulations and Rules, with respect to engaging funds for the permanent premises project.

12. *Requests* the Project Director together with the Court to prepare recommendations, in accordance with resolution ICC-ASP/7/Res.1, annex V, para. 5, on ways to improve current guidelines on contracts and expenditures with the purpose of expediting the execution of the project, and to submit them to the Oversight Committee for approval;

III. Financial reporting

13. *Requests* the Project Director, in consultation with the Oversight Committee, in accordance with ICC-ASP/6/Res.1, to continue to submit annually, for consideration by the Assembly at its regular session, detailed estimates of the final cost estimate for the project on the basis of the most recent information, and incorporating the schedule for the use of funds deriving from one-time payments;

14. *Requests* the Court to keep under review, in consultation with those States who commit to making a one-time payment, the schedule for receiving one-time payments and to submit this to the Committee for consideration as a matter of priority;

15. *Requests* the Project Director to continue to report annually to the Assembly, through the Oversight Committee, on the realization of the previous years' estimates and the level of expenditure;

IV. Costs outside the overall budget

16. *Requests* the Court, in consultation with the Project Director, to identify and quantify the other costs related to the project but not directly related to the construction, such as the costs of relocating the Court from the temporary premises to the permanent premises, movable items such as furniture and ICT hardware, potted greenery and decorations, costs relating to communications and public relations for the project and costs relating to the interim premises, before 1 March 2011, to report on these annually to the Assembly, through the Oversight Committee, to keep the Committee regularly informed of any change thereof, and to consider ways in which to reduce the impact of such costs on the annual budgeting process;

17. *Requests* the Oversight Committee, the Project Director, and the Court, when making decisions on the design of the project, to take account of the consequences on the Court's future operating costs, and *stresses* that the project should go forward in such a way as to keep future operating costs of the permanent premises, including maintenance costs, at the minimum possible level;

V. Management of the project

18. *Welcomes* the fact that the updated project manual has been approved by the Oversight Committee and *requests* the Project Director to continue to develop the project manual, together with a project plan and to present them to the Oversight Committee for their consideration and approval;

19. *Requests* the Oversight Committee to develop and implement an audit strategy;

VI. Voluntary contributions

20. *Recalls* that a trust fund for voluntary contributions dedicated to the construction of the permanent premises has been established, and *invites* members of civil society with a proven track record of commitment to the mandate of the Court to raise funds for the permanent premises project;

21. *Welcomes* also, in this regard, any voluntary contribution through earmarked funds for special features, or in kind contributions, upon consultation with the Oversight Committee;

VII. Interim premises

22. *Welcomes* the steps taken by the Court with regard to the future rent of the interim premises, and *decides* that the Court and the Bureau shall closely follow developments on this matter and take appropriate action in this regard;

VIII. Future reporting by the Oversight Committee

23. *Requests* the Oversight Committee to remain seized of this issue, to continue to provide regular progress reports to the Bureau and to report back to the Assembly at its next session.

Annex

Cash-flow scheme

	Totals	2008	2009	2010	2011	2012	2013	2014	2015
	Million EUR								
Project phases:									
	100%	0%	0%	0%	0%	9%	34%	34%	23%
BOX 1; Construction costs	€ 114,9	0,0	0,0	0,0	0,0	9,8	39,4	39,4	26,3
BOX 3; Other construction costs	€ 75,1	0,0	8,7	5,4	12,9	7,3	15,5	15,8	9,4
<u>Divided in:</u>									
15% Contingency	€ 17,2	0,0	0,0	1,5	0,0	1,5	5,9	5,9	2,4
		0%	0%	8,8%	0%	9%	34%	34%	14%
1% Integrated, specialized representational features	€ 1,1	0,0	0,0	0,0	0,0	0,1	0,2	0,6	0,2
		0%	17,0%	14,0%	20,0%	16,0%	14,0%	13,0%	6,0%
4% Fees Projectmanagement incl. cost consultancy	€ 5,3	0,0	0,9	0,7	1,1	0,8	0,7	0,7	0,3
		0%	1,9%	16%	52,1%	13,0%	10%	4%	3%
14% Fees designers, engineers, consultants, etc	€ 18,5	0,0	0,4	3,0	9,6	2,4	1,9	0,7	0,6
		0%	0%	0%	43%	29%	19%	7%	3%
4% Permit and dues	€ 3,5	0,0	0,0	0,0	1,5	1,0	0,7	0,2	0,1
		0%	0%	0%	0%	0%	0%	90%	10%
sum Consultancy user permits	€ 0,1	0,0	0,0	0,0	0,0	0,0	0,0	0,1	0,0
Total	€ 45,7	0,0	1,3	5,2	12,2	5,9	9,4	8,2	3,6
1,03 Escalation	€ 29,4	0,0	7,4	0,2	6,1	9,2	12,5	15,9	19,3
Total	190	0	9	5	13	17	55	55	36
		0	9	14	27	44	99	154	190

Project Phases

Competition

PD: preliminary design phase

FD: final design phase

Preparation T: preparation for tendering

T: tendering

TS: Technical Specifications

Execution: ready for use building

Main: maintenance and use building