

President of the Assembly,

Ladies and gentlemen,

It is an honour and a pleasure to appear before you to present the work of the Committee on Budget and Finance for 2013.

The Committee has submitted two reports to your Assembly in accordance with the Statute. These are the result of analysis conducted by our Committee in cooperation not only with the various bodies within the Court, but also with our institution's key partners. They are also the product of our ongoing partnership with all other members of the international judiciary. These two reports are instruments that seek to facilitate the work of the Assembly of States Parties by shedding light on the financial, budgetary and administrative impact of the decisions that you will be required to make.

I note that the scale of the hearing set aside for the Committee's studies year after year shows the level of interest in this body.

However, it is essential that our analysis and recommendations continue to play a purely technical role: it falls to the Assembly of States Parties – and the Assembly alone – to examine these proposals and determine the positions and stances that it considers right for the International Criminal Court.

I would add that the work of the Committee, which is a collegial and independent body, is characterized by respect for the adversarial principle in all dealings with its counterparts, keeping firmly in mind the essential nature of the Court's actions – i.e. seeking to give it the means to dispense justice. This principle is fervently applied by your financial managers.

The final preliminary remark that I would like to make concerns our working methods.

For several years now, we have been able to draw on the results of joint deliberations before embarking on our work, thanks to the essential links that we have established with other members of The Hague Working Group through numerous joint meetings and seminars. While respecting the specific powers conferred on each individual party, these exchanges have helped the Court to decide which areas to focus on in terms of its future development.

The same is true of the non-governmental organizations that come to us on a regular basis. They are a source of proposals and help to combine the requirement for sound and balanced management of the institution with our obligation to have the means to pursue perpetrators of mass crimes.

Last but not least, you will have seen from the Committee's reports that we have sought to justify each of our positions – particularly our budgetary positions – in the documents produced.

In view of the amount of time allotted to me for the presentation of our work, I propose to examine our recommendations from two perspectives, first looking at financial and budgetary issues, and then turning to questions relating to management and the administration of justice.

The **budgetary and financial issues** are subjects that, despite being present every year, are always somewhat different. Consequently, they are not dry issues; they change depending on the decisions taken by the Assembly.

I will not talk about the issue of contributions and arrears, but I will stress that delays in the payment of funds inevitably place an unhelpful amount of pressure on our finances. Respect for the relevant deadlines is, in itself, a way of helping the Court and its Registrar with the day-to-day management of the institution.

In the same way, we are continuing to monitor the investment of the Court's liquid holdings in order to spread the banking risk across a number of establishments, while seeking to ensure that our reserves remain available to us.

As regards the Working Capital Fund, which has stood at €7.4 million since 2008, Regulation 6.2 of the Financial Regulations and Rules provides that this is to be held in reserve to ensure that the Court has sufficient funds in the event of short-term liquidity problems. After examining financial data since 2011, your Committee has found that we did not need to establish this fund. The Court's resources are sufficient to meet all of its liquidity needs. The Court also needs to prioritize its commitments over time in order to smooth out its regular funds. It therefore makes sense to maintain the current level.

There are still problems surrounding the Contingency Fund. On 1 January 2013 this stood at €7.5 million, and under Assembly resolution ICC/ASP/11/Res.1 €500,000 was added to the fund. Seven requests were submitted by the end of August 2013, totalling €7.21 million. However, on closer inspection, only €2.03 million was used for expenditure by 17 September 2013 – 28.1%. As regards the new situation in 2013, only 14.6% of the funding requested (€3.24 million) was used by that date.

Your Committee recommends several things in this regard:

- that the Court provide, at each session, a table breaking funds down by type of expenditure;
- that a report be systematically submitted to the Committee 60 days after the notification of funds, allowing the Committee to monitor the situation in a more appropriate manner;
- that access to the Contingency Fund be limited to unforeseeable scenarios that the regular budget is unable to cover;
- that requests by the Court be made strictly in accordance with the principles of budgetary discipline.

Indeed, it is essential that access to the Contingency Fund is not a means of circumventing the decisions of the Assembly and financing, outside of the regular budgetary procedure, work that the Assembly has already rejected.

Let us now turn to the issue of the budget for 2014.

I should like to make three preliminary observations in this regard.

**First**, the Committee has looked at the implementation of the budget in 2012 and the first half of 2013 in order to extract the necessary information. The total implementation rate in 2012 was 96.6% – i.e. €105.14 million out of a regular budget of €108.8 million. Taking into account requests for access to the Contingency Fund, consolidated figures show that real expenditure by the Court stood at €107.5 million, resulting in a theoretical budget surplus of €1.30 million relative to the funding approved by your Assembly for this period. From a technical perspective, spending on legal aid, costs relating to victims and witnesses, and the permanent premises was less than had been forecasted.

For the first half of 2013, the Committee observed a 3.4% increase in expenditure relative to the previous year, with the Court forecasting an annual implementation rate of around 98.4% at that time. Of course, that overall rate covers a variety of assumptions, as we stressed in the report, depending on whether you are looking at the judicial function, the Prosecutor, the Registry or the other budgets submitted to the Assembly. The consumption rate for regular funds is projected to stand at [97.3%] on 31 December 2013, and the rate foreseen for the Contingency Fund is [52%]. We have asked the Court to refine its budgetary assumptions by including workload indicators that are appropriate and aligned with the objectives of the departments concerned.

**Second**, the Committee has examined the budgetary process and the concept of zero-based budgeting. There are new data in this regard that the Assembly needs to be aware of.

The Court has produced a report on the financing of multi-year projects, notably on the basis of its real estate project. Although this is not the first project to necessitate multi-year financing, as the Committee, in cooperation with the Court, has launched reforms in relation to the International Public Sector Accounting Standards, we thought it necessary to return to this issue at the next session and lay down some rules to follow:

- Have clearly defined objectives and budgets for the full duration of projects.
- Clearly define the area in question and have an oversight mechanism that is suited to your needs.
- Have a project which justifies, in itself, a derogation from the budget annuality rule.
- Establish provisions concerning responsibility for both the achievement of objectives and expenditure incurred.
- Establish budgetary rules that allow funds that have not been spent in a given financial year to be carried forward, which will avoid the need to return the money to the States Parties.
- Make it possible to borrow funds in the event that it becomes necessary to carry out certain activities on the basis of a different timetable and savings can be made across other elements of the regular budget.

A mechanism of this kind would also require a separate budget submission so as to provide the members of the Assembly with a clear and transparent resourcing and staffing table.

The Committee has also studied the concept of zero-based budgeting. Looking at the current financial year, which has seen restructuring at the Court, we note the particular effort made by the current Registrar to limit requests to a zero base before contemplating any increases. We will see the impact of that later in this presentation. Already, though, I note that there has been some revision of the internal requests and justifications submitted to the Court prior to the formulation of the draft budget for the next financial year.

**Third**, the Committee has based its analysis on the workload assumptions for 2014.

To this end, the Committee has consulted the President of the Court, as well as the Prosecutor. The Court has submitted a draft budget totalling €126.07 million for 2014 – an increase of €10.95 million, or 9.5%, relative to the budget approved by the Assembly for 2013.

As can be seen from our report, this stems from a significant increase in judicial activity, from the number of situations, from the new strategy of the Office of the Prosecutor (as you will have seen from the document distributed on 11 October) and, consequently, from an increase in the administration of justice in the Registry. We also had to take account of important judicial decisions entailing changes to the normal course of events for certain trials, which involved very significant obligations for the parties. This had a direct impact on the Contingency Fund in 2013 and will inevitably affect the prosecution policy of the Office of the Prosecutor, forcing it to incur further costs in 2014.

The budget submitted to you is also a reflection of various reforms. The amendments to legal aid are beginning to have an impact, as underlined in our report in September. We should now allow this reform to take full effect before contemplating any further changes in this area. However, the Committee draws the Assembly's attention, once again, to the question of reparations. This is a new procedure in the field of international criminal law, which limits opportunities for comparison. We invite the Court to embark on a process of "joint" reflection in order to determine the rules to be observed.

According to the information provided to the Committee, the Office of the Prosecutor envisages conducting investigations in relation to eight situations in 2014 (compared with seven in 2013), which would mean five full investigations and 13 hibernated and/or trial support-related investigations. Eight preliminary investigations are also envisaged. The Presidency expects five cases to be at the trial stage, with the enforcement of sentences and reparations in two cases. Of course, we also need to take account of cases that are at the pre-trial stage and those where appeals have been lodged. Finally, your Assembly needs to bear in mind the Prosecutor's right to open an investigation into any new situation triggered by international developments.

Against that backdrop, your Committee makes the following proposals:

- As regards MPI, the Committee recommends approving the funding requested, in order to allow the judicial function to carry out its tasks in full. The Committee simply recommends not financing two P-2s for six months and one P-3 for six months. Hospitality costs can remain at the same level.

- As regards MP II, having heard the Prosecutor set out her arguments in support of an appreciable increase in her funding for 2014, and while noting that quality and efficiency will be the hallmarks of all of her actions, the Committee observed that this strategy was still in its infancy and requested more details and financial information. What is more, your Assembly will not have failed to notice that the new strategy was published on 11 October – almost one month after the Committee had carried out its work. In the absence of useful information provided to the Committee in the course of its work, we were unable to examine a variety of issues, such as the question of how increasing the number of investigators would allow a corresponding increase in the quality of investigations. The Committee's next session will doubtless be an opportunity to obtain financial responses to our questions. In the absence of new investigation standards justifying an increase in staffing levels, the Committee proposes that not all of the additional positions should be approved – only half of them (i.e. 16 positions).
- Given the average cost per case of €1.31 million (for the 16 current cases), the Committee considers that the 20% increase requested is in no way justified and recommends a reduction of €2.2 million, as indicated on page 14 of the second report.
- As regards MP III, the Committee has found that, from a financial perspective, the budgetary ratio applicable for a new case is 2:1. Given the reduction of €2.2 million proposed by the Committee for MP II, it suggests reducing the budget requested by the Registrar in relation to situations by €1.1 million.

As regards that last budget, the Committee welcomes the Registrar's stance and initial measures. These are decisive measures that will quickly have an impact on the day-to-day activities of the Court. The Committee, through a form of management contract, has set him the objective of achieving a 3% reduction via that reorganization, while developing new synergies between departments in the revised organizational structure.

You will notice that certain other savings are proposed for MP III. I refer you, in that regard, to our other documentation.

There are two other important budgetary issues that I would like to raise with you. You will have to decide on the costs to be borne under the budget of the Secretariat of the Assembly for the activities of the Advisory Committee on Nominations of Judges, and you will have to make a political decision on the proposals regarding the Independent Oversight Mechanism.

That being the case, I have to stress one key point as regards the determination of the budget for 2014.

Your Committee has sought to strike a balance between the various requests made by the Court and the need to keep the total financial amount within limits that are acceptable to all. Decisions have obviously been made throughout the year, and ambassadors tasked with key issues in The Hague have been constant witnesses to that. Above all, though, your Committee has based its decisions on precise assumptions and taken account of the ever-increasing caseload.

In other words, the justification of the assumptions chosen and the variables examined has been the guiding principle in our work, and I would like the same to be true of any future work in the budgetary committee. This methodology allows the Court to address its future needs on the basis of the clear and transparent rules that are necessary.

As regards the issue of the management and administration of the Court, your Committee has examined the new organizational structure and asked that a detailed joint study be produced by representatives of all of the Court's bodies by April of next year.

We have also addressed the issue of liabilities – the liability side of the balance sheet – and made proposals on this subject (which we have been looking at since 2011) regarding the reform of cost accounting and reforms relating to the International Public Sector Accounting Standards.

Finally, you will have noted the monitoring of real estate matters, as well as questions relating to human resources, issues where the Registrar has already taken decisive action in terms of restructuring. We are grateful to him for that.

President of the Assembly, ladies and gentlemen, I thank you for your attention.