

Resolution ICC-ASP/16/Res.1

Adopted at the 12th plenary meeting, on 14 December 2017, by consensus

ICC-ASP/16/Res.1

Resolution of the Assembly of States Parties on the proposed programme budget for 2018, the Working Capital Fund for 2018, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2018 and the Contingency Fund

The Assembly of States Parties,

Having considered the 2018 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 twenty-eighth and twenty-ninth sessions,

A. Programme budget for 2018

1. *Approves* appropriations totalling €147,431,500 in the appropriation sections described in the following table:

<i>Appropriation section</i>	<i>Thousands of euros</i>
Major Programme I Judiciary	12,712.0
Major Programme II Office of the Prosecutor	45,991.8
Major Programme III Registry	77,142.5
Major Programme IV Secretariat of the Assembly of States Parties	2,718.2
Major Programme V Premises	1,498.5
Major Programme VI Secretariat of the Trust Fund for Victims	2,541.5
Major Programme VII-5 Independent Oversight Mechanism	534.5
Major Programme VII-6 Office of Internal Audit	707.3
<i>Subtotal</i>	<i>143,846.3</i>
Major Programme VII-2 Host State Loan	3,585.2
Total	147,431.5

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 €3,585,200;

3. *Further notes* that these contributions will bring down the level of the 2018 programme budget appropriations that need to be assessed for contributions by States Parties from €147,431,500 to €143,846,300, and that this amount will be assessed following the principles described in section E;

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

	Office of the Judiciary	Prosecutor	Registry	Secretariat, Assembly of States Parties	Secretariat, Trust Fund for Victims	Independent Oversight Mechanism	Office of Internal Audit	Total
USG	-	1	-	-	-	-	-	1
ASG	-	1	1	-	-	-	-	2
D-2	-	-	-	-	-	-	-	-
D-1	-	3	3	1	1	-	1	9
P-5	4	17	22	1	-	1	-	45
P-4	3	36	43	1	4	1	1	89
P-3	21	77	84	1	2	-	1	186
P-2	12	71	89	1	-	1	-	174
P-1	-	33	5	-	-	-	-	38
<i>Subtotal</i>	<i>40</i>	<i>239</i>	<i>247</i>	<i>5</i>	<i>7</i>	<i>3</i>	<i>3</i>	<i>544</i>
GS-PL	1	1	15	2	-	-	-	19
GS-OL	12	79	311	3	2	1	1	409
<i>Subtotal</i>	<i>13</i>	<i>80</i>	<i>326</i>	<i>5</i>	<i>2</i>	<i>1</i>	<i>1</i>	<i>428</i>
Total	53	319	573	10	9	4	4	972

B. Working Capital Fund for 2018

The Assembly of States Parties,

Noting the recommendation of the Committee on Budget and Finance 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 (€1.6 million),¹

Further noting that the Committee recommended a consideration of a multi-year funding timetable,²

1. *Notes* that the Working Capital Fund for 2017 was established in the amount of €1.6 million;
2. *Further notes* that the current level of the Working Capital Fund is €9 million;
3. *Resolves* that the Working Capital Fund for 2018 shall be established in the amount of €1.6 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;
4. *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,

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 on

¹ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part B.2., para. 144.

² *Ibid.*, para. 148.

Budget and Finance all information concerning outstanding contributions in advance of the seventeenth session of the Assembly of States Parties.

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,

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

1. *Notes* that the current level of the Contingency Fund is €5.8 million;
2. *Decides* to maintain the Contingency Fund at the notional level of €7.0 million for 2018;
3. *Requests* that the Court make all possible efforts to absorb within its approved budget for 2018 any additional resources required in relation to judicial developments that occurred after the twenty-ninth session of the Committee on Budget and Finance and before the date of approval of the 2018 budget; and *decides* that, only after all possible efforts have been exhausted, the Court may exceptionally resort to the Contingency Fund for such additional resources, with due observance of the provisions set out in regulations 6.7 and 6.8 of the Financial Regulations and Rules;
4. *Decides* that, should the Contingency Fund, based on the Court's forecast on its budget implementation for 2018, fall below €5.8 million by the seventeenth session of the Assembly of States Parties, the Assembly will assess the need for its replenishment in the budget facilitation for the 2019 programme budget, bearing in mind the report of the Committee on Budget and Finance, and regulation 6.6 of the Financial Regulations and Rules;
5. *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 2018, 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 2016-2018, and adjusted in accordance with the principles on which the scale is based;³ 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 2018

The Assembly of States Parties,

1. *Notes* that the payments corresponding to Major Programme VII-2 Host State Loan will reduce the level of the budget appropriations to be assessed for contributions by States Parties to €43,846,300; and
2. *Resolves* that, for 2018, assessed contributions for the budget amounting to €43,846,300, 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.

³ Rome Statute of the International Criminal Court, article 117.

G. Premises of the Court

The Assembly of States Parties,

Recalling the work undertaken by the Oversight Committee on the Total Cost of Ownership,⁴

Reiterating the need to ensure sufficient and continuous oversight by the States Parties on the permanent premises in which they have invested significant financial resources,⁵

1. *Welcomes* the information provided by the Court on Capital replacements⁶ and on its mechanisms to monitor and control the maintenance costs of its premises;⁷ *welcomes further* the recommendations made by the Committee on Budget and Finance as regards preventive and corrective maintenance costs as well as capital replacements,⁸ as well as the recommendations made by the External Auditor on financial reporting and management of the permanent premises project;⁹

2. *Requests* the Court to summarize the maintenance and operating costs of the Court's premises in an overview table in future proposed programme budgets;

3. *Requests* the Court to seek a second opinion regarding capital investments from the incoming main contractor in advance of its seventeenth session, bearing in mind the following factors:

- (a) Urgency of replacements, by taking into account actual usage;
- (b) Value for money, in particular whether alternative product brands offer better value for money in terms of reliability, durability, ease of repair, etc.;
- (c) Pricing assumptions with surveys of most recent market trends;
- (d) Opportunities from (joint) procurement; and
- (e) Lessons learned, for instance, from other The Hague based institutions.

4. *Requests further* the Court to present, to the Assembly via the Committee on Budget and Finance and ahead of the seventeenth session of the Assembly, a report on different options for funding long-term maintenance and replacement based on the experience of other international organizations;

5. *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, or, if necessary, a subcommittee thereof;

6. *Welcomes with appreciation* that several States Parties made artwork donations to the permanent premises.

H. Transfer of funds between major programmes under the 2017 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,

⁴ ICC-ASP/14/Res.5, annex II and ICC-ASP/15/Res.2, para. 35.

⁵ ICC-ASP/14/Res.5, para. 56.

⁶ ICC-ASP/16/26.

⁷ ICC-ASP/16/25.

⁸ ICC-ASP/16/15, paras. 216-235.

⁹ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part C.1., p. 439, Recommendation No. 1: "The External Auditor recommends that, at its next session, or as soon as possible in 2017, the Assembly review cost estimates of capital replacements and implement a funding solution which does not jeopardize the prudential level of the working capital fund."

1. *Decides* that, in line with established practice, the Court may transfer any remaining funds between major programmes at the conclusion of 2017 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,

1. *Welcomes* the Annual Report of the Audit Committee;¹⁰
2. *Notes that* the term of the External Auditor, the *Cour des comptes*, will end with the financial statements of the Court and the Trust Fund for Victims for 2019, and *further notes* that a detailed selection procedure for procurement of an External Auditor will need to be undertaken in time for the eighteenth session of the Assembly of States Parties.

J. Budget Management Oversight

The Assembly of States Parties,

1. *Notes* that the strategic plans of the Court and the Office of the Prosecutor are dynamic and updated on a regular basis;
2. *Notes* the intention of the Court to extend its current Strategic Plan to 2018, and to prepare a new Strategic Plan in 2018, for the period 2019-2021;
3. *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;
4. *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, with a view to improving performance indicators;
5. *Also recalls* its invitation to the Office of the Prosecutor to inform the Bureau on the implementation of its Strategic Plan for 2016-2018;
6. *Requests* the Bureau to continue to engage in a dialogue with the Court on the development of a comprehensive risk-management strategy and to report thereon to the seventeenth session of the Assembly;
7. *Welcomes* the presentations made to States Parties by representatives of the Audit Committee, the Committee on Budget and Finance, the External Auditor, the Independent Oversight Mechanism, and the Office of Internal Audit, providing information on their respective mandates and means of coordination between them; and
8. *Recommends* these subsidiary bodies to expand their coordination in order to improve the timely exchange of information and report results amongst them, the organs of the Court, the Bureau, and the Assembly, to optimize their oversight capacities.

K. Development of budget proposals

The Assembly of States Parties,

1. *Requests* the Court to present a sustainable budget proposal for its 2019 programme budget, whereby proposed increases above the level of the 2018 approved budget are requested only when necessary for the purpose of its mandated activities and after all possible steps have been taken to finance such increases through savings and efficiencies;
2. *Requests* the Court to set Court-wide annual efficiency targets and to present an annex to the 2019 programme budget on the achievements of these efficiency targets, as

¹⁰ ICC-ASP/16/15, annex V.

well as detailed information on savings, efficiencies, non-recurrent cost reductions and additional cost reductions achieved in 2018 and estimations for 2019; and *welcomes* the recommendations of the Committee on Budget and Finance in relation to the presentation of this information. The Committee on Budget and Finance will be updated ahead of its thirty-first session on the measures taken by the Court and will include its comments in its reports to the Assembly of States Parties;

3. *Further 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.

L. A strategic approach to an improved budgetary process

The Assembly of States Parties,

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

1. *Calls upon* the Court to continue to base its programmes and activities on careful, transparent and strict financial assessments, resulting in a consistent budgetary proposal;

2. *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;

3. *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;

4. *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;

5. *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 such as more frequent and more efficient use of the Coordination Council and other inter-organ coordination mechanisms, as well as a more coherent and consistent Court-wide budget proposal and an improved process and format of the budget document, thus ensuring higher consistency of message and policy of expenditures across the Court;

6. *Invites* the Court, in consultation with the Committee on Budget and Finance, to continue developing its budgetary process with a view to building on the progress made, by focusing on improved context setting, better planning and presentation of cross-Court expenditures, assessing delivery and efficiency, establishing fundamental budgetary principles, and synergies; and *welcomes* the Court's assurances to continue to improve future budget processes with a view to submitting sustainable and realistic budget proposals, including by:

(a) Further strengthening the "One-Court-principle" by continuing to ensure that the Principals' high-level strategic vision continues to guide the budgetary process from the outset;

(b) Further enhancing the 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 in the budget process, mindful of the Court's judicial independence;

(c) Continuing to find appropriate 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;

(d) 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;

7. *Notes* the efforts of the Court to attain synergies among the different organs, reiterates its prior requests to the Court in this regard, *invites* the Court to strengthen the inter-organ dialogue so as to avoid potential duplication of work, further notes the Court's efforts to make more frequent and efficient use of its inter-organ coordination mechanisms in order to advance the process of identification of areas of joint optimization;
8. *Reiterates* that in principle documentation should be submitted at least 45 days before the beginning of the respective session of the Committee on Budget and Finance in both working languages of the Court;
9. *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;
10. *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;
11. *Recalls* the work undertaken by the Court in 2016 to evaluate the full impact of the "Basic Size" model developed by the Office of the Prosecutor, which seeks to increase the predictability and certainty of the budgetary resources the Court considers necessary in order to carry out its mandate, *stresses* that the approval by the Assembly of the budget for 2018 is not to be understood as an endorsement of its budgetary implications as the budget for each year should be considered on its own merits as it is prepared by the Court on the basis of the actual needs foreseen for the specific year, and it is considered and approved by the Assembly on an annual basis;

M. Human Resources

The Assembly of States Parties,

Recalling its decision, during its fifteenth session, to (i) approve the implementation of all the elements of a new compensation package in alignment with the changes and timelines approved by the United Nations General Assembly; and (ii) request the Court to submit to the Assembly, during its sixteenth session, the full text of the amended provisional Staff Rules related to the United Nations compensation package, and applicable as of 1 January 2017, pursuant to regulation 12.2 of the Staff Regulations,

Further 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,¹¹

Also noting the report of the Committee on Budget and Finance on the work of its twenty-ninth session, which emphasized that the reclassification requests both upward and downward should be examined Court-wide and not for certain posts in isolation, and recommended not to approve any requested reclassifications awaiting a Court-wide review of the current policy on reclassifications,¹²

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 and *considers* that these amendments are consistent with the intent and purpose of the Staff Regulations of the Court;
3. *Notes* that the provisional amended Staff Rules related to education grant and special education grant shall be promulgated at a later stage and after the United Nations Secretariat officially promulgates its administrative instruction on this topic;

¹¹ ICC-ASP/16/5, para. 105.

¹² ICC-ASP/16/15, paras. 38, 48, 64 and 79.

4. *Requests* the Court to submit to the Assembly, during its seventeenth session, the full text of the amended provisional Staff Rules related to the education grant, special education grant and related benefits, pursuant to regulation 12.2 of the Staff Regulations;
5. *Also requests* the Court to conduct a Court-wide review of the current policy on reclassifications and to report the outcome to the Committee on Budget and Finance, during its thirtieth session, and to the Assembly at its seventeenth session.

N. Salaries of the judges of the International Criminal Court

The Assembly of States Parties,

Noting the request by the Court for a revision of the judges' remuneration in implementation of resolution ICC-ASP/3/Res.3,¹³

Considering the conclusion of the Committee on Budget and Finance that the annual remuneration of judges would have to be considered by the Assembly as a policy matter and would require a procedure to review the salary scheme for judges,¹⁴

1. *Requests* the Bureau to establish a working group, based in The Hague and open only to States Parties, to discuss a mechanism to consider a revision of the judges' remuneration in implementation of resolution ICC-ASP/3/Res.3 and to report thereon to the Assembly at its seventeenth session.

O. 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 Council¹⁵ 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,¹⁶ and *notes* that to date the approved budget allocated in relation to the referrals amounts to approximately €8 million borne exclusively by States Parties;
2. *Encourages* States Parties to continue discussions on a possible way forward on this issue;
3. *Invites* the Court to continue including this matter in its institutional dialogue with the United Nations and to report thereon to the seventeenth session of the Assembly.

¹³ *Official Records ... Fifteenth session ... 2016* (ICC-ASP/15/20), vol. II, part A, para. 164.

¹⁴ *Ibid*, part B.2., para. 37 and ICC-ASP/16/15, para. 43.

¹⁵ United Nations Security Council resolutions 1593 and 1970.

¹⁶ ICC-ASP/16/23.

P. Financial obligations of States Parties withdrawing from the Rome Statute

The Assembly of States Parties,

Taking note of the recommendations of the Committee on Budget and Finance in the report on the work of its twenty-ninth session with regard to financial obligations of States Parties withdrawing from the Rome Statute,¹⁷

1. *Decides* to adopt the course of action in relation to the withdrawal that came into effect in 2017, as proposed by the Court, and as considered by the Committee;¹⁸
2. *Further requests* the Court to propose amendments to the Financial Regulations and Rules in this regard, for consideration of the Committee at its thirtieth session and adoption by the Assembly, as appropriate, at its seventeenth session.

¹⁷ ICC-ASP/16/15, paras. 241-244.

¹⁸ ICC-ASP/16/15, para. 241.