

ASSEMBLY OF STATES PARTIES

COMMITTEE ON BUDGET AND FINANCE

Statement of the Chair of the Committee on Budget and Finance to the Assembly at its thirteenth session in New York, 8-17 December 2014

Friday, 12 December 2014

Good morning,

1. Your Excellency Mr. Sidiki Kaba, President of the Assembly of States Parties; I congratulate you for being elected as the President of the Assembly of State Parties; and I also congratulate Ambassador Álvaro Moertzinger (Uruguay) for being elected as Vice-President.

2. I would like to extend the Committee's gratitude and recognition to the former ASP President, Ambassador Tiina Intelmann, for her outstanding work during the last three years.

3. I would also like to take this opportunity to thank my fellow colleagues from the Committee for their devotion and hard work in the course of the last two sessions.

4. I would like to thank the outgoing members of the Committee: Mr. Gilles Finkelstein (France), Mr. Samuel Itam (Sierra Leone) and Mr. Masatoshi Sugiura (Japan), and would like to welcome the new members of the Committee: Mr. Hitoshi Kozaki (Japan), Mr. Rivomanantsoa Orlando Robimanana (Madagascar) and Mr. Richard Veneau (France), and last but not least, I would like to thank the Secretariat's staff for their constant support.

Your Excellencies;

Ladies and gentlemen,

5. It is an honour to present the reports of the twenty-second and twenty-third sessions of the Committee on Budget and Finance.

6. The Committee has again had a very busy year with an increasing workload during its sessions in April and October. Thus at the beginning of our October session, we agreed to make changes in our working methods in order to be able to continue fulfilling our mandate efficiently, whereby Court participation in the room was kept to as-need basis and all major programmes were invited to present their budgets.

7. This change meant that Committee members were able to have more in-depth discussions about the issues at hand and its recommendations. It is the Committee's belief that this change has proven to be a positive one, serving the best interests of the Committee, the States Parties and the Court as a whole.

8. In our April session, we devoted most of our time to human resources and administration issues, while our main session of October was devoted to the proposed programme budget. The Committee was mindful that the 2015 proposed programme budget would require extensive consideration, due to the budget pressures faced by the States Parties and the significant budget increase of more than €17 million by the Court in comparison to 2014 approved budget.

9. I would like to acknowledge the Court for their cooperation and timely presentation of the reports, as well as in-session queries.

Mr. President,

10. I will begin by addressing human resources management, focusing briefly on General Temporary Assistance, classification of professional posts, and retirement age.

General Temporary Assistance

11. The Committee noted the Court's intention to carry out a thorough review of its contract modalities and related rules and procedures, including those of GTA and short-term staff, with a view to maximizing efficiency in the use of resources. The Committee recommended that the Court report to it on the development of rules and procedures as any change of contract modalities would potentially have a great impact on financial, budgetary and administrative matters under the purview of the Committee and the Assembly.

12. The Committee noted the Court's approach on possible multiple-year GTA and conversion of long-standing GTA-funded positions to established posts and recommended that the Court make concrete proposals for the Committee's consideration at its twenty-third session, in conformity with the recruitment principles and conditions laid down by the Committee and the Assembly. As the Committee had not yet received the previously requested Court "skeleton" and that receiving the "skeleton" had been a condition *sine qua non* for ending the freeze on posts, the Committee felt that an exception should nevertheless be made in the case of the security personnel. The Committee therefore suggested that the Court include provision in its 2015 proposed programme budget to convert GTA into the established security posts that would be needed for the Court's operations, and so the recommendation was factored in the 2015 proposed budget.

Criteria for classification of professional posts

13. The Committee noted that the review of the Court's policy outlining principles and procedures for classification and reclassification was under way, and looked forward to receiving an outcome, and undoubtedly it will be an important issue during our April session in 2015.

Retirement age

14. The Committee noted that the United Nations General Assembly (UNGA) had not made any decision on the mandatory age of separation for staff members who joined the organization before 1 January 2014 and that other international organizations with the UN common system took different approaches. The Committee recommended that the Court continue to apply the interim solution, pending the decision by UNGA as recommended by the Committee at its twenty-first session. This interim solution was to grant extensions up to the end of 2015 to any staff who reached the age of 62 in 2014 and would reach the age of 62 in 2015 if they wished to continue service with the Court, unless the member of staff was subject to separation for reasons other than age, in compliance with the Staff Regulations and Rules of the Court.

Mr. President,

I will move now to the legal aid.

Legal aid

15. The Committee received the Registry's sixth quarterly report on legal aid covering the period from 01 April to 30 June 2014. This report detailed the savings made during this period with the implementation of the new legal aid mechanism to meet the needs of the various users, based on the principle of a balance between the resources and means of the accused and those of the OTP. The Committee viewed the progress as encouraging and urged the Registry to maintain the momentum for maximizing savings in the future, while maintaining the quality of legal aid provided.

Bemba case

16. The Committee was informed that the defendant Mr. Jean Pierre Bemba Gombo was found to be ineligible for legal aid as he was not indigent, and in May 2008, the Court

initiated the tracking and seizure of his assets. However, since he was apparently facing temporary difficulties in accessing funds to pay his legal fees, Trial Chamber III ordered the Registrar to advance the required funds, subject to reimbursement by Mr. Bemba, who signed a document agreeing to reimburse his debt to the Court. By December 2014, the Court will have advanced a total of €2,799,380.94 to Mr. Bemba for his defence. At the current time, the Court has received previously a total amount of €164,120.74 and in May 2014 €2,067,982.25.

17. The Committee recommended that the reimbursed funds from Mr. Bemba should be treated as miscellaneous income in accordance with FRR 6.5 and 7.1 and be returned to State Parties as a part of the eventual 2014 surplus. However, the Committee noted that the Assembly might consider the possibility of adjusting the assessments of States Parties against the appropriations for 2015, instead of following the usual established procedures. This would mean a reduction in assessed contributions for 2015 of €2.01 million.

Mr. President,

I will move now to the audit matters.

Audit matters

18. With regard to the financial statements of the Court for the period 1 January to 31 December 2013, and financial statements of the Trust Fund for Victims for the period 1 January to 31 December 2013, the Committee welcomed the presentation by the External Auditor and expressed its appreciation for the quality of the work produced by him.

19. Introducing his reports on the financial statements of the Court¹ and of the TFV,² the External Auditor informed the Committee that the statements were free of material misstatement and presented fairly the financial position of the Court and of the TFV and that he was able to offer an unqualified audit opinion.

Office of Internal Audit

20. In line with the External Auditor's second recommendation, regarding the Office of Internal Audit, the Committee recommended that the budget for the Office of Internal Audit be moved to Major Programme VII-6, in order to ensure the independence of the Office.

Audit Committee

21. The Committee recalled that its requests for a review of the terms of reference, composition and appointments to the Audit Committee had been outstanding for a long time. The Audit Committee had not met since June 2012.

22. In regards to the Audit Committee, the Committee concurred with the External Auditor's view that the present setup of the Audit Committee is not satisfactory, and agreed that the Audit Committee should be dissolved and re-established according to the best international practice. The Committee recommended that the existing Audit Committee be terminated immediately and that, as a transitional measure until the new Audit Committee is established, an ad hoc Audit Committee be set up for 2015 as detailed in the Committee's report of its twenty-third session.

¹ ICC-ASP/13/12 and Corr.1.

² ICC-ASP/13/13.

Mr. President,

I will now complete my statement with financial matters.

Financial matters

Status of contributions

23. The Committee reviewed the status of contributions and noted with concern that the outstanding contributions for 2013 at €6,403,820 marked a sharp increase from previous years. The Committee also noted with concern that a total outstanding contributions of €14,653,744 as at 09 December 2014 reached the level approximately two times as much as the amount of the Working Capital Fund at €7.4 million. The Committee noted that such a trend could significantly affect the cash flow of the Court, and encouraged States Parties in arrears to make every effort to fulfil their financial obligations to the Court.

Budget performance

24. The Committee noted that the mid-year implementation rate was 52.0 per cent, or €63.23 million, against the 2014 approved budget of €121.6 million. The Court forecasted an implementation rate of 99.2 per cent or €120.7 million at year-end for the 2014 approved budget, including full absorption of six Contingency Fund notifications amounting to €3.82 million.

ReVision project and savings

25. The Committee considered the report on the review of the organizational structure of the Registry and noted that the timeline for the completion of the project was the end of July 2015, and would be implemented in four phases.

26. The Committee noted that, while the envisaged structure was readily implementable, the establishment of the Victims Office and Defence Office required an amendment to the Regulations of the Court, and thus approval by the Judges by the end of 2014. The full impact of the ReVision project on the number of posts and the related total budget envelope would therefore only be known at the end of the current phase of the project in March 2015. The Committee recommended that the full impact of the ReVision project should be included in a report to be submitted to the Committee.

27. The Assembly had requested the Registrar as part of his reorganisation plan to achieve at least three per cent savings in the approved programme budget for the Registry to be found during the course of 2014 and requested the Registrar to report to the Assembly on the progress of implementation, including on savings, efficiencies and synergies.

28. The Registrar's report on achievement of savings in the approved programme budget for 2014 had identified savings worth of €22 million, or 3.4 per cent against the Registry programme budget for 2014 of €66.3 million.

29. The Committee recommended that the Registrar keeps identifying savings throughout the 2014 and beyond, and reports to the Committee on the final results of the savings identified as of 31 December 2014, and of additional efficiencies and synergies identified after completion of the ReVision project at its twenty-fifth session.

OTP strategic plan

30. The Committee noted the significant financial implications that the Strategic Plan can have on budget planning. Although the Strategic Plan 2013-2015 does not provide the type of information that would allow States Parties to decide the actual level of resources required from year to year, it does, however, establish a policy direction, which has been accepted by the Assembly that may be anticipated to have financial implications, including implications for the other organs of the Court, particularly the Registry.

31. In 2013, the Assembly approved an increase in the OTP budget for 2014 to allow the OTP to fulfill its objectives of the new strategic plan. In the OTP proposed budget for 2015, a considerable budget increase was submitted although the level of active

investigation cases, support for trials and appeals, and number of Article 70 cases were almost at the same level as indicated in the Strategic Plan. Based on macro analysis, the Committee recommended reductions in the 2015 OTP proposed budget, however, leaving an overall increase in comparison to the 2014 approved budget.

32. The presentation of the next Strategic Plan will come shortly before completion of the Court's permanent premises, and provides an important opportunity for States Parties to define the Court's workload. Although the potential for the Court's involvement in a number of situations continues to grow, the Court's capacity is not unlimited, and by necessity will be defined by several factors, including the size of the space available in the permanent premises; the number of judges and the pace at which trials proceed; the "scalability" of the Court's operations; and, importantly, the resources that States Parties are willing to make available to it.

33. Therefore, The Committee recommended that the proposal for 2016-2018 Strategic Plan should be properly costed utilising the best available knowledge and experience (e.g. results of the Activity Based Costing exercise, work load indicators, etc.) available to the Court.

Policy on Employee Benefit Liability

34. In view of the ongoing policy discussion, the Committee welcomed the fact that the Court did not propose, in its 2015 proposed programme budget, to add further to the EBL accruals already established upfront. This relieved the budget by €1.2 million.

35. To better assess any long-term risk and the appropriate policy response, the Committee invited the Court to produce long-term scenarios, projecting budget size under different assumptions, together with the corresponding volume and maturity profile of EBL, broken down by category of EBL. Judges' benefit entitlements should be included in the projections.

36. The Committee considered the budget requests by each major programme. After careful consideration, the Committee recommended savings in each of the major programmes with total savings amounting to €6.4 million.

37. I again thank the Secretariat of the Assembly for its cooperation and the Court as a whole for its diligence in spending resources efficiently. We look forward to further improvements in order to assure the Assembly that their national resources are being utilized efficiently in the pursuit of the ideals enshrined in the Rome Statutes.

Thank you.