

**Cour  
Pénale  
Internationale**

**International  
Criminal  
Court**

THE REGISTRAR

**ASSEMBLY OF STATES PARTIES  
TO THE ROME STATUTE OF  
THE INTERNATIONAL CRIMINAL COURT**

**Second Session**

**Address by Bruno Cathala  
Registrar of the ICC  
(English version)**

**New York, September 8, 2003**

Mr President,

I have the honour of appearing before your Assembly to present the draft budget of the International Criminal Court, prepared in close collaboration between the organs of the ICC, as has already been underscored by the Committee on Budget and Finance (CBF), and the provisional secretariat of the Assembly.

The aim of this budget is to enable the Court to make fair and workable decisions, following a set of procedures which is impartial and open and conducted within reasonable time limits.

In the light of a number of scheduling constraints (the judges having taken up their positions as recently as 11 March, followed by the Prosecutor on 16 June, and the Registrar on 4 July, and the Meeting of the CBF in August obliging us to prepare the budget by 15 June at the latest, that means very early in the year), I would like to emphasise the fact that the organs of the Court have sought to present to the Assembly a budget proposal based on shared principles.

The total of the draft budget amounts to € 55,089,100 and of this € 52,211,100 is for the Court itself. The balance, € 2,878,000 represents the necessary finance for the future permanent secretariat of the Assembly. This provides for 193 additional posts compared to last year. However, we should bear in mind that the first year's budget had been drawn up to enable only a basic institutional functioning of the court.

At the beginning of August, this draft budget was discussed with the CBF.

Without subjecting you to a plethora of figures, I would like in this general introduction to dwell on three general issues which will, I hope, shed some light on our budgetary proposals. First, I would like to spell out the assumptions on which the work of the Court is based. Second, I would like to reiterate the fact that the Court is still in its initial stages of development, and to explore with you the main consequences of this. Thirdly, I wish to address the issue of budgetary management.

1. It is obvious that this budget is based on a set of assumptions, as is the case with budgets of legal institutions in all countries. Why is this so?

Because of the independence of the judiciary, the prosecution and the defence, there is no alternative. For instance, would anyone want a prosecutor to say, with the mathematical certainty of one plus one being two, that next year he would deal such and such crimes, committed at such and such place? It is true that the prosecutor can indicate certain trends he perceives today, on 8 September 2003 - and he did so this morning. However, the Statute gives him certain limited independence, and we do not know whether one of your countries will submit a case to him tomorrow, or whether the Security Council will consider it necessary to refer a situation to him. International relations develop too fast to allow even short-term forecasts. That is why the Court has prepared a budget within a set of plausible projections regarding its work for the next year, even though it is obviously difficult to predict how the world's problems will manifest themselves in its actual work.

We hope that our assumptions are clear. What are they?

The assumption is that the Court may be obliged to deal with two situations, one the subject of investigations the other being the subject of a preliminary analysis by the Prosecutor's office. A situation translates into:

- Three cases
- Three trials
- Two or three accused per trial.

In specific terms, this means:

- before any investigation takes place:
  - Analytical capacity within the OTP
  - A functioning Pre Trial Chamber (PTC) in order to
    - authorise investigation (*proprio motu*)
    - make decisions on admissibility and jurisdiction
  - A functioning Appeals Chamber
  - Defence capacity
  - Capacity for victims and witnesses
  - Court management capacity
  - Translation capacity
  - A field office
  - Administrative and operational support

and as soon as an investigation is authorised:

- Investigative capacity
- A functioning PTC in order to

- issue orders, warrants, summons
  - confirm charges
  - commit persons to a functioning Trial Chamber
- A functioning Appeals Chamber
- Defence capacity
- Capacity for victims and witnesses
- Court management capacity
- Translation capacity
- A field office
- Administrative and operational support

In other words, the Presidency must be allowed to appoint judges when the need is perceived, which is precisely in the spirit of Article 35 of the Statute, while the prosecutor must be allowed to carry out investigations if the situation in question falls within the remit of the Statute. What would the citizens of the world say if the prosecutor received authorisation to investigate, but declared that he was unable to proceed for lack of available funds, or if the defence counsel was unable to meet his client because he had been refused the money for the trip?

To cut long story short, even in somewhat simplistic terms, if you cut the budget of a peacekeeping mission, it will not be able to achieve its objectives. The responsibility will be borne by the organisation. For example, it is impossible for a Court not to try an accused, to release him or not provide him with defence simply because the funds are not available.

It is in this spirit that the Court continues to ask the Assembly to enable the Presidency to recruit all the judges as from 1 January 2004, or to summon them to participate in the Court's activities. It should be noted that the Presidency has made very restrained use of this option so far, with regard to the Court's workload. To date, only five judges are working full time, i.e. the three judges making up the Presidency – which is a statutory obligation (Article 35.2) - and two judges belonging to the Pre-Trial Division, while the third one is due to arrive in October.

To conclude my comments regarding the assumptions, I would like to remind the Assembly of the novelty of the victim appearing as an actor in international criminal trials and the interest, to put it mildly, that this has triggered in the international community. Admittedly, and we have stressed this repeatedly, in this matter we must be prudent, yet determined. That is why the budget proposal of this Court has been carefully weighed and should open

up new perspectives, especially regarding legal assistance to victims, an idea developed by the Court, which could, at the same time, reduce costs to State Parties.

2. We must be aware that the Court is still in the initial stage of development and this has a number of consequences.

It is now one year since you honoured me by choosing me as the Director of Common Services of the ICC. In June, the Judges placed their trust in me to continue the work undertaken as the Registrar.

This institution, which was but a Statute a year ago, is operational today. From the moment they took the oath, the Judges and the Prosecutor have been able to get down to work, and the infrastructures, permanent or temporary, are in place to enable the Court to try matters as of today.

However, it is obviously necessary to continue and develop further the work already undertaken. An institution of this size cannot be built in a so short space of time. The Office of the Prosecutor has to be expanded this year, in particular. The first year's budget provided for some 50 posts, insufficient for it to fulfil its mandate.

That is why we have drafted a budget focusing on the functional dimension of the Court, i.e. on the functions which have to be fulfilled to meet the demands of our mandate and the obligations laid down in the Statute. This is why you will find very little in the way of organisational charts, and why those that do exist will undoubtedly have developed further by next year. This year, your Assembly could make use of the formula in paragraph 3 of the Budget document for the first financial year of the Court, adopted during your first Assembly in September 2002, which stated: "It is emphasized that these charts are purely illustrative and should be interpreted neither as a target for expenditure nor as an agreed blueprint for the future structure of the organs of the Court." We wish to maintain modes of operation that are flexible and rapidly adaptable to the situations with which we will have to deal.

It is in this spirit, too, that we have asked for temporary staff or additional hours. Not that we are hesitant! Rather, we wish to remain adaptable. We shall never be a large international

organisation. We want to profit from this by putting in place a flexible organisation. We will revisit this when we address the Staff Regulations.

This is also why, by mutual agreement, the different organs have concentrated administrative support posts in the office of the Registrar. Neither the office of the Prosecutor nor the judges have developed heavy administrative structures. It is therefore specifically the Registrar who takes care of human resources management, in constant dialogue with the other organs. Without these resources, which have been worked out to the accurate level, the Court cannot function. Looking today at our proposals, nearly four months after the budget was prepared, I think that we have been too timid in some areas.

We want to be able to redeploy staff in line with the development of our structure and our needs. This is something that I have already done, for example by declassifying posts that seemed to be classified too high or by redeploying staff from the Division of Common Services, translators and interpreters, to the Prosecutor's office.

In the Court's opinion it makes sense to follow this logic through, which means that the ASP should not go into detail about posts that it envisages being abolished. We would like to be able to make redeployment choices ourselves, in line with the general indications given to us by your Assembly.

Three other aspects need to be emphasised.

The first concerns the building. Without the help of the authorities of the Host State, the financial application would have been greater in order to fund the development of temporary premises. This building has in fact now been more or less completely redeveloped, thanks to the work of the Dutch Government. It remains to start the construction of the courtroom for pre-trial hearings and the courtroom for trial of cases. The authorities of the host nation have indicated that the latter will be ready during the summer of 2004. It is also necessary to emphasise that from the beginning of 2005, due to the Court's work, the premises will probably have to be extended.

To ensure that the Assembly is properly informed, I should make clear that preparation work has been started on the final building, so that the Dutch architects, who will be preparing the

specifications to be put out to international tender, have something to work on. However, before embarking on the procedure, a number of points, essential in the eyes of the Court, need to be settled. These are questions linked to the choice of the site, the financing of the construction and the ownership of the premises. These points need to be studied by the Dutch authorities, the Court and the State Parties. Decisions on these various issues need to be taken quickly to ensure that the construction process for the Court's final building is not held up.

The second point relates to the information and documentation section.

As an institution under construction, an essential effort must be made with regard to external communication. Every day it is disturbing to note how little knowledge people have of our institution, even in the media. Furthermore, the public, and in particular victims, need to be informed about the existence of this Court.

As an international organisation under construction, we would like to develop information systems which enable us to manage the institution at the lowest possible cost and in a transparent manner, in particular for the State Parties. We have applied for a large investment budget in this area. Nevertheless, I hope that this will remain under control. That is why, in the next few months, I will be asking an independent consultant to give me his opinion, not on the strategy, which is the domain of the Court, but rather on the evaluation of the risks taken by the structure.

3. This brings me to the third point of this introduction. The Court is indeed aware that its requests for greater flexibility, and more generally for greater freedom *a priori*, require a strong counterpoint *a posteriori*: control.

I would firstly like to emphasise that certain controls exist already.

The first document from the National Audit Office (NAO), a body that you appointed in April to carry out the Court's external audit operations, is available for you to read. I must, in this regard, thank the auditors for the swiftness of their initial action. For me, as the Court's main administrator, this was a considerable help and I hope that our relationship will continue as it has begun. We will obviously take very careful note of the observations made

by the body, and we have already modified certain procedures in accordance with the initial indications we have received.

Similarly, we sincerely hope that we will be able to enjoy permanent dialogue with the CBF. We suffered from a lack of such dialogue during the preparation of the budget.

I trust that with your Committee we will be able to work out indicators next year that will enable you to gain an insight into the Court's actual situation. Our objective, in the medium term, is to develop the "*tableau de bord*", that will provide people on the outside with information on the Court's work.

Thank you for your attention.