

**Twenty-first session**

The Hague, 5-10 December 2022

Report of the Registry on the Approximate Costs Allocated so far within the Court in Relation to Referrals by the Security Council**I. Background**

1. The Registry of the International Criminal Court (“ICC” or “the Court”) has been reporting annually¹ on the approximate costs allocated within the Court in relation to referrals by the United Nations (“UN”) Security Council², at the request of the Assembly of States Parties (“the Assembly”)³, since its fourteenth session.

2. At its twentieth session, the Assembly requested the Registry “to update its report on the approximate costs allocated so far within the Court in relation to referrals by the Security Council ahead of the twenty-first session of the Assembly”⁴.

3. Article 115 of the Rome Statute provides that “the expenses of the Court and the Assembly of States Parties, including its Bureau and subsidiary bodies, as provided for in the budget decided by the Assembly of States Parties, shall be provided by the following sources:

(a) Assessed contributions made by States Parties; and

(b) Funds provided by 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”.

4. In operative paragraphs 43 and 44 of resolution ICC-ASP/20/Res.5, titled “Strengthening the International Criminal Court and the Assembly of States Parties”, the Assembly “[n]otes with concern that, to date, expenses incurred by the Court due to referrals by the Security Council continue to be borne exclusively by States Parties and notes that, to date, the approved budget allocated so far within the Court in relation to the referrals made by the Security Council amounts to approximately €75 million”, and “[s]tresses that, if the United Nations is unable to provide funds for the Court to cover the expenses incurred due to referrals by the Security Council, this will, among other factors, continue to exacerbate resource pressure on the Court;”.

¹ ICC-ASP/15/30, ICC-ASP/16/23, ICC-ASP/17/27, ICC-ASP/18/28, ICC-ASP/19/17 and ICC-ASP/20/11.

² United Nations Security Council resolution 1593 (2005) and 1970 (2011).

³ ICC-ASP/14/Res.4, Annex I, para 3(b), ICC-ASP/15/Res.5, Annex I, para 4(b), ICC-ASP/16/Res.6, Annex I, para 4(b), ICC-ASP/17/Res.5, Annex I, para 4(b), ICC-ASP/18/Res.6, Annex I, para 4(b), ICC-ASP/20/Res.5, Annex I, para 4(b).

⁴ ICC-ASP/20/Res.5, Annex I, para 4(b).

II. Approximate Costs Allocated

5. The Court notes that the approximate cost allocations indicated below exclude limited cross-cutting costs associated with operational support activities for the different situations and cases of relevance before the Court. The Court's budget methodology does not include distribution of support costs to its operations⁵. The estimate below can therefore not be considered to be a fully accurate costing of the situations referred by the Security Council⁶, following a standard cost accounting methodology; rather, it is an approximate budgetary indication of the direct financial impact of these situations as allotted in the Court's yearly budgets.

6. To date, the approved budgets allocated so far within the Court in relation to the referrals made by the Security Council amount to approximately €81,429.1 thousand over the years, as illustrated by the table below:

Regular budget costs ⁷ – approved budget (in thousands of euros)						
Year	Situation Darfur	Situation Darfur OTP	Situation Darfur Registry	Situation Libya	Situation Libya OTP	Situation Libya Registry
2006	5,755.2	4,253.2	1,468.3	N/A	N/A	N/A
2007	6,158.6	4,480.5	1,678.1	N/A	N/A	N/A
2008	7,080.8	4,182.6	2,861.5	N/A	N/A	N/A
2009	7,575.6	4,344.1	3,225.3	N/A	N/A	N/A
2010	6,602.6	4,050.5	2,552.1	N/A	N/A	N/A
2011	4,728.9	2,375.0	2,353.9	N/A	N/A	N/A
2012	3,185.1	2,310.2	874.9	6,487.9	4,890.8	1,597.1
2013	1,659.5	1,519.9	139.6	1,659.5	1,406.7	252.8
2014	1,265.2	1,058.1	207.1	584.3	340.2	244.1
2015	336.0	167.1	168.9	622.8	594.4	28.5
2016	519.4	336.4	183.0	733.6	528.7	203.1
2017	1,399.9	1,158.7	241.3	1,568.0	1,393.4	174.6
2018	1,270.3	1,065.3	205.0	1,689.5	1,455.7	233.8
2019	1,464.0	1,160.5	303.5	2,286.9	2,084.2	202.7
2020	1,457.5	1,223.3	234.2	3,771.7	3,591.5	180.2
2021	3,247.9	2,759.5	488.4	1,969.7	1,874.9	94.9
2022	4,384.0	2,993.9	1,390.1	1,964.7	1,761.5	203.2
Total	58,090.5	39,438.8	18,575.2	23,338.6	19,922.0	3,415.0
Grand total	81,429.1					

7. The approximate costs have been determined based on the planned budgetary allocation included in the Court's yearly budgets, as approved by the Assembly. The figures in the above table specify all Court budgeted costs foreseen for the situations in Darfur/Sudan and Libya, including a breakdown for OTP and Registry related budget allocation per situation.

8. The funds have covered, *inter alia*, the different cost allocations related to investigative and cooperation-related missions, the allocations related to judicial proceedings in both situations (particularly regarding the pre-trial and trial proceedings, including initial appearances and confirmation of charges, in the cases of *The Prosecutor v. Ahmad Muhammad Harun*, *The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman* ("Ali Kushayb")⁸, *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, *The Prosecutor v. Bahr Idriss Abu Garda*⁹, *The Prosecutor v. Abdallah Banda Abakaer Nourain and Saleh Mohammed Jerbo Jamus*¹⁰, *The Prosecutor v. Abdel Raheem Muhammad Hussein*, *The Prosecutor v. Muammar*

⁵ For example, the generic cost of IT equipment is borne by the Registry section responsible for IT and such costs do not appear under the budget of teams operating in a particular situation, such as Libya or Sudan.

⁶ United Nations Security Council resolution 1593 (2005) and 1970 (2011).

⁷ The 'costs' presented in the table are planned expenditures as included in the Court's yearly budgets and do not reflect actual expenditures.

⁸ Ali Muhammad Ali Abd-Al-Rahman's trial started on 5 April 2022 and is ongoing.

⁹ On 8 February 2010, Pre-Trial Chamber I decided not to confirm the charges against Mr Abu Garda, and later rejected the Prosecutor's application to appeal the decision.

¹⁰ The case against Saleh Mohammed Jerbo Jamus was terminated on 4 October 2013 by Trial Chamber IV after receiving evidence pointing towards his death.

*Mohammed Abu Minyar Gaddafi*¹¹, *The Prosecutor v. Abdullah Al-Senussi*¹², *The Prosecutor v. Saif Al-Islam Gaddafi*, *The Prosecutor v. Al-Tuhamy Mohamed Khaled* and *The Prosecutor v. Mahmoud Mustafa Busayf Al-Werfalli*¹³, as well as the allocations related to field operations (such as inter alia witness management activities, support to the missions of parties and participants, outreach and diplomatic activities, security, as well as the facilitation of VTC testimonies). In the situation in Darfur, Sudan, these costs also include the creation and running of two field offices (in N'Djamena and Abeché, from 2005 to 2011)¹⁴¹⁵.

¹¹ The case against Muammar Mohammed Abu Minyar Gaddafi was terminated on 22 November 2011, following his death.

¹² On 24 July 2014, the Appeals Chamber unanimously confirmed Pre-Trial Chamber I's decision, declaring the case against Abdullah Al-Senussi inadmissible before the ICC. Proceedings against Abdullah Al-Senussi before the Court hence came to an end.

¹³ Arrest warrants in *The Prosecutor v. Al-Tuhamy Mohamed Khaled* and *The Prosecutor v. Mahmoud Mustafa Busayf Al-Werfalli* cases were unsealed and issued, respectively, during the course of 2017 (a second arrest warrant was issued against Mr Al-Werfalli on 4 July 2018), as further indications of the Court's activity in this situation. On 15 June 2022, ICC Pre-trial Chamber I terminated proceedings against Mahmoud Mustafa Busayf Al-Werfalli, following the Prosecution's notification of his passing and request to withdraw the warrants of arrest; on 7 September 2022, Pre-trial Chamber I terminated proceedings against Al-Tuhamy Mohamed Khaled, following the Prosecution's notification of his passing and request to withdraw arrest warrant.

¹⁴ More information on these activities can be found in the annual reports on activities and on cooperation the Court produces for the Assembly.

¹⁵ Not reflected in these funds are the current investments by the Office, drawing on voluntary financial contributions made by States Parties, to establish a new big-data evidence processing and analysis platform. Through the deployment of artificial intelligence and machine learning tools within this system, the Office will be able to immediately transcribe Arabic and other language text from documentary, video and audio files. Complementing these big data services, the Office is also in the process of modernising its document review and analysis capabilities, using cloud-based platforms to serve as an end-to-end eDiscovery tool. This will significantly enhance efficiencies, by ensuring effective assistance to the investigative teams, including those addressing the Libya and Darfur situations.