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**Final report of the Court on the Court-wide impact of
the OTP Basic Size model****Executive Summary*

The Office of the Prosecutor (“OTP”) Basic Size model – which provided the basis for the present exercise – was geared towards determining a sustainable size, in terms of activities to be performed and the resources needed to cater for such activities that would ensure that the OTP was sufficiently equipped to fulfil its mandate under the Rome Statute. It is based on assumptions of future workload which have been extrapolated from past experience; they will be periodically reviewed as the Court collects more data and/or to accommodate significant, unforeseen increases in workload.

The present report responds to the request by the Committee on Budget and Finance (“the Committee”), in the context of its consideration of the OTP Basic Size model, to receive “a full costing of the impact of the ‘Basic Size’ and the Strategic Plan for 2016-2018 internal working documents on other organs of the Court”. The report presents the result of this Court-wide costing exercise. It is based on the OTP Basic Size model, building on the OTP assumptions therein, which have been updated and complemented in an inter-organ effort by considerations relating to the mandated functions of the other organs. The report further explains the methodology used to produce these results. Because of the importance of the methodology and assumptions chosen for the model, the report starts with a short reminder of the OTP basic size methodology before presenting the assumptions and their impact on the model, organ by organ, explaining why all organs are impacted differently. The report concludes with an illustration of the Court-wide costing in summary tables, together with a reminder of the main issues yet to be addressed to improve the accuracy of the model impact calculation. The summary tables show an overall impact of the OTP model that would lead to an increase in resource requirements, mainly linked to an increase in the number of staff directly involved in or supporting judicial proceedings or involved in investigation-related activities. The current maximum level of resources (staff and non-staff) in the six-year horizon selected for the present analysis is estimated to reach €206 million in 2021, for an average expected Court-wide impact of approximately €200 million per year thereafter.

The results of the analysis complete the initial results presented at the Committee’s twenty-sixth session and indicate that the volume of work expected to be generated through the model’s updated assumptions can be accommodated within the three main capacity constraints previously identified: the number of judges (18); the number of courtrooms (3); and the capacity of the Court’s new permanent premises (1,400 workspaces).

The report points out the complexity of the basic size exercise, the many different assumptions on which the project is based, and the high level of approximation included. The Basic Size model is a tool which, like any other tool, has advantages and shortcomings.

* Previously issued as CBF/27/10.

One of the main shortcomings is that it is impossible for such a tool to accurately predict the future, due to the high level of assumptions required in terms of activity for every case. The tool's main advantage, on the other hand, is that it provides a Court-wide view of the volume of work the Court plans to undertake in the coming six years and what the resource requirements would be were the assumptions on which the model is based to materialize.

This review of the OTP Basic Size model is helping the Court improve its budgeting process but is not a budgetary exercise. Internally, the project has allowed the different organs to work more collaboratively and gain a better understanding of each other's work. The mapping of judicial processes has led to a Court-wide common understanding of the different organs' timelines throughout the lifespan of all proceedings. By increasing transparency between the organs, the exercise shed light on certain elements that will need to be taken into account in future budgeting processes. This tool can be used in the future by States Parties and by the Court to understand the interaction between the organs and to anticipate the different types and timing of resource requirements at different stages of the proceedings.

The costing of Court-wide impact of the OTP Basic Size model and the Court's budget proposal enjoy a certain connection but are two separate exercises. On the one hand the Basic Size is a simulation model intended to provide a prediction of future size in the event that all presented assumptions materialize. The model puts forward a resource level that would be sufficient to absorb the work with an acceptable level of prioritization, in the event that all assumptions maintain their stability, as presented. On the other hand, the purpose of the budget proposal is to determine the following year's budget. This is based on actual workload and actual staffing levels, and differs from the model which assumed standard team sizes and activities. In contrast to the model, the budget proposal has a higher degree of certainty since it not based on extrapolation (Basic Size) but on actual activities. At the same time, in its budget process, the Court bases itself on what is certain for the year to come, while in the basic size exercise it relies on averages and statistical data. The Basic Size and the budget proposal will only connect if the presented multi-year assumptions materialize as forecast.

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1 Introduction

1. The present project stems from a request of the Assembly of States Parties (“the Assembly”) at its thirteenth session, following the presentation by the OTP of its new strategic plan 2016-2018. The Assembly and the Committee requested the OTP to provide more clarity in relation to its planned growth and “to consider the financial implications of its strategic plan 2016-2018, taking into account the cost implication not only for the Office of the Prosecutor but also the other organs”.¹ In responding to the Assembly’s request, the Court took the following action:

(a) Development of OTP assumptions and methodology for its basic size justification;

(b) Communication to the Committee and the Assembly of the OTP findings, with submission of the report on basic size by the OTP and the subsequent presentation and discussions at the sessions of the Committee and the Hague Working Group;

(c) Development of a Court-wide exercise to determine the impact of the Basic Size model through the following steps:

(i) Review of and complement to the OTP model assumptions: in order to agree on the volume of operations used for the model, the Court needed first to review the assumed phases of proceedings (in particular exact start and end dates) and the timing of all the phases. The timing of the pre-trial and trial preparation and appeals phases in particular was reconsidered at this stage.

(ii) Communication of interim findings to the Committee and the Assembly through the interim report submitted at the Committee’s twenty-sixth session on the progress made in determining the Court-wide impact of the model. An explanation was provided as to why it had been decided to extend the timeframe of the OTP model from three to six years: while for the OTP, the main decisions impacting the volume of work are taken at the investigation stage, for the impact on the Court, the longer timeframe of the judicial proceedings had to be considered. In other words, the OTP was in a position to determine that it could reach its basic size after three years, but the projected period needed to be longer for the other organs, because the operations continue for longer and are impacted by a wider variety of activity drivers. This does not constitute a change or a delay to the OTP model but means that the OTP model is included in a longer-scale timeframe for the Court.

(iii) Organ-specific basic size justification and cost calculation, reviewing staffing and non-staffing costs for each organ in all situations and cases for all the phases envisaged in the coming six years, in order to determine the Court-wide impact of the model.

(iv) Communication of the result of the inter-organ exercise by means of this final report.

2. The Court-wide basic size exercise provides States with an estimate of the resources required to meet the assumptions made in relation to the expected number and duration of preliminary examinations, investigations and trials.

3. The basic size exercise provides States with an indication of where the Court would stand financially in six years’ time were all the general activity assumptions to materialize. Whether or not these assumptions will materialize will have to be monitored on a regular basis (e.g. every three years). If the assumptions materialize and the required resources are available, then the Court will be in a position to deal with its expected workload with the required level of quality, efficiency and prioritization of cases. The objective of the basic size exercise is to facilitate an understanding of the potential coordinated use of resources between its interacting parts (i.e. the organs of the Court), by aligning the planned workload input from the OTP with the capacity available to the Court to implement its judicial proceedings phases. It is a planning tool to illustrate the relationship and provide volume,

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Thirteenth session (ICC-ASP/13/20)*, vol. I, part III, ICC-ASP/13/Res.1 para. I.3.

timing and cost information on the impact of the model on the different organs of the Court. It is a complex exercise, which includes a significant level of assumptions and provides indications rather than exact data.

4. The model will need to be reviewed regularly and assessed for reasonableness. As such, it is not a budgeting exercise which is fixed and which accurately determines the necessary resources for the coming year. The basic size is not the basis for the Court's yearly budget, which is based on actual requirements in the upcoming year and not on the assumed averages in the model. In fact, the current version of the model, as presented here, contains differences between the basic size 2017 assumptions and the actual 2017 proposed budget assumptions underlying the Court's Proposed Programme Budget. The differences stem from the various sources used: the basic size uses theoretical projections and averages based on statistical data for its 2017 activities, while the 2017 Proposed Programme Budget uses only concretely foreseeable activities as assumptions. In its budget process, the Court does not assume the outcome of judicial decisions, but it can do so in the basic size exercise based on averages and statistical data. Yet, a discrepancy between the model and concrete planned activities for 2017 remains and has to be accepted for the purpose of the model exercise.

5. Because of the importance of the methodology and assumptions chosen for the model, as explained above, this report starts with a short reminder of the OTP basic size methodology. It continues by presenting the assumptions and their impact on the model in detail, organ by organ, starting with the Judiciary and ending with the Registry. Since the model has undergone slight modification compared to what was presented in the OTP basic size, the OTP is also presenting a reviewed assumption and cost impact in this report so as to provide the Committee with complete information. The report concludes with the Court-wide costing illustrated in summary tables, together with a reminder of the main issues yet to be addressed to improve the accuracy of the model impact calculation.

2 Methodology description

6. The content of the original OTP basic size report was determined by answering two key questions: (i) what is the expected demand for the OTP's intervention in the coming years and (ii) what level of resources are required to meet these demands with the required quality and efficiency? Firstly, the experience of the past years' workload was used as a basis on which to determine expected demand (i.e. how many preliminary examinations, investigations and prosecutions were undertaken by the OTP), adjusted in such a way as to take into account the prosecutorial strategy changes in the OTP Strategic Plan 2012-2015. This allowed the OTP to reasonably project an estimated yearly number of activities required to meet demand. As mentioned in the original report, the projections will be reviewed with every strategic plan cycle when more data and more experience will be available, which will, in turn, improve the model and its projections.

7. Having defined the required number of yearly activities, it was then possible to determine the resources required to provide the OTP with sufficient capacity to meet demand with a reasonable level of prioritization. This was done by using the required integrated team size and support services as a basis and by determining build-up and wind-down phases for its mandated activities to reduce resource requirements and ensure resource stability. Quality investments in training, equipment and network development were forecast and the impact of past and future efficiency gains was also considered.

8. The above resulted in the OTP basic size document. Upon receipt, the Committee requested a Court-wide impact study to determine the full impact of the OTP model. All organs of the Court convened to determine a proposed basic size for the organization as a whole and provide a high-level multi-year estimate describing linkages between cost-drivers and their resource effects on all the organs. The Court's senior management assigned the appropriate priority to this project and created a taskforce composed of representatives from all organs. A steering committee composed of Registry and OTP Directors and the Presidency's Chef de Cabinet served as the oversight body providing guidance and review.

9. The taskforce followed a two-step approach, similar to the methodology used by the OTP. An initial phase was dedicated to clarifying and explaining the OTP Basic Size model

to the other organs. Representatives of the OTP presented the model and its outcome to several groups within the Registry and Chambers and discussions were held. In this initial phase of the project, the taskforce put emphasis on certain building blocks where a common interpretation was essential and on which high-impact constraints the Court needed to take into account, such as the capacity of the permanent premises or the number of available courtrooms. Based on the OTP projections which were updated and complemented through Court-wide discussions, a six-year projection was created. All of the above was reported in the basic size report for the Committee's twenty-sixth session.²

10. In the second phase, the organs continued to cooperate closely in calculating the impact of the agreed projection. Consistent with the initial OTP basic size report, the outcome of this exercise has been driven by the workload resulting from the projections. The impact of the model will be explained below, per Major Programme.

3 Impact of the model per Major Programme

3.1 Impact of the model on Judiciary

11. The Judiciary (Major Programme I) comprises the Presidency and the judicial divisions. For the Presidency, which is responsible for a number of legal/judicial, administrative and external relations-related tasks within the Court's legal framework, the projected activity increase in the Basic Size model is expected to be covered with the current staffing resources. However, the staffing requirements of all three judicial divisions (Pre-Trial, Trial and Appeals) will increase as a result of the upsurge in activity on different procedural levels throughout the six-year time matrix (see Annex A). These are outlined below.

3.1.1 Pre-Trial Division requirements

12. There are a number of phases for the Pre-Trial Division which define resource requirements. The first relevant phase is prior to the commencement of an investigation, if and where the Prosecutor requests the Pre-Trial Chamber's authorization to start an investigation *proprio motu* pursuant to article 15 of the Rome Statute. Based on empirical data, and for the purpose of this exercise, the OTP follows approximately a one-in-three ratio regarding *proprio motu* investigations, based on the fact that it has opened ten situations: three (30 per cent) were triggered pursuant to article 15, five (50 per cent) were referred by States and two (20 per cent) were referred by the United Nations Security Council (UNSC).

13. If this ratio were to be applied over the next five years, the investigations opened would be as follows:

Table 1: Ratio of type of OTP investigations

	<i>Ratio</i>	<i>Investigations in next 5 years*</i>
Art 15	0.3	3
State ref	0.5	5
UNSC ref	0.2	2

* assuming two investigations/situation

14. Where the Prosecutor requests authorization to proceed with an investigation, a full-time team of one P-3 and two P-2 level staff will be required per situation/case.

15. The next relevant phase is the “**article 58**” phase which is the issuance of a warrant of arrest or summons to appear. This phase falls into the “investigation wrap-up” phase. It is not easy to predict how much time a Pre-Trial Chamber needs for such a phase. A fair estimation would be between one and two months for this phase, depending on the specifics of the case at hand. Generally speaking, however, this phase is not only very resource intensive but also extremely urgent and requires full-time dedicated staff, more specifically

² Interim report of the Court on the Court-wide impact of the OTP Basic Size model, CBF/26/12.

one P-3 and two P-2s, as it involves assessment of all materials presented by the OTP to the Chamber, a legal assessment and the preparation of a decision by the Pre-Trial Chamber.

16. The staff needed for a pre-trial procedure depends entirely on the number of persons being prosecuted, the number of charges and the number of Defence filings, which can vary enormously from one case to the next. On average, two P-3s and two or three P-2s are sufficient for a confirmation procedure (and not necessarily on a full-time basis over nine months, the most difficult period being the last three months of the confirmation procedure).

17. It is important to underline that the Pre-Trial Chambers may be busy with different requests even when they are not conducting confirmation procedures under article 61 of the Statute, or procedures under article 15 or article 58 of the Statute. Most requests, such as those under article 56 (preservation of evidence) are confidential but many issues also arise in relation to cooperation. It is possible for one member of staff to deal with this level of activity in the Pre-Trial Division. The situation is, however, more complex when a request under article 53 is brought before the Pre-Trial Chamber (several P-3s/P-2s can be involved over a period of a number of months).

18. The Pre-Trial Division's present nominal resources of six P-3s and four P-2s would arguably suffice to cover its needs for many situations from 2017 until 2022 in the OTP activity model calculation. A problem would arise, however, when (as is the case in 2018 for example) several resource-intensive proceedings are running simultaneously: two confirmation proceedings, two "wrap-ups" (article 58 procedures) and two "start-ups" (of which, one of three would be a resource-intensive article 15 procedure; the others being State Party/UNSC referrals); in such a scenario, during a few months, five teams would have to work in parallel which would require the recruitment of additional P-2 resources.

19. To conclude, it is difficult to give a clear estimate in the model (see Annex A) for the time-period between 2018 and 2022, but a maximum of two to four additional P-2 legal staff would be required for the most difficult years, and in particular 2020 with an activity peak throughout the judicial divisions. Taking into consideration the policy of the flexible use of staff across the judicial divisions, the most logical solution would be for the Trial and Appeals Divisions to assist in the event of a peak in pre-trial activity. This, however, will not be feasible if at the same time the Trial and Appeals Divisions are already very busy, as will be the case as of 2020. In the light of this consideration, and taking a conservative approach on the need for additional staff, there will be a need for:

- (a) one additional P-2 resource in 2018 (year 2 of the model) compared to the approved 2016 staffing level for the Pre-Trial Division (PTD);
- (b) two additional P-2 resources in 2019 (year 3 of the model) compared to the approved 2016 staffing level for the PTD (assuming that one investigation commencing in 2019 follows an article 15 procedure); and
- (c) two additional P-2 resources in 2020 (year 4 of the model) compared to the approved 2016 staffing level for the PTD.

20. For 2021 and 2022 (years 5 and 6 of the model), no additional resources will be required compared to the approved 2016 staffing level for the PTD.

3.1.2 Trial Division requirements

21. The Trial Division requirements are based on the following assumptions:

- (a) Future cases/trials will be of the same nature as the latest ones (Ntaganda, Gbagbo and Blé Goudé, Ongwen), i.e. of a significant scope and complexity;
- (b) The current size of a team for cases of this type is: three P-3 Legal Officers, three to four P-2 Associate Legal Officers (depending, in part, on whether the P-3s work on (an)other case(s));
- (c) The current official staffing level in the Trial Division is:
 - (i) One P-4 Legal Adviser;
 - (ii) Nine P-3 Legal Officers (seven established posts and two GTAs); and
 - (iii) Twelve P-2 Associate Legal Officers (four established posts and eight GTAs).

(d) Trial preparation, trial and judgment drafting require approximately the same level of resources; fewer resources are required at the sentencing stage, if separate (one P-3 and two P-2s should suffice); it is more difficult to predict the resources needed for reparations as it is likely to be quite different from one case to the next, depending on the case specifics, the number of eligible victims and the approach taken (e.g. consideration of individual applications for reparations or not; a decision that rests with individual Chambers and is for judicial determination).

22. An approximation of the additional resources required on the basis of the case projection outlined in the Interim Report (see Annex A) is:

- (a) 2017 (year 1 of the model): approximately two more trials than in 2016, leading to the need for two additional P-3s and four additional P-2s;
- (b) 2018 (year 2 of the model): same level as 2017;
- (c) 2019 (year 3 of the model): decrease by one team (i.e. by one P-3 and two P-2s);
- (d) 2020 (year 4 of the model): same level as 2019 (increase in trial preparation to be absorbed by same level of resources);
- (e) 2021 (year 5 of the model): same level as 2018; and
- (f) 2022 (year 6 of the model): same level as 2021, except that additional resources may be needed to deal with reparations proceedings (one P-3 and one P-2).

3.1.3 Appeals Division requirements

23. The Appeals Division's basic assumptions regarding the distribution of staff over relevant activities are as follows:

- (a) The position of one P-4 is stable and not dependent on the work assumptions (not included in the model below);
- (b) Four staff members (P-2 and P-3) on one final appeal (including conviction and sentencing or acquittal only);
- (c) Two staff members (P-2 and P-3) on one interlocutory appeal;
- (d) One staff member may, at the same time, work on two or more interlocutory appeals;
- (e) Staff members on final appeals and reparation appeals should, to the degree possible, deal with those appeals only;
- (f) The average number of interlocutory appeals per year to date is eight (excluding appeals that are inadmissible); three staff members should be able to deal with those appeals, if the number of interlocutory appeals remains unchanged (this is, however, unpredictable); and
- (g) Reparation appeals require three staff members. For the purposes of the Basic Size model, it is assumed that the appeals are part of the judicial reparation phase and last approximately one year.

24. The model assumes that the work of the Appeals Chamber will peak in 2020 (year 4 of the model) as there will be a high number of appeals throughout the year. It will need to increase its staffing in the course of 2019 (year 3 of the model) and decrease it again at the end of 2021 (year 5 of the model) in order to revert to the normal staffing level in 2022 (year 6 of the model).

25. Two additional P-2 resources over and above what has been approved for 2016 are envisaged for this period (2019-2021).

3.1.4 Conclusion: Judiciary requirements

26. In conclusion, the following requirements will apply to the Judiciary following the underlying activity matrix for the next six years (see Annex A):

- (a) Presidency: no change.
- (b) Liaison Office: no change.
- (c) Chambers (in addition to the approved 2016 staffing levels; the yearly increases are **not cumulative**):

- (i) 2017: 4 P-2; 2 P-3
- (ii) 2018: 5 P-2; 2 P-3
- (iii) 2019: 6 P-2; 1 P-3
- (iv) 2020: 6 P-2; 1 P-3
- (v) 2021: 6 P-2; 2 P-3
- (vi) 2022: 5 P-2; 3 P-3

3.2 Impact of the model on the OTP

27. After submission of the first report on the OTP basic size³ and the ensuing consultation with the other organs, the original set of assumptions that created the OTP activity matrix was adjusted resulting in minor adjustments to the original timeline.⁴ In addition, the original planning to arrive at a basic size in 2018 was revised. The changes to the model durations are as follows:

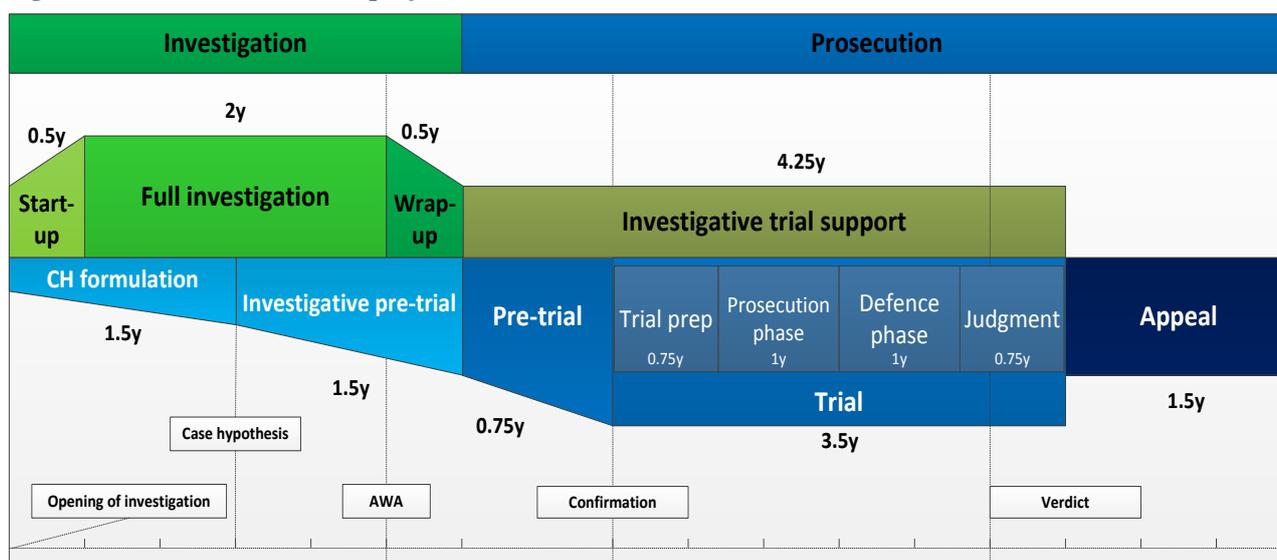
(a) The trial preparation phase has been extended by three months (from six to nine months);

(b) The trial judgment phase has been extended by three months (from six to nine months);

(c) The appeals phase has been reduced by six months (from two years to one year and a half).

28. This list of changes, agreed with the other organs, produces the underlying schematic model depicting the evolution of a case.⁵ While the overall duration has not been affected by the alterations, it should be noted that the model trial phase duration has been extended by six months, at the expense of the appeals phase.

Figure 1: OTP basic size model projection



29. The extended duration of the trial phase generates more simultaneous trial activities upon reaching the basic size. Therefore, from the moment the basic size is reached, from the end of 2021 onwards, the model shows a slight increase in the number of trials (see also annex A).

30. The OTP's original Basic Size model showed a stable level of yearly activities with only limited fluctuations. Peaks in one area would be managed, where possible, through a flexible use of resources in other areas where there is a simultaneous temporary low,

³ Report of the Court on the Basic Size of the Office of the Prosecutor (ICC-ASP/14/21).

⁴ Interim report of the Court on the Court-wide impact of the OTP Basic Size model, CBF/26/12.

⁵ The schematic does not include the preliminary examination phase for which no changes can be observed. This is also a phase that is purely OTP driven and where the original OTP basic size report can be used as reference.

through exceptional GTA requests and/or through spreading activities out over time.⁶ The same principles apply to the current proposed model. The original basic size report put forward the underlying estimation of yearly activities. The estimated yearly activities under the new model with the longer duration for the trial phase are also included:

Table 2: OTP basic size comparison of activities

<i>Activity</i>	<i>Yearly activities Basic size v1</i>	<i>Yearly activities Basic size v2</i>
Preliminary examinations	9	9
New situations	1	1
Active investigations ⁷	6	6
Investigations pending arrest ⁸	9	9
Pre-trials	5	5
Trial phases	5	5.4
Final appeals	2	2

31. The above table translates the adjusted planning into estimated yearly activities to be covered by the basic size resources. As explained above, the number of trial phases has increased slightly with 5.4 trials taking place on average as soon as the basic size is reached. In order to adjust the required OTP resources under the adapted model, the required resources to cope with an additional trial were multiplied by a factor of 0.4 to reach the updated basic size capacity. This additional capacity will be able to cover the anticipated increase in activities while maintaining a reasonable level of prioritization among pending investigations.

32. As previously announced, a thorough review of the Basic Size model and its parameters predicting the number of activities will be carried out at every OTP strategic plan cycle. Given that the current update extended the model to 2022 and the original model was developed only to 2018, such a review will help improve the solidity of the predictions.

33. The original financial roll-out envisaged that basic size capacity would be reached with a budget of around €60.6 million. The updated basic size would require €61.1, applying the same inflation rate as featured in the original basic size report for comparison purposes. The increase is due to the aforementioned changes to the duration of the trial phase. In addition, since the first report was drafted in 2015, reclassifications, conversions and restructuring within the Office have slightly changed overall staff costs. Depending on when the basic size is reached, adjustments will be needed to include the inflation rate for the additional years (e.g.: changes to the UN salary scale, cost of travel, etc.).

Table 3: OTP basic size comparison of staff and cost

	<i>Initial basic size</i>	<i>Updated basic size</i>
Staff headcount	540	546
Cost	€60,586.58	€61,120.53

34. While consultation with other organs has led to minor fluctuations with regard to overall trial activity, the above table nonetheless highlights what the OTP has been indicating since the inception of the basic size – that it had foreseen a model that, pending any major shifts in demand on the Office, remains stable for the foreseeable future. With each strategic planning cycle, this demand, among other things, will be reviewed.

⁶ Report of the Court on the Basic Size of the Office of the Prosecutor (ICC-ASP/14/21), para. 23.

⁷ Six active investigations refer to investigations at full capacity and thus not including any start-up and wrap-up phases.

⁸ Previously referred to as “hibernated investigations”.

35. The timeline based on the new assumptions builds towards the basic size more gradually than with the initial basic size. The underlying table shows the growth path by which basic size will be reached.

Table 4: OTP growth towards basic size

	2017	2018	2019	2020	2021 OTP Basic Size
Staff headcount	454	472	485	521	546
Cost (in mill. €)	€51.8	€53.7	€56.3	€58.9	€61,1

3.3 Impact of the model on the Registry

36. As previously reported to the Committee, and repeated in the introduction above, the methodology chosen by the OTP creates a high level of assumptions in the analysis of the impact on the Registry operations.⁹ In order to follow the methodology based on averages and reflect the OTP model, the Registry has taken a conservative approach with regard to the impact analysis: the Registry has included only the strict minimum necessary to support operations, using moderate assumptions, so as not to artificially inflate the model's impact. It is nevertheless important to remember that the impact of the updated and complemented OTP basic size on the Registry, as currently presented, could differ significantly in reality. For example, if witness support requirements are greater than for the assumed 50 to 60 witnesses per case, Registry operations will expand. Likewise, if the scope of cases goes beyond the moderate assumption (i.e. one accused per case), the Registry will require additional resources to perform its mandate to support the defence and victims.

37. With these caveats in mind, the Registry has analysed the areas in which the updated and complemented OTP basic size has the biggest impact for the Registry through three separate building blocks: operational support, with a particular emphasis on external operations support; judicial operations support; and corporate management. In order to provide the Committee with sufficient details on the methodology and assumptions used in estimating the impact of the model, the report will first describe the three areas of Registry support in terms of staff impact, before consolidating the results at the global Registry level in terms of costing.

3.3.1 External operations support

38. The number of investigations planned by the OTP has a direct impact on support activities, in particular in situation countries. Thanks to the centralization of all field coordination and support activities under the same strategic leadership of the new Registry Division of External Operations, the impact of the model on external operations support can be reported in terms of "Field Teams", grouping all different Registry functions. The model therefore assumes that a Registry field team is required to support an average field office for the average type of situation country envisaged in the model. Although, as a model based on averages, it might have been decided to select one team for each new situation country projected in the model, past experience has shown that a fully-fledged field office is not necessarily required for each new situation. In the spirit of the original OTP basic size, it was therefore decided to include what is already certain for the coming years (already commenced support operations) and what can reasonably be expected in the light of past experience. The methodology followed by the Court to determine the type of Registry field teams needed has therefore been to make further assumptions in relation to the planned investigations and the type of support requested. In some cases, when a new country is assumed to offer a safe and suitable infrastructure, a "field office" team is assumed (i.e. fully-fledged field office and support staff). In other cases, when the security situation or the investigative needs are estimated not to require a complete field office, a more limited "field-based presence" team is assumed (i.e. limited office support and reduced support staff). The proportion of field office to field-based countries has been estimated based on historical averages. The following table summarizes the projected field operations as per the latest version of the model:

⁹ Interim report of the Court on the Court-wide impact of the OTP Basic Size model, CBF/26/12, para. 59.

Table 5: Assumed number of countries and relevant field-office or field-based presence

	Starting situation							2017	2018	2019	2020	2021	2022
Countries	1	1	1	1	1	1	1	N/A	1	1	N/A	1	1
Field office	1	1	1	1	1	1	1		1	1			1
Field base-presence	1						1	1		1			1

39. In the table above, the Court applies the OTP assumption of two new investigations every year arising out of new and existing situations. No additional support requirement is estimated for the latter cases. This is a good example of the conservative approach that has been taken by the Registry in estimating the impact of the model on its operations. It could have been envisaged that a new investigation in a different case in a different area but within the same situation country would require additional language, outreach or victim applications resources. To remain conservative, it is estimated that the existing resources will be sufficient to absorb the new activities in the country. The new situation in such cases is therefore not estimated to take place in a new country or require a new field office, and in only one out of three cases will require additional resources, in the form of a simple field-based presence.

3.3.1.1 Field-office and field-based presence teams

40. Following the request of the Committee, which mandated the OTP to properly cost the new [strategic] plan based on the best available knowledge and experience (e.g. results of Activity Based Costing, workload indicators),¹⁰ the Registry has applied the OTP methodology in determining the size of the teams for field office and field-based presence. The composition of the different teams and the required support services have been defined for all mandated activities and the justification for the team composition is based on a combination of workload data, where available, or a volume of activity to available staff ratio in other cases, or a detailed description of activities performed when possible. While further analysis would be required to produce the level of information expected from an adequate activity-based costing system, due to the level of complexity and variety of activities performed by the Registry, the present basic size analysis already provides a solid explanation of the resources required based on the available workload data and assumptions and on professional experience.

41. The assumed team composition depends mainly on the volume of work expected. The volume of work is directly related to the phases of proceedings. As a consequence, the Registry has built up its analysis phase by phase, following the OTP approach.

3.3.1.2 Building up capacity of field office teams

42. This first chronological phase in the model, i.e. Preliminary Examinations, has no significant weight on the impact determination of the model as a whole. Its timeframe is not used to determine the length of the proceedings: the timing of the different preliminary examinations has been so variable in the past that no average assumptions have been drawn for the model either. At the same time, however crucial for the future of a case, preliminary examination activities precede the determination of a new situation and are even further away from the determination of a case. The preliminary examination phase therefore has only a limited impact on the elements used to analyse the Court-wide impact.

43. Active investigations are the second phase; this represents a fundamental element for the whole model because it drives the workload for the rest of the organization. This phase is expected to last an average of three years and is split into three standard components: (i) start-up (six months of orientation in the situation country to determine the scope of the investigation); (ii) full investigation (two years of fully-fledged investigative efforts); and (iii) wrap-up (six months of investigation closure activities). The OTP investigative activities already trigger related activities for the other organs. Work in field office support and witness

¹⁰ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B, para. 51.

protection, in particular, has an impact on the Registry's resource requirements at this stage. Likewise, it is possible to file applications and interlocutory appeals at this stage (e.g. under article 18(3) and (4) of the Rome Statute), thereby triggering activities in both the Registry and Chambers. The main OTP assumptions are:

- (a) Open-ended, in-depth investigations, shifting attention to being as trial-ready as possible from the earliest phases of proceedings, such as when seeking a warrant of arrest, and no later than the confirmation of charges hearing;
- (b) For every four warrants of arrest, three immediate arrests are assumed, moving directly into the next phase of proceedings (pre-trial);
- (c) A new situation will occur every year; and
- (d) Each case leads, in principle, to at least two investigations (i.e. both sides of the issue in question), which will, in principle, be conducted simultaneously.

44. It is important to remind the Committee that the OTP assumptions for this phase have a decisive impact on the rest of the model. Any variation will have a significant impact on all impact analysis output presented in the report. For example, if only two arrests take place immediately after the issuance of warrants of arrest instead of the three assumed, the OTP model's projected number of pre-trial proceedings will be delayed, leading to the same delays in the following phases (trial, appeal and reparations).

45. The start-up phase of the active investigation is considered as orientation time set aside for the OTP in which to hand over information, knowledge and contacts from the preliminary examination team to a newly-created OTP integrated team. The team studies the culture and context of the country and the preliminary examination material, while security and operational assessments are made to set up operations in the field. It is understood that this first orientation phase needs to take place within the OTP before the Registry can really take action, although some interaction is already taking place as part of cooperation activities between the OTP (JCCD) and the Registry (EOSS). On completion of the start-up phase, the Registry needs to become operational quickly in order to support all mandated operations in the context of the investigation, namely OTP investigations, but also witness protection, victim participation and outreach activities.

46. The Registry team starts work at the beginning of an active investigation through the Chief of Field Office, who is the first person on the ground. It is very important for the Registry to make an early start on creating the necessary connections in the new country. The Chief needs to talk to partners, create a network of contacts and set the foundation for development of the necessary protocols. This high-level post is required because of the multiplicity of roles that need to be performed: on the one hand, the Court needs to establish high-level contact, requiring a high-level profile. On the other hand, the first staff member in the field also needs to have thorough knowledge of the operations in order to review and check the laws of the country, design the necessary protocols and formulate the support activities required by all the Court's stakeholders.

47. It is estimated that the Chief's preliminary work will be complete within three months: operational support activities start to be implemented and the related support staff are assigned to the new situation country. At this point, the Administration and Operations Officer (P-3) joins the Chief of Field Office to support the field office. Cooperation between the Court's high-level diplomatic representative (i.e. Chief of Field Office) and the hands-on operational officer can start at that point.

48. At this point in the life of a new case, the Registry needs to put in place an initial team to support the operations of the OTP and other stakeholders. At the same time it must also lay the foundations for the development of a multi-year operational team able to handle the remaining activities in this field office throughout the life of the field office. In collaboration with the small OTP team that was involved in the start-up phase, the initial Registry team is tasked with identifying sources of information for Registry-specific activities, such as potential outreach support structures; establishing a network of cooperation; and organizing logistics. As soon as the OTP start-up team narrows down the possible cases to be investigated at the end of the start-up phase, it becomes easier for the Registry to plan the areas and types of activities that will be required under its own mandate.

49. One year after the start-up of the investigation (which means that active full investigations are ongoing for six months), the Registry team is complemented with the necessary support staff to ensure that all activities and missions can take place. At this stage, the OTP joint investigation team is composed of 30 staff members. The collection of evidentiary materials, such as witness statements, documentary evidence, crime scene material, etc., requires investigators to be on the ground. For these activities, four pairs of investigators are assumed to rotate in the field in five-week cycles. Alongside the eight investigators working in the field in mission cycles, two investigators operate full-time from the field to develop leads, perform public investigative activities, coordinate with partners and follow-up on mission issues.

50. While supporting the OTP activities, Registry operations are also scaling up at this stage. The mandates of the Victims Participation and Reparation Section (VPRS), the Victims and Witnesses Section (VWS) and the Public Information and Outreach Section (PIOS) require that Registry activity be launched at this stage of the proceedings.

51. For VWS, it is estimated that engagement in the new investigation will start when the OTP starts its investigation after the initial start-up phase (and will end approximately six months after the last appeals have been finalized). VWS staff activity starts at the end of the OTP start-up phase.

52. The volume of work assumed by VWS is based on historical data: on average, a witness currently spends a minimum of five years under the management of VWS, if included in the Court's protection programme. With current immigration issues worldwide, it would be difficult to shorten this time in the next six years. The OTP assumptions estimate that 170 persons will be screened per case with no duty of care (unless exposed due to the Court's error), 120 statements will be taken with duty of care, 60 witnesses will be called to trial, 10 of whom will require protection and 10 support. The model assumes that for every six OTP persons, another four persons (witness- or defence-related) will be referred for protection each year. In addition, and in order to understand the volume of work assumed in the activities of VWS, based on conservative averages, it is assumed that the average family size for persons under the care of VWS will be five. This is a conservative estimate when considering that, in Mali for example, the family size is generally greater than eight and can be up to 20. VWS currently has about 600 individuals in its care. At this rate, and based on the average family size, the impact of the model on the number of witnesses assumed has been estimated as described in more detail below, in the section on judicial support (see paragraph 82) and the related number of VWS support staff included in the model.

53. In the current design of witness-related processes, witnesses are referred to VWS when it is felt that the witness requires greater protective measures to ensure his or her safety. If the witness enters the care of VWS, a broad range of preventative protective measures can be applied, from national resettlement to – in cooperation with a receiving State – international relocation. Due to the nature of the current processes, this often involves temporary national resettlement. The VWS team needs to be involved at an early stage to be able to determine and implement the best measures for each case.

54. In terms of staffing impact, this means that VWS will be preparing to recruit a team at the start-up phase of the investigation. The average structure is based on one P-3 Team Leader, one P-2 and two GS-OLs, responsible for two countries and up to three investigations per country. For each situation country with active VWS operations, the Team Leader has a field-based team of staff that focus on actual implementation of services in the field. It is important to understand the local operational realities of the countries in which the Court operates, and to adapt strategies and activities accordingly. Hence most operations support staff are based at the location of the operations: in the field for operations and at Headquarters for assistance with appearance at trial. The actual size of the team depends on the activities in the situation country but consists, by default, of one P-2 Associate Team Leader, responsible for the implementation of the field operations in the situation country assigned to him or her, including management of the Initial Response System, two P-2 Associate Welfare Officers (responsible for providing welfare and support, in coordination/consultation with the P-3 Psychologist at Headquarters) and two GS-OL Case Manager Assistants.

55. If the new situation country can be absorbed by an existing team, the new investigation will have no bearing on Headquarters staff, but new Headquarters staff will be required in one of every two new countries and/or new case per country. The field team capacity has a different rate of impact as it will be on the ground within one year of the start of the investigation and will run at full pace until the duty of care is no longer required. As indicated in the introduction to the Registry analysis, the VWS assumptions are conservative in an effort to moderate the assumed impact of the average-based on extrapolations used in the OTP initial model. Every additional investigation in a country would trigger two additional local field GS-OL staff and one additional Headquarters-based GS-OL member of staff to deal with the volume of work.

56. In terms of staffing for the Registry-mandated operations at the active investigation phase, it is important for VPRS to have staff in the situation country at an early stage to start screening the focused areas or potential so-called "situation-related" victims or, if applicable, victims targeted by the OTP investigation with a view to informing victims and assisting them in completing application forms. In doing so, and following the spirit of the new multifunctional Registry field staffing, VPRS and PIOS staff team up at this stage, so that both sections become actively involved at the beginning of the active investigation phase, once the OTP has determined its field of operations. As early as possible, a Field Outreach Officer is deployed to the situation country to prepare the ground with general information on the Court and to strategically establish partnerships and activities. A staff resource at P-3 level is required as the approach should be strategic and sensitive to a potentially complex local context (political, security-related, etc.). At this stage, mapping is performed of the media, NGOs and victims associations, academics and other counterparts with which the Court should engage. The outreach strategy is also developed so that it can be adapted to the different stages as they evolve for the case(s) and the situation.

57. Actual outreach activities start at the same time to raise general awareness of the Court among media representatives, NGOs, community leaders, etc. It is important to communicate very early in the case the Court's mandate and jurisdiction, to clarify what the Court is and what it is not. This, in turn, facilitates interaction between the various organs and sections of the Court in the field (OTP investigators work in the field, VPRS works with potential intermediaries). Once the Outreach Officer is present, the Court can also start monitoring local media to gain a better understanding of how the Court is perceived and to identify potential misinformation and misconceptions in order to respond to them.

58. It is also important to have someone able to act as a local spokesperson (in coordination with the Public Information and Outreach Section at Headquarters), addressing the messages of the Court and responding to questions from the media and other counterparts. In most cases, staff would be supervised remotely, so their grade should allow some autonomy and guarantee sensitivity awareness.

59. In the composition of the field office structure, the Registry also supports the work of the Trust Fund for Victims (TFV). The Court considers that the TFV's mandate, generally speaking, is divided into two types of activities: the first linked to judicial reparations, in respect of which the TFV is part of the implementation team, and the second related to victim assistance, which is not part of the Court's mandate. The model takes the required support to the TFV into account according to the following principle: reparation activities are part of the model and need to be actively supported, while assistance activities are supported only if no additional investment by the Court is required. In other words, if a field office is in place for investigation, judicial or prosecutorial purposes, all TFV activities are supported with limited impact on the resources needed. If it is only the TFV which requires support in a particular situation, in respect of assistance activities, the Court does not put the situation support infrastructure in place. As a consequence, the model does not include much of the TFV volume-based work: no situation is included for which the TFV alone requires support. Reparation-related support is expected to continue until the end of the first year of the reparation phase. Because no factual information on the type of support required is available, the second and third year activities are not currently included in the model. The TFV standard team in situation countries is counted as staff to be supported by the field office, but not included as part of the Registry model.

60. At the wrap-up phase of the investigation, while the OTP scales down its activities, the work of the Registry intensifies in some areas. For VPRS in particular, the process of

distribution, completion (including redaction) and collection of application forms and maintenance of the paper and electronic storage of those forms becomes fully operational for the situation country. Redaction of the application forms is intensive work requiring three staff per application. The forms are entered into the VPRS database for analysis and tracking, and for exporting any necessary information to the legal representative and other Registry sections. On average 1,200 applications are expected at this stage and in the following pre-trial phase. While Headquarters staff provide support and technical expertise, this work is performed primarily in the field because the work involves identification of trusted intermediaries. Such intermediaries are required for efficient and effective support to victim participation throughout the trial phase, and it is important for VPRS staff to be in the field at this stage in order to meet, train and create the necessary relationships with the intermediaries, ensuring smooth cooperation throughout the trial. The field office team is therefore strengthened at this stage with the recruitment of dedicated VPRS staff (one P-3 Field Officer and one GS-OL Field Assistant). The assumptions made for VPRS in the model are likely to be an approximation. Historical data shows huge variations between cases, and there is not yet sufficient volume to provide reliable statistics. This is obvious for major assumptions, such as the number of languages spoken by the victims or the security situation, but it is also interesting to note that smaller details such as the size of the application form (which varies depending on the case) can also lead to significant workload variations.

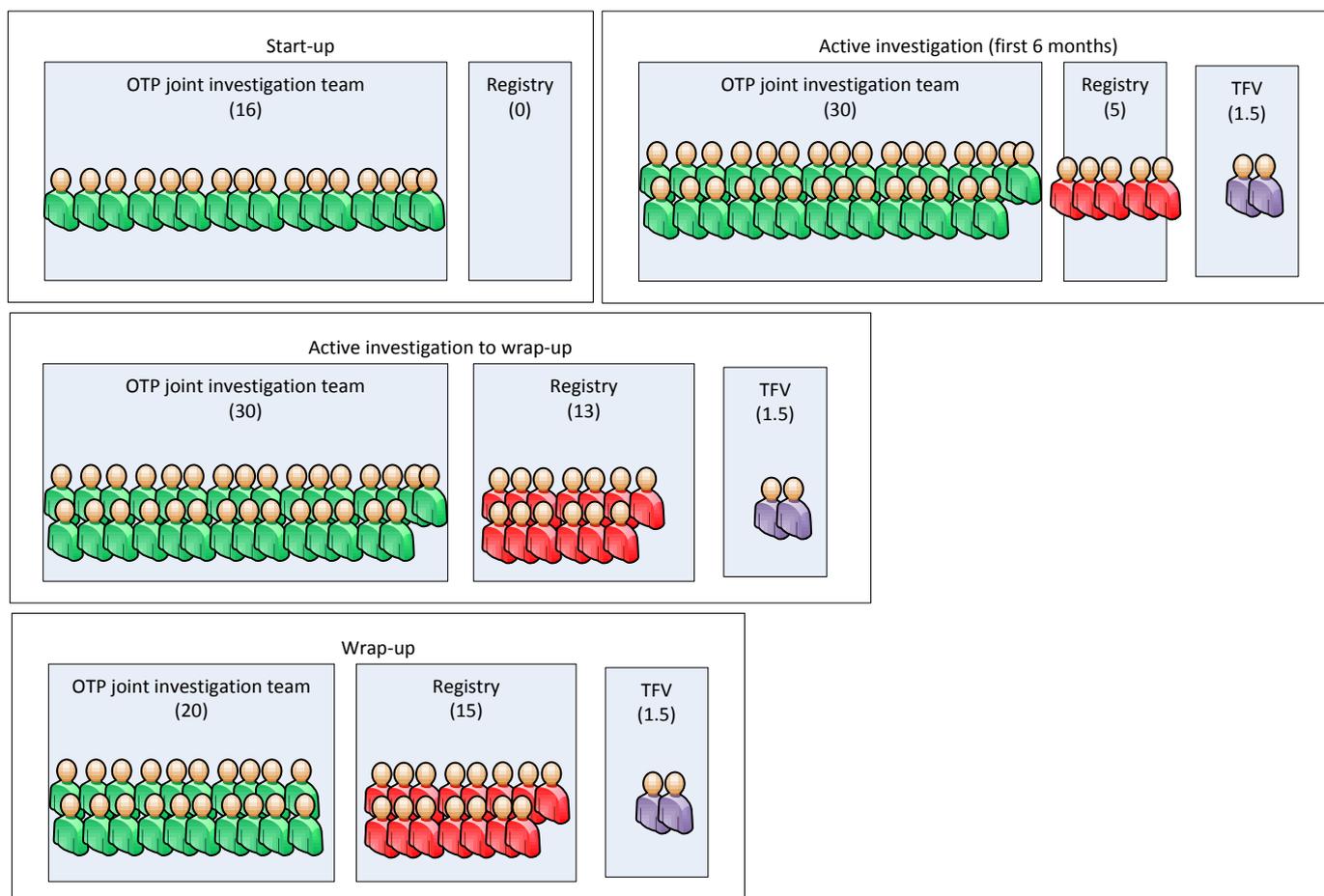
61. Consequently, the standard Registry field office team is assumed to slowly build capacity in order to support the activities of all stakeholders in the situation country. Broadly speaking, this means that cooperation and diplomatic support activities are coordinated by senior management at this stage, while logistics and transport issues are managed by the Administration and Operations Officer. Of course, the type of operational set-up put in place is highly dependent on the situation on the ground. Nevertheless, considering the judicial role of the Court, it is of utmost importance that the appropriate security protection is in place, regardless of the situation country. The Administration and Operations Officer therefore works closely with a Security Officer who is also assigned at an early stage to the field office. Six months after the officers start, the model estimates that support will be required to ensure continuity in the administrative, operational and security operation: two GS-OL assistants are added to the team. Security standards at full-scale field offices and field-based presence require that a Field Security Officer (as mentioned above) be assigned as a prerequisite for most activities from an early stage, even considering the relatively low threat level assumed in the model.

62. In order to ensure the proper installation of all equipment and the continuity of operations, it is also estimated that a 0.5 full-time equivalent member of staff will be required staff for the Information Management Services Section during the investigation phase. The situation changes during the trial phase, as described below.

63. While the volume of operations increases as the investigation progresses, the number of missions is also expected to rise and the team of drivers required in the average situation considered for the model also grows proportionally. Based on an assumed workload and historical data, the standard field office driver team grows gradually from one senior driver employed nine months after the start-up of the investigation phase to one senior driver and three drivers from the pre-trial phase to completion. The drivers are all estimated to be local recruits.

64. While this has a very limited cost impact, in order to be comprehensive, a local cleaner is also included in the projected team, as this position is part of the set-up required for the proper functioning of a field office.

65. In conclusion, the model shows that, in parallel with the OTP investigation team, the resources required in support of an investigation for a case requiring a full-blown field office are slowly built up by the Registry in order to be in a position not only to support the OTP operation, but also to perform its own mandate. The build-up of resources can be illustrated as follows:

Figure 2: Registry Field office team composition per OTP investigative phase

3.3.1.3 Continuous support from the external operation teams for the rest of the proceedings

66. As described in the following paragraphs, the model shows some minor variations in the composition of the external operation support team for the remaining judicial and prosecutorial activities support. The phases involved in the model are the pre-trial, trial, appeals and reparation phases.

67. OTP and Judiciary apply a different starting point for defining their activities relating to the pre-trial phase because some activities start at different times, as explained in the previous report to the Committee on basic size.¹¹ The difference is mainly due to the fact that the OTP, through its joint investigation team approach, includes an investigative pre-trial phase which starts earlier than the activities of the other organs. This approach allows the OTP to finalize its case hypothesis and formulate, when appropriate, an arrest warrant. For consistency purposes, Registry pre-trial activities are in line with the Chambers' timelines, i.e. starting with the first appearance of a suspect and concluding on designation of a Trial Chamber bench. At this stage, Registry activities to support the investigation phase continue but are focused more on judicial-oriented support. With the start of a trial expected within nine months, requests for cooperation and implementation of judicial decisions become more important. Work in the field evolves from logistical support to a more cooperation- and external relations-oriented approach.

68. For the outreach and victim participation teams, this phase is particularly intensive. The affected communities need to be informed of the expected process in order to manage expectations. At the same time, the VPRS is closely involved in the preparation of the trial, continuing and intensifying the work started at the investigation phase. As per the model, an average of 1,000 applications are expected at this stage only, leading to an peak in

¹¹ *Official Records ... Thirteenth session ... 2014* (ICC-ASP/13/20), vol. II, part B.2, para. 18.

activity for the team, which is then reinforced by specialized VPRS staff. While the VPRS Officer (P-3) and a VPRS Assistant (GS-OL) are assumed to work only part-time on a case at the investigation stage (assumed at 30 per cent for a field-based presence), their participation is necessary on a full-time basis at the start of the pre-trial phase, until the start of the trial sessions, i.e. 18 months later. This is the main change in the team composition: thanks to the multifunctional staffing of the field office, it is expected that the changes in OTP activities, from being purely investigative to prosecutorial teamwork, can be supported by the team in place at that point.

69. The trial phase is the central element of the model. This phase is estimated to last an average of three and a half years and has been broken down into smaller components in order to facilitate determination of the relevant linkages and activity drivers for all organs to calculate the workload impact. Although this is a particularly important building block for the model in determining the maximum courtroom requirements, for the external operations support, the phase does not involve any major change from the previous one and can be considered holistically, even including the appeals activities. The components of the trial phase are:

(a) Trial preparation: starting after designation of the bench by the Presidency, the Trial Chamber and parties and participants to the proceedings prepare for the trial hearing. This period lasts for nine months in the model.

(b) Trial in session: this element of the trial phase is usually composed of a presentation of the Prosecution and Defence cases (each estimated to last an average of one year). This is the central part of the proceedings towards which all organs were working in earlier phases. For the Registry, all activities in support of judicial proceedings are required at this stage, including its own mandated activities, while all other support activities (both in external operations and administrative or governance operations) remain at a high level before and after this phase.

(c) For modelling purposes, and to simplify the model, statements by victims, closing statements and delivery of the judgment are merged in the last “judgment” element of the trial phase. This element is estimated to last an average of nine months.

(d) The appeals phase is estimated to last another 18 months, from the filing of the appeal against the Trial Chamber’s decision(s) to the final decision by the Appeals Chamber.

70. The field office and field-based presence team do not change significantly at the trial phase, because the number of missions to be supported remains steady, due in particular to the work of the VWS. The field teams ensure that witnesses are able to testify in Court in The Hague or through video link connections from field locations. Following last year’s efforts to intensify the use of this new technology for witness testimony, 15 per cent of all testimonies are expected to be given remotely. For the Registry team to be able to support this surge in technological support requirements, the presence of a full-time IMSS technician is assumed for the standard field office staff at this stage. At the earlier stage of the proceedings, the technician (assumed to be a locally recruited staff member) is considered to be required part-time. In practice, it is expected that outsourcing services might be even more convenient than hiring a part-time IT technician. The additional level of activity during the trial phase is expected to subside at the end of the “trial in session” activities, and once the judgment activities start, the full-time IMSS technician support is restored to the part-time and/or outsourced level assumed at the investigation stage. In total, the full-time presence is only required for two years and nine months.

71. During the high-level trial activities period, the work of VPRS in the field is limited. Staffing in the standard field office and field-based presence is decreased at this point in the model, and staff are expected to be redeployed to other cases or situations. The increase in IMSS technical support is offset by the decrease in VPRS staff: the VPRS Officer is expected to be required at the level of 30 per cent during trial and the VPRS Assistant is not included in the team composition. The assistant and the full-time VPRS Officer are required later, at the reparation phase.

72. As mentioned earlier, the reparation phase was not included in the OTP Basic Size model, but was added for the Court-wide impact analysis, as it has a significant impact on the other organs. In terms of external operations support, it is an essential part of the work of the Registry and determines the time required for the exit strategy from field offices and field-

based presences. For the present analysis, the Court is using very conservative assumptions, projecting an average three years' of reparation activities, the first year being focused on the judicial part of the reparations activities, i.e. the determination by the Chamber. The second and third years are dedicated to implementation of the selected reparation scheme.

73. The main Registry actors for this phase are the VPRS staff, both in the field and at Headquarters. The support team remains in place as at the end of the appeal, but is quickly assumed not to be required further. Although the Court estimates that it will be difficult to find ways to exit all witnesses from its protection activities, for the purpose of the model it is assumed that VWS staff will no longer be required six months into the first year of reparation. This might be slightly ambitious, but in the absence of real-life data, the Registry considers this to be a reasonable conservative assessment of the resources required through the model. While VWS ceases its activities after six months in the reparation phase, all other Registry staff are expected to cease support to the case in the following six months.

74. The model maintains the required Trust Fund for Victims for the remainder of the reparation phase (another two years).

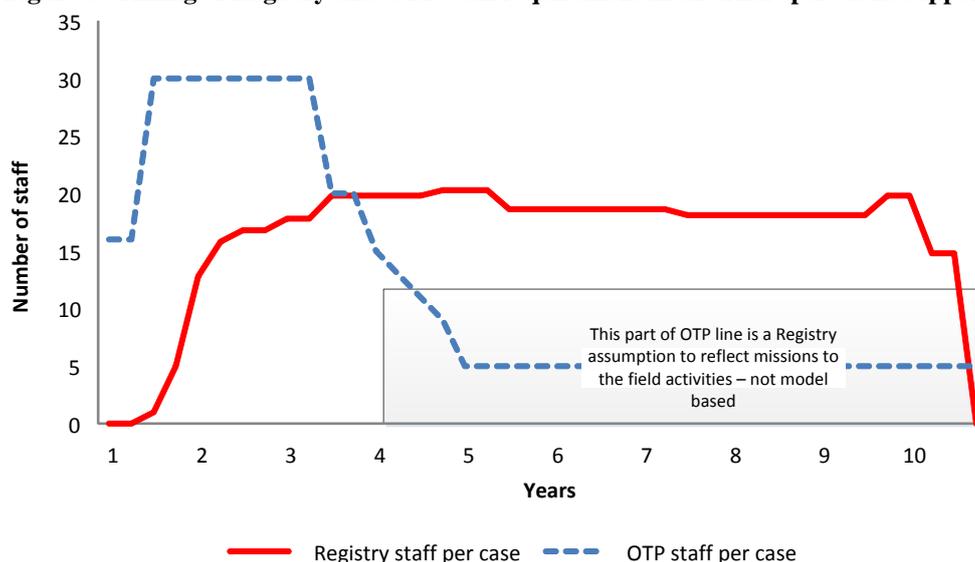
75. In conclusion, for external operations support, the Registry has determined that the impact of the OTP basic size updated and complemented assumptions would be significant in terms of staff requirements. By multiplying the staff necessary in each of the teams by all the cases based on the phases they are in in each of the coming six years, it was possible to determine the global team composition. This results in the following staffing needs for the period under review by the model:

Table 6: Impact of the basic size on the Registry staff in external operations support

	2017	2018	2019	2020	2021	2022
Total Registry external operations	155	165	184	211	228	179
Including VWS field staff	43	44	50	54	58	54
Including VPRS field staff	6	7	8	11	14	12
Including Security field staff	21	23	26	28	30	22
Including Outreach field staff	12	13	15	21	25	19

76. Over the lifetime of a case, the model shows that the involvement of Registry and OTP staff in external operations activities differs greatly. The following chart depicts this different timeline and volume of work, based on the number of staff required in field offices. It gives an indication of the different timeframes and the involvement of the OTP and the Registry. For the OTP, the figure below shows only the investigation- and prosecution-related staffing, but is not meant as an exact indication of all OTP staff involved in all activities related to a case. The same applies to the Registry. The figure below is an illustration of the different timeframes involved for external operations support:

Figure 3: Timing of Registry and OTP staff requirement in external operations support



77. In parallel to this analysis, the Registry also analysed the impact of the model on the non-staff requirements, in order to maintain all necessary support and mandated activities. The total non-staff requirements impact is provided in the Court-wide overview in the final section on the Court-wide impact of the model in section 4 below.

3.3.2 Judicial operations support

78. The major triggers in the model on the Registry's external operations have been described above. This section focuses on the Registry mandate in support of judicial operations. Although the operations follow the same judicial phases as those used to describe external operation support, it is not necessary to follow the same strict timeline, as the triggers for changes in resource requirements are different. In the case of judicial support, the main issue is the volume of work during the trial phase as a whole, i.e. including trial preparation, trial in session and judgment. The main triggers analysed are:

(a) Courtroom activities: the Division's services are impacted by the number of courtrooms operating and the estimated number of days of operation for all Chambers (pre-trial, trial, appeals and reparations phases).

(b) Language activities: this element triggers a cost impact on the whole model but was included in the context of the judicial support analysis for the Registry. Looking back at the data on the number of languages that have been supported by the Court since its inception and in the different cases, it was agreed that although this element is also related to field operations, its main impact is in terms of courtroom support.

(c) Legal aid and detention: the Registry administers the legal aid scheme in support of victim and defence teams in the proceedings. Those teams are involved early in the proceedings and are active in all phases in which the accused or victims are involved, following both OTP and Chambers' activities. The accused and victims requiring legal aid therefore come at a cost for Registry, and that cost includes the resources required for management of the scheme and operational maintenance of the detention centre.

79. In terms of Courtroom activities, with a model projecting full utilization of the three courtrooms for long periods, full capacity in courtroom management and courtroom support would be required. With a full courtroom utilization scheme, any operational delay translates into a delay in judicial proceedings. Such delays should therefore be kept to a minimum, and reasonable capacity resources and procedures will be discussed inter-organ to ensure smooth proceedings. For the Court Management Section (CMS) in particular, it was important to map support required in all cases in the coming six years, and to agree on the staffing requirements for up to five cases running in parallel. The model assumes the use of two to three courtrooms every year including in some cases, the need to extend the use of a courtroom with extended hours. For a courtroom to run efficiently, CMS has to provide some staff to be active full-time in the courtroom during all proceedings. Such staff include Associate Legal and Courtroom Officers, Court Clerks and Court Reporters. Rosters of available staff have to be drawn up to ensure that such functions are always available whenever a courtroom is required by a Chamber. In addition to the staff present in the courtroom, CMS also needs to ensure that some back-office functions are performed, notably in terms of audio-visual production and eCourt support. Although less visible to those involved in a trial, the functions are necessary to ensure proper functioning of court proceedings. The same principle of team rosters had to be created to ensure the right level of staffing would be available. The model shows that, while a limited increase in staff is envisaged to support operations when three courtrooms are running in parallel, the workload envisaged in the 2017-2022 period will decrease at times. The section is expected to absorb most of the required additional activities in the model with 46 staff members and even be in a position to decrease to 39 staff in 2019 and 2022, when the model plans for fewer judicial activities.

80. In addition to CMS, the Registry also reviewed the impact of the courtroom operations on its VPRS staff, as the volume of trial, appeals and reparation judicial activities has a direct impact on the caseload of this section. VPRS teams are assigned cases and, although the teams work interchangeably on several cases, a high-level planning of all the cases was carried out in order to determine the minimum level of VPRS staff needed to support all judicial activities. The results show a significant increase in the need for judicial

support staff between 2017 and 2022, leading to a maximum of 19 P-2/P-3 Legal Coordinators and Associate Legal and Courtroom Officers being required by 2022.

81. Considering the staff directly impacted by courtroom operations support, both the Security and Safety Section (SSS) and the Information Management Support Section (IMSS) have been reviewed and are lightly impacted in terms of support to the courtrooms, as the model provides for a relatively steady volume of work in two or three courtrooms in the period envisaged. The requirement for security and IT support staff follows the model's assumption on the number of courtrooms in use and on a quarterly basis adds or subtracts the required additional staff accordingly. The assumptions show that on average, SSS requires five fewer staff members in 2019 and 2022 because of the reduced number of trials compared to the other years. The same applies to IMSS, but the variation is only one less audio-visual technician required in support of courtroom activities.

82. The work of VWS is also impacted by the trigger of judicial support, although not only in relation to courtroom activities. The main services offered by VWS relate to national resettlement, international relocation and court appearances. The section is therefore impacted by the external operations trigger, as described above, but also by the pace of the judicial proceedings. The workload of VWS is therefore primarily influenced by the OTP, Defence and Chambers and the clientele itself, and the ability of VWS to control entry into and exit from its care. VWS cannot control the actions of the parties, and there is obviously no coordination between them. Hence VWS faces an unpredictable and uncontrollable workload driver. There are three main factors influencing VWS operations: the confidential nature of many of its services; the implications of the Court's legal framework, case law and main judicial actors; and the difficulties involved in operating in environments which are complex from a practical, security and political perspective.

83. VWS's volume of work is therefore strongly driven by the judicial proceedings and is determined by the number of witnesses requiring support. Although, as explained above, it is very difficult to predict the exact number of witnesses on a yearly basis, for the model, the expected support requirements have been based on the OTP assumption of 50 to 60 witnesses per case. The table below reflects the number of witnesses assumed to be under the protection and care of VWS for all the cases in the model, broken down per phase of proceedings in order to determine the volume of work for VWS in support for judicial proceedings. The historical ratio of 1 of 5.5 witnesses under protection being called to testify at the trial has also been used to determine the number of witnesses having an impact in the judicial support area, but the results of this assumption yielded higher costs, and it was therefore decided to maintain the generic OTP model assumptions to determine the impact in order to ensure a conservative costing of the model.

Table 7: Number of witnesses assumed per year requiring support from VWS

	2017	2018	2019	2020	2021	2022
Trial preparation phase	0	20	25	20	20	40
Trial phase	158	88	53	114	105	79
Judgment phase	3	8	9	0	6	8
Total	161	116	87	134	131	127

84. The practical circumstances in which VWS works in its main operating theatre, the field, differ from situation to situation and from case to case. As such, guidance, principles and knowledgeable staff are required rather than rigid fixed procedures. In addition to the field-based staff described above, the VWS structure requires support and coordination from Headquarters: the teams are responsible for the execution of all aspects of VWS's core mandate, i.e. the protection and psycho-social support aspects, as well as for facilitating the testimony of witnesses for one or more situation countries assigned to the team. These teams are particularly important in order to oversee the support and relocation operations and ensure proper tactical planning of situations and resources. For every two countries in which VWS situation teams operate, one team is required in The Hague. The Headquarters team is composed of situation staff with one P-3 Team Leader responsible for the case management of all clients in the situation countries and related trial proceedings

assigned to them (including processing and evaluating referral requests), supported by one P-2 Associate Case Officer, one Senior Case Manager Assistant GS-OL and one Case Manager Assistant GS-OL.

85. In addition to the situation teams, the VWS structure relies on support from so-called services teams which are responsible for a number of VWS umbrella functions that either need not be duplicated across situation teams or that are intentionally centralized, including VWS-specific legal support and advice to management and operational teams; analytical support, psycho-social services and expertise; and centralized administrative, planning and operations support services. For these functions, and for every two new situations, the model also assumes the recruitment of a service team composed of one P-2 Analyst, one P-2 Lawyer/Psychologist and 1 G-level Analyst.

86. The additional requirements put on the VWS team also translate into a significant increase in non-staff costs. The additional staff travel to, from and with witnesses and the witness support generates significant costs, which are, for the most part, charged to General Operating Expenses. To analyse the impact on the VWS, the Registry has evaluated the following activities:

(a) Costs directly related to the number of witnesses assumed for each year, to support the following activities: witnesses' trial testimony; new referrals to ICCPP; IRS implementation; case management; and exit strategy for each witness.

(b) Travel costs in support of relocations and assisted moves; witness support missions; IRS missions; case management missions; and international negotiations and assessment.

87. Based on experience, some criteria have been included to ensure that the statistics used in the model better match reality for the costing of the impact. For example, although statistics show that the standard travel budget per situation is €231,200 per year, for each case in the Registry model impact, only 60 per cent of these costs have been included (i.e. €138,700), to reflect an expected progressive implementation of the support activities. Likewise, for the end of the case, activities are assumed to be reduced by 30 per cent per year in the last years. All in all, it should be noted that, even with the conservative approach taken, the VWS is seriously impacted by the volume of work projected by the OTP in the model. On the whole, the section is expected to have to increase its staffing to 105 staff members by 2022, while the non-staff cost evaluated at €5.6 million in 2017 would rise to €10.2 million in 2022. The table below shows the evolution of these operational costs according to the model, on a yearly basis.

Table 8: Evolution of VWS operational costs on a yearly basis

	2017	2018	2019	2020	2021	2022
Direct operational costs	4,780	6,102	6,324	7,404	7,698	7,966
Travel costs	1,087	1,283	1,563	1,810	2,129	2,274
Total	5,866	7,385	7,887	9,214	9,827	10,239

88. The Registry is also responsible for public information related to judicial activities. The volume of judicial activities has an impact on the required size of the Registry team. While it is recognized that the current team should be able to absorb a certain level of activities, it is also important to note that language skills are not necessarily interchangeable between cases. A P-2 with appropriate language skills is therefore required for each new situation with a new language. The staff member needs to be able to read the local media for input into the daily press review. He or she needs to know how the local population perceives the Court so as to anticipate and develop appropriate communication messages. The local language needs to be understood fully to produce the required documentation, including audio-visual programs. In the model impact, this language requirement differs from the language requirement for the Registry's Language Services Section (LSS), as it does not include specific local languages, but relates more to the generic language of a geographical area. The model assumption is therefore limited to four "situation" languages in 2017 (French, English and two other situation languages), to seven in 2022 (i.e. adding only three new situation languages, taking into account that some of the new investigations

will potentially be opened in existing situation countries). In addition to the P-2, one GS-OL position is requested in support of the public information activities for every two new situations. The impact of staff projection means that, in relation to the courtroom activities.

89. The second trigger of activities for judicial support is linked to language requirements in the strict sense of the term. For this trigger, the Registry analysis is based on historical data to determine averages. Following the agreed methodology, the model builds on the current situation and the number of languages currently supported, and projects historical trends on future activities. For every new case, on average, historical data show that two new languages can be assumed to be required. Because capacity in one language cannot be transferred to another language, this assumption means that additional resources are required with new cases.

90. Although it was originally estimated that language assumptions would have an important impact on the model, reality shows that for the Registry, the real impact only starts after two years in the model, at the start of new judicial proceedings. Before that time, during the investigation phase, most of the field interpretation required is assumed to be taken care of by the OTP language services. The Registry takes care of all translation requirements for external counsel, victims' representation, outreach and cooperation activities through contractual services, namely "Temporary Assistance for Meetings" (TAM) in the terminology used by the Court. The triggers for translation needs have been reviewed for all judicial phases, and the historical number of pages translated has been compared to the available number of translators (considering the agreed standard of about 1,000 pages translated per translator per year). Because of this flexible arrangement put in place at the Court with the use of TAM, and considering that the total volume of work remains relatively steady in this area, the analysis shows that only a limited increase in non-staff costs will be requested for translation services for this section of the Registry in the context of the basic size impact.

91. As for the translation capacity needs, it was originally envisaged that interpretation needs would have a significant bearing on the envisaged budget of the Court. Fortunately, the conservative assumptions and the timing of the different activities show a relatively moderate increase instead. The language team is expected to increase in terms of interpreters from 2020, going from 17 to 25 staff in three years; while it was agreed that each new case would require support for two new languages, it was also recognized that only one of the two languages would be needed for interpretation in the courtroom. This conservative approach to language requirements means that the first new language in a new situation country for a new case is only required by 2020 in the model: current resources are sufficient to cover all other activities to the point where the model estimates that a new investigation in a new country will have been completed and that the judicial proceedings will have started.

92. To limit any need for further increase, the Registry also reviewed the possibility of some languages no longer being required, but considering the existing cases included in the model and the assumptions in terms of situation and countries (including new cases starting in existing countries), most of the languages will continue to be required until the last quarter of the last year of the model, 2022. The table below summarizes the judicial language assumptions used in the model:

Table 9: Number of languages in judicial proceedings

<i>Year</i>	<i>Number of new language in proceedings</i>	<i>Additional proceedings language</i>
2016	10	0
2017	10	0
2018	10	0
2019	10	0
2020	11	1
2021	12	1
2022	12	0

93. In the context of judicial activities, the Registry's mandates include management of the legal aid scheme. Because the model is based on averages, the evaluation of the impact of the OTP basic size updated and complemented assumptions on this part of the mandate can be calculated automatically. The average number of pre-trial, trial and appeal activities assumed by the model can just be multiplied by the average cost of the defence and victims counsel teams. The Court has sufficient historical and statistical information to use reasonable cost estimates for both types of teams. Although the Counsel for victims scheme is more flexible than the Defence scheme, which is based on lump sums, averages from previous experience are used to estimate the impact. At the same time, it should be noted that, at the Court, counsel for victims can be provided by either an external legal team funded by the legal aid scheme, or by the internal team provided by the Office of Public Counsel for Victims (OPCV). Although the OPCV represents parties in the proceedings independently, it belongs administratively to the Registry and was therefore included in the basic size analysis. The assumption, once again based on historical data, is that the OPCV will represent victims in one third of new cases. While the impact for the legal aid teams can easily be calculated using a mathematical formula, the impact on the OPCV team is slightly more difficult to estimate, as the same professional staff working at the OPCV can work on different cases simultaneously. Adding one case does not automatically mean that one whole team is added to the impact. The impact of the model on the OPCV team shows an increase from 17 staff in 2017 to 24 in 2021. This peak number seems to be the point at which OPCV activities would stabilize, considering the total volume of work.

94. Legal aid projections have a significant effect on the Registry's non-staff costs but they are also a very good illustration of the difficulty faced in matching a model to reality. The model shows a steady volume of judicial activities and the legal aid costs are in line with the model assumption. Legal aid for defence will increase from €2.6 million in 2017 to €3.1 million in 2022, while legal aid for victims will increase from €1.5 to €2.0 million over the same period. These figures are based on the number and types of cases assumed in the model. In particular, the model assumes only one accused per case. This was not always the case in the past, and will probably not be the case in the future. In 2016, for example, the Court is still dealing with a case that has five indigent accused, for which legal aid expenditures alone are similar to the whole 2017 Basic Size model assumption. Because it is impossible to predict the number of accused and because the OTP Basic Size model is based on a straightforward one case-one accused assumption, there is no reason to change this parameter in the Court-wide exercise. The effect of any variation on such parameters might increase the Registry's budget by millions and it is important for all readers of this report to remember that the figures presented are only the illustration of the cost impact of the model and not a detailed budget proposal.

95. The Registry team managing the legal aid scheme is further expected to increase by only one GS-OL position for every three additional new cases in order to ensure continuity in support to the legal team. The additional pair of hands is necessary in order to maintain accurate records of the legal team's activities, including verification of timesheets, and administration of all related expenditures.

96. Analysis of the model on detention-related issues is similar to the legal aid analysis: the assumptions used are conservative and any change will have an impact on the total cost reported by the Registry. The total impact might be significant. In addition to the number of accused per case, it should also be noted that it is assumed that all detainees will be male in the period covered by the model. The Court rents the detention facilities by groups of six cells. The cost impact therefore depends on the number of detainees assumed: a change from four to eight detainees means that the costs change on the basis of rental of one or two groups of six cells. Should the number of accused per case be more than one, a stage might be reached where a third group of cells would be required. This would require new negotiations with the host State and new detention-related arrangements. Likewise, should one of the detainees be female, a new detention arrangement would need to be negotiated. Such negotiations and new detention facilities would come at a significant cost. These costs are nevertheless not included in the current level of assumptions used in the model. The detention impact is therefore limited, with the non-staff cost fluctuating between the cost of six and twelve cells while, the support staff remain stable.

97. In conclusion, for judicial operations support, the Registry has determined that the impact of the updated and complemented OTP basic size would be significant in terms of staff requirements. The team composition described above at the different stages of the proceedings results in the following staffing needs for the period under review by the model:

Table 10: Impact of the basic size on the Registry staff in judicial operations support

	2017	2018	2019	2020	2021	2022
Total Registry judicial support	267	263	250	284	296	290
Court management	52	46	37	46	46	37
Public information	18	19	18	21	21	23
Security courtroom related	65	65	60	65	65	60
VWS situation and service teams	37	37	37	43	43	49
VPRS caseload	12	12	14	19	21	28
AV support (IMSS)	4	4	3	4	4	3
Public Counsel	22	23	23	24	29	24
Counsel support	8	8	9	9	10	9
Language	49	49	49	53	57	57

3.3.3 Corporate services

98. For the purposes of the model, the Registry needs to project its needs in terms of corporate services as the last building block impacted by the model. The impact here is less than on the other blocks as it has a capacity to absorb some additional volume requirements. The analysis focuses first on staff costs, while non-staff costs requirements are described in the following section under ‘Cost impact of the OTP model on the Registry’.

99. The Registry provides a wide range of administrative support activities to the Court as a whole, mainly concentrated within its Division of Management Services but including additional support teams such as the IT Enterprise Architecture Unit or the Country Analysis Unit. Such teams are not directly impacted by either the external operation or the judicial support needs, but their work is also impacted by the volume of work envisaged by the model. Although the OTP basic size was not expected to have a major impact on this area of the Registry, targeted resource needs had to be determined in order to ensure the comprehensiveness of the analysis.

100. Standard administration services are mainly fit for purpose and are not significantly impacted by the model. For the Budget, Finance or General Services Sections, for example, the analysis showed that only a small number of additional staff would be required to handle the additional volume of work. For example in the Finance Section, for every 200 new Court staff, it is expected that one additional GS-OL would be required to deal with disbursement, payroll control, accounts or treasury. Likewise for medical services one GS-OL is estimated to be required every 250 new staff members to support the Nurse/Paramedic or Welfare Assistant.

101. The change in the number of staff has more impact on the number of Human Resources (HR) support staff required. It was determined that a ratio of 0.0225 HR FTE operations per staff member per fixed-term staff member was a good benchmark for HR operations staffing. The Registry has used this benchmark ratio (also used in the Registry *ReVision* project) to determine the impact of the model: HR staff increases from 31 in 2017 to 34 in 2022.

102. The limited increase in standard administration services for the corporate services trigger are also matched by more Court-specific corporate services of the Division of External Operations: the External Operations Support Section, including the External Relations and State Cooperation Unit (ERSCU), Coordination and Planning Unit (CPU) and Country Analysis Unit (CAU). With a different ratio, a limited number of staff has been added to each team in order to reflect the need to provide more services in more

situations. While the ERSCU teams change depending on the model assumptions, the total number remains similar (from eight in 2017 to nine in 2022). For the CPU, an Operation Planning Coordinator is required for every four new countries, while one Situation Desk Assistant is added for every three new countries, so that all mission plans can be processed and monitored in a timely manner. In CAU, one Associate Analyst is also added for every three new countries as there is a limit to the number of countries they can monitor at any one time. The impact on Registry corporate services remains limited, as was originally expected, and as illustrated in the following table:

Table 11: Impact of the basic size on the Registry staff in corporate services

	2017	2018	2019	2020	2021	2022
Registry corporate services staff	250	255	256	269	271	270

3.3.4 Conclusion on the impact of the model on Registry staffing

103. As described in the three building blocks above, Registry staffing is impacted by the OTP basic size, but the conservative approach taken by the Registry in determining the impact, in addition to the fact that the Registry's structure as at the end of 2016 will be considered to be "fit for purpose" for existing activities, means that the total impact is not exponential. Although the timeframe of the model still does not allow the Registry to provide a full picture of the complete cycle of support to all investigative, prosecutorial, judicial and reparation-related activities, taking into account the full amount of planned OTP activities, it gives a good indication of the possible development of resource requirements. Put together, the three building blocks show the following overall increase in Registry staff:

Table 12: Total Registry staff impact of the basic size

	2017	2018	2019	2020	2021	2022
External operations staff	155	165	184	211	228	179
Judicial support staff	267	263	250	284	296	290
Corporate services staff	250	255	256	269	271	270
Grand total Registry	672	682	689	764	796	740
Yearly increase in staff	89	10	7	75	32	-56
Cumulative increase in staff v. 2016	89	100	106	181	213	157
% increase year by year	115%	102%	101%	111%	104%	93%
Cumulative increase % v. 2016	115%	117%	118%	131%	136%	127%

104. It is interesting to look at the numbers, not only in absolute terms, but also in terms of proportional increases. Although the number of staff increases from 672 in 2017 to 796 in 2021, it should be noted that this translates into relatively modest yearly increases: 2 per cent in 2018 and 1 per cent in 2019. This is because Registry operations are such that a certain level of activity increases can be absorbed within existing teams, to the point where additional capacity needs to be put in place. This means that the staffing "jumps" to a higher level in several cases. In the model, 2020 is such a year where teams have to be reinforced and the staff increase would be estimated at 11 per cent.

105. The costing of these increases will be detailed below, alongside a description of some of the non-staff impact.

3.3.5 Cost impact of the OTP model on the Registry

106. The detailed staffing analysis in the model allowed the Registry to create a full list of all staff required for the coming six years. Once that detailed list had been created, a total staffing cost was then calculated using the OTP assumption, based on the current year budget and assuming a 2 per cent salary inflation correction every year. However, in order to cost the total impact of the model, the Registry followed the methodology described in

an earlier report to the Committee on the basic size. A follow-up study of all non-staff costs could only be conducted after a full review of all staff required in the Registry (leading to a detailed analysis of about 65 per cent of the Registry budget) but also of the whole Court, as some of the Registry costs are linked to the total number of staff.

107. A sizeable portion of non-staff costs is not flexible. Most fixed and capital costs are not volume dependent and can be assumed to be repeated over time. The permanent premises maintenance costs, for example, are not assumed, in the model, to vary significantly. The same is true of most equipment, including all IT infrastructure costs. Such costs have been included as fixed and stable costs in the impact analysis.

108. The analysis has therefore concentrated primarily on the non-staff costs that are volume dependent. For example, IMSS equipment required for new staff assumed in the model is included as new costs. In order to determine such costs, the Registry had to wait until completion of the Court-wide evaluation of the number of staff required by the Basic Size model. When all new staff are accounted for, IMSS can calculate the impact on its non-staff budget by applying a standard rate of IT on boarding and IT running costs to each new staff member. Likewise for the Registry's General Services Section (GSS), a small provision has been added for additional furniture, for building alteration (assumed for every 100 new staff) and for impact on consumables of the additional staff. Such changes have limited impact on the total budget (maximum of €200,000) in 2020 for GSS, but have to be analysed for consistency purposes.

109. The main non-staff requirements impact has been described above, in terms of victim and witness support, legal aid and detention costs. The last element having a high impact on the model is the estimated non-staff costs for the set-up and running of the Court's field offices and field-based presence, as assumed in the model. For this analysis, the Registry looked at historical data to review the set-up and running costs of all field offices in the past in order to determine whether a generic average could be calculated. It appeared that the different situations of the various offices distorted the figures and created a high level of uncertainty in the average produced. For example, the Court's field office in Kenya, where an office was rented within the compound of another international organization, is very different to the Court's field office in Chad, in the middle of a war-affected area and with very limited available infrastructure. Furthermore, of the Court's eight field offices/presences, some had to be created from scratch while others were able to make use of equipment and material transferred from other or previous field offices. With such varied and limited data, the Registry decided to turn its model analysis to the standard field office assumption, which is based on a field office of the type of the current Abidjan field office. Building on experience from this field office, and using historical data to project a similar situation to potential new field offices, a standard cost of €410,000 is used for the set-up of a fully-fledged field office and €220,000 for the yearly running costs. These costs are lower than figures used in previous budget exercises, but are more realistic in the context of the basic size, as all situations are assumed to be within similar security levels and with a similar volume of activities.

110. For Registry travel, the detailed analysis carried out in terms of staffing requirements allowed the Registry to rely on the staffing number to evaluate the variation in terms of travel requirements for the model projections. The amount of travel is directly related to the volume of external and judicial operation support. The fluctuation in volume for these two triggers impacts the number of staff. The variation in the number of staff was therefore used to determine the variation in travel requirements. The impact of the model on this specific cost item for the Registry therefore shows a moderate evolution (increases and decreases) based on the additional staff requirements, from €1.4 million in 2017 to €1.8 million in 2022.

111. With all non-staff costs being analysed and the total staff being determined for all teams per quarter from 2017 to 2022, the impact of the Basic Size model on the Registry can be summarized in the following table:

Table 13: Cost impact of the model on the Registry (in euros)

Costing	2017				2018				2019				2020				2021				2022			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Quarterly staff cost	€12,795	€12,823	€12,981	€13,009	€14,146	€13,967	€14,186	€14,186	€13,987	€14,072	€14,471	€14,506	€15,842	€15,652	€16,514	€16,210	€17,349	€17,403	€17,166	€16,950	€16,476	€16,048	€16,236	€16,345
Yearly staff cost	€51,608				€56,485				€57,036				€64,218				€68,868				€65,105			
Non-staff cost	€7,702	€7,702	€7,702	€7,702	€8,269	€8,269	€8,269	€8,269	€8,515	€8,515	€8,515	€8,515	€9,480	€9,480	€9,480	€9,480	€9,651	€9,651	€9,651	€9,651	€9,730	€9,730	€9,730	€9,730
yearly non-staff cost	€30,808				€33,074				€34,061				€37,922				€38,603				€38,919			
Total Quarterly cost	€20,497	€20,525	€20,683	€20,710	€22,415	€22,236	€22,454	€22,454	€22,502	€22,588	€22,986	€23,021	€25,322	€25,132	€25,995	€25,690	€27,000	€27,053	€26,817	€26,600	€26,206	€25,777	€25,966	€26,075
Total cost	€82,416				€89,559				€91,096				€102,140				€107,470				€104,024			

4 Court-wide impact of the model

112. As explained in the introduction above, with the new timeframe and the reviewed timing for the phases of proceedings, the Court started its analysis of the impact of the OTP model by looking at the main bottlenecks that could have prevented the model from functioning. It had to test its capacity constraints: the number of courtrooms; the number of judges; and the available workspace at the Court's new premises. It was determined that 18 judges in three courtrooms would be in a position to create enough pre-trial and trial benches and an Appeals Chamber to deal with the output of the six active OTP investigations running in parallel on average per year, although it was clearly pointed out that the analysis was based on the assumptions in the model, such as the number of accused (one per case), the number of witnesses (50 to 60 per case) and planned output (for example, 75 per cent of new investigations resulting immediately in trial proceedings). The average volume of activities according to the agreed timeframe in the model will vary in practice, as will other parameters, such as the number of accused per case, the number of witnesses in court, the number of languages used, etc. At that early stage it was also reported to the Committee that the capacity of the permanent premises could not yet be fully tested because a full analysis of all staff requirements had to be performed first.

113. With the completion of the analysis described above, the Court is in a position to determine the basic size staffing requirements for the Court. The results show that, as expected, the impact of the model on the Court will not lead to a capacity constraint in terms of office space at the new Headquarters building. Although the total number of staff reaches the maximum Headquarters level of 1,400 in a specific year (2021), the results include on average 8 per cent of staff located in the field offices. With this buffer, the Court estimates that it will be in a position to host all staff resources, including interns and other consultants requiring work stations, in the new premises. The total number of Court staff can be summarized as follows:

Table 14: Impact on total staffing of the Court

	2017	2018	2019	2020	2021	2022
Total Registry	671	687	696	768	803	737
Total OTP	454	472	485	521	546	546
Total rest of Court	97	97	97	97	97	97
Grand total	1,222	1,256	1,278	1,386	1,446	1,380

114. To reach the results described above, the Court has used and updated where appropriate the initial OTP model, its methodology and assumptions and has explained the main approximations in the detailed descriptions above. The following additional model-wide assumptions also need to be flagged before providing the Committee with the costing it has requested.

115. It should be noted that the amendments to the timing of the model's phases of proceedings, as presented by the OTP, that were required for the Court-wide analysis lead to what appears to be a reduction in activity in the last year of the model. This is, however, not to be understood as the beginning of a trend from that moment onwards. A review of a longer timeframe volume of activities shows that this downward line would be quickly corrected in the following year to stabilize at a level approaching the 2020-2021 averages.

116. This assumption shows the sensitivity of the model, and the need to carefully assess the realization of the assumptions in the future. Some of the presently realistic assumptions that have been made may have to be corrected in the future. For example, it is assumed that all accused will be indigent, based on the Court's history, but this might change in the future, and would require a change in the model costing.

117. In order to address the Committee's request, and bearing in mind the model assumption, the Court finalized its Court-wide impact analysis by projecting the cost of the number of staff assumed over the model's six-year timeframe, using the current salary scale and increasing it by 2 per cent each year, following the historical trend of budgeted staff costs. The results of the staff and non-staff impact calculation are presented in the table below.

Table 15: Court-wide estimated impact of the basic size

	2017	2018	2019	2020	2021	2022
Staff	113,987	121,776	125,783	137,610	153,788	144,624
Non-staff	43,184	45,729	47,066	51,413	52,557	53,020
Total	157,172	167,505	172,849	189,023	206,346	197,644

118. Over the course of 2015 and 2016, and simultaneously with the current exercise on the impact of the Basic Size, the Court has also conducted a comprehensive synergies exercise, as requested by the Assembly of States Parties.¹² Scheduled for completion in 2017, the purpose of this exercise is to identify and prevent duplication across the organs. The initial results of the reviews that have already taken place indicate that most inter-organ processes have already been carefully set up to ensure utmost efficiency and non-duplication. In some instances, quantifiable efficiency gains and/or savings were identified and their overall impact on the Basic Size will be included once the synergies exercise has been finalized.

5 Connection between the costing of the Basic Size model and the Budget Proposal

119. States Parties have requested further clarification of the relationship between the Court-wide Basic Size exercise and the Court's annual programme budget. It has been asked to what extent the Basic Size could offer a prediction of future budgets and hence help establish an envelope and/or to bring an end to the growing financial requirements of the institution. The Committee has also indicated that the States and the Court need to align their thinking on this matter.¹³

120. The purpose of this section is to present the Court's views in this respect.

121. What are the key features of the Basic Size in comparison to the budget proposal?

¹² *Official Records ... Fourteenth session ... 2015* (ICC-ASP/14/20), vol. I, part III, ICC-ASP/14/Res.1, J, para. 4.

¹³ Report of the Committee on Budget and Finance on the work of its twenty-sixth session, ICC-ASP/15/5, 12 July 2016, para. 53.

Table 16: Comparison Basic Size model and Budget Proposal

	<i>Basic Size</i>	<i>Budget proposal</i>
What is it?	A simulation model	A real world budget
What is its purpose?	To provide a prediction of future size (order of magnitude) <u>if</u> all assumptions of the model materialize To provide the Court with sufficient resources to absorb its work with an acceptable level of prioritization, <u>if</u> the assumptions remain relatively stable	To decide on next year's budget
What is it based on?	Workload assumptions based on averages (volume and duration) Standard team /activity	Assumptions of actual workload in concrete cases/situations Actual team /activity
What is common?	Both provide justification for future resource requirements	
What is different?	They use different bases for the calculation	
	Assumed workload	Actual workload
	Standard teams	Actual teams
	They have a different degree of certainty	
	Based on extrapolation	Based on actuals

122. Can the Basic Size and the Court's annual programme budget proposal be connected to each other? This will depend on the accuracy of the assumptions in the Basic Size model:

(a) If the multi-year assumptions actually materialize as forecast, then the Basic Size and the budget proposals would match.

(b) If the multi-year assumptions deviate to a limited extent from actual needs, then the Court might be able to partially or completely absorb the deviation. In such circumstances, the Basic Size and the budget proposals could partially or completely match.

(c) In the event of serious deviations between the multi-year assumptions and actual needs, then the Basic Size and the budget proposals would not match.

123. At the start of the OTP Basic Size exercise, the OTP repeatedly indicated that there would be a need to update the Basic Size model periodically as the OTP collects more data on which to base its model, and/or to adapt the model to important shifts in demand that might occur, given the unpredictable environment in which the OTP, and by extension, the Court, has to operate. The present exercise is built and based on the OTP's Basic Size assumptions and the same logic therefore applies.

124. The Court has at this stage not aligned the starting assumptions in the Basic Size model with the actual workload for 2017. This can be done in future versions of the model but it was decided not to do so at this stage for different reasons:

(a) The main aim of the Basic Size model was to give States an indication of the size of the Court if the workload assumptions based on extrapolation were to materialize. Its purpose is to provide States with an order of magnitude rather than an exact timeline of when this will be reached, given that the timeline will depend on how the workload actually unfolds.

(b) A second aim was to see if the Court's present constraints (number of judges, number of courtrooms, staffing capacity at permanent premises) would still allow for absorption of the expected workload. This does not require an alignment of the starting points.

(c) The model will require further updating as the Court collects more data and refines its own model, including the accuracy of the assumptions.

125. In conclusion, previous discussions between the Court and States Parties in different fora have demonstrated that in order for the Court's Basic Size project to be a useful tool for both the Court and States Parties in bringing more stability to the Court's future workload and resource assumptions, a common understanding between States and the Court is required on the relationship between the Basic Size and the Court's annual programme budget proposal. The present note intends to achieve just this.

6 Conclusion

126. The OTP Basic Size model is geared towards determining a sustainable size, in terms of activities to be performed and resources needed to cater for such activities. It is based on assumptions of future workload which have been extrapolated from past experience; they will be periodically reviewed as the Court collects more data and/or to accommodate significant, unforeseen increases in workload. In order to assess the impact of this model, the Court has embarked on a Court-wide exercise to evaluate how the volume of work projected by the OTP model would trigger changes in resource requirements. The present report to the Committee provides the cost impact of the updated and complemented OTP basic size assumptions and explains the methodology used to produce these results. It also highlights the complexity of the project and the high level of approximation used, including the many diverse assumptions on which the exercise is based. At this concluding phase of the report, the Court would like to stress that the basic size exercise has also been very valuable for internal purposes. It has allowed the different organs to work even more collaboratively and has facilitated an understanding of each organ's work. The mapping of judicial processes has led to new understanding of the different visions of the same reality (for example the different versions of the pre-trial phase).

127. This basic size exercise is also helping the Court to improve its budgeting process. By increasing transparency between the organs, the exercise shed light on some of the elements that will need to be taken into account in future budgeting processes. For example, extensive and fruitful inter-organ discussions have taken place on the different types of field office support needed in the coming six years, which is helpful for future budget discussions. It must be stressed in this regard that the model departs in terms of the level of anticipated activities in its first year of the six-year matrix from what is actually foreseen for 2017 in the Court's Proposed Programme Budget. It was decided not to align these numbers (see section 5) since the primary objective of the Basic Size model is to provide the States with an order of magnitude rather than an exact timeline. In addition, the focus was on assessing the constraints on the Court's size and how they relate to the Basic Size model. Further updating will be required as more data is collected, which will only increase the accuracy of the model. Furthermore, a common understanding between States and the Court is required on the relationship between the Basic Size and the budget proposal. This underlines that the Basic Size model is and remains a model.

128. It has also facilitated inter-organ discussions on the impact of the support provided by the Court to the Trust Fund for Victims for its reparation mandate and opened internal discussions on the impact of the TFV's assistance mandate on the Court's budget.

129. The Basic Size model is a tool and, like any other tool, has its advantages and shortcomings. One obvious shortcoming is its dependence on assumptions and use of averages. As flagged in the OTP initial basic size report, there is not enough historical data to create statistical facts in some cases, and the Court has had to rely on "best of its knowledge" averages. This weakness of the tool will be corrected over time, but it means that the results it produces are not exact, and the numbers produced are only indicative. They are illustration of a possible reality, should all assumptions be realized.

130. The main advantage of the tool is that it provides a Court-wide view of the volume of work expected in the coming six years, based on the updated and complemented OTP assumptions. This is the first time the Court has been in a position to provide this global view and to illustrate such projections with a realistic cost impact. In future, the Basic Size model will be used for further analysis and planning within the Court.

131. As pointed out by the Committee in its report on its twenty-sixth session, “this important work can provide valuable context for the preparatory discussions between the Court and the Assembly on the annual budgetary assumptions. However, the Committee also noted that it would be important for the Court and for States Parties to have a common understanding of the purpose of the model and its relation to annual budget planning”.¹⁴ With this report, the Court stresses that the purpose of the Basic Size model is seen by the Court as follows:

(a) It provides States Parties with a general estimate of the volume of work that the Court is expecting and its resource implications (order of magnitude) if all presented assumptions materialize. Assumptions will have to be revisited as more data with the aim of increasing the model’s accuracy becomes available.

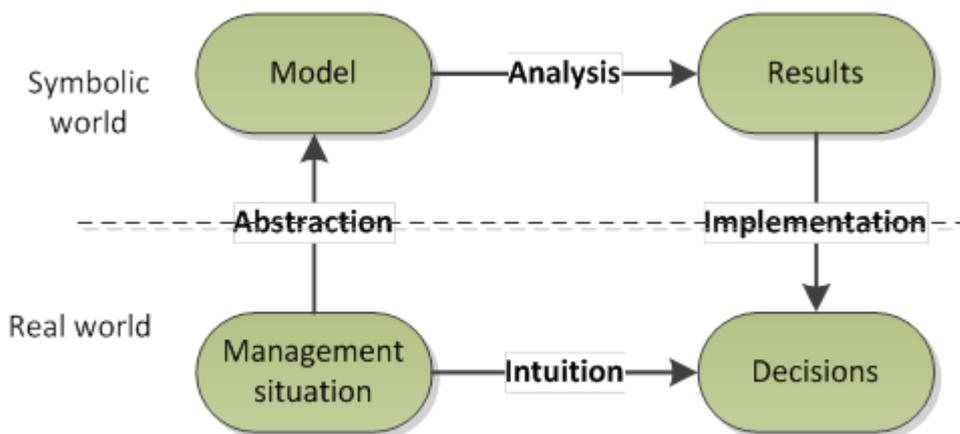
(b) If the assumptions stay relatively stable, the Basic Size model will provide the Court with sufficient resources to absorb its work with a reasonable amount of prioritization.

(c) It is not intended to replace a yearly budget justification which will be based on the concrete priorities and actual workload for the given year.

(d) The ratios in the basic size that determine the resources for any given activity will help States Parties understand how the resources are being determined and justified.

132. Business literature explains that a model is an abstraction of a situation which is made in a way that it is suitable for analysis, to support decision-making and provide managerial insight: “[i]t is analyzed to generate some results or conclusions that emanate from the model alone, that is, without regard to the abstractions previously made. Next, interpretation of the model-based results back to the real-world situation occurs, taking into account what was left out during the earlier abstraction phase”.¹⁵ As illustrated in the figure below, which is copied from the same source, the modelling process itself should not be considered to be a scientific-method endeavour that can be left entirely to specialists: the role of the manager is crucial in making the process useful to the organizational management of the Court.

Figure 4: The modelling process



133. In the context of the Court, the model is used to increase the predictability of its operations through a detailed analysis of the impact of the Basic Size model. Conscious of the current level of approximation in the model, due in large part to the unpredictable nature of its activities, the Court nevertheless estimates that the impact analysis presented in the report provides the Committee with a realistic picture of the volume of work that should be undertaken in the future. This information can be used by the Committee and the States Parties, as well as internally by senior management, to monitor the work of the Court while improving their understanding of the Court’s future resource requirements.

¹⁴ ICC/ASP/15/5, para. 53.

¹⁵ See “*Decision modelling with Microsoft Excel*”, Moore, Weatherford, Prentice Hall, sixth edition, p. 5.

Annex A: Illustration of adjusted OTP model impact

Situation country	Situation	Case name	2017				2018				2019				2020				2021				2022			
			1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Country A	Sit 1	Case 1	Reparation	Reparation	Reparation	Reparations																				
Country A	Sit 2	Case 2	Judicial Re	Judicial Re	Reparation	Reparations	Reparation	Reparation	Reparation	Reparation	Reparation	Reparations														
Country B	Sit 3	Case 3	Appeals	Appeals	Appeals	Judicial Re	Reparation	Reparations																		
Country B	Sit 3	Case 4	Appeals	Appeals	Appeals	Appeals																				
Country C	Sit 4	Case 5	Trial	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Appeals	Appeals	Judicial Re	Judicial Re	Judicial Re	Judicial Re	Reparation	Reparation	Reparation	Reparation	Reparation	Reparation	Reparations		
Country D	Sit 5	Case 6	Trial	Trial	Trial	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Judicial Re	Judicial Re	Judicial Re	Judicial Re	Reparation	Reparation	Reparation	Reparation	Reparation	Reparation	Reparations		
Country A	Sit 6	Case 7	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Appeals	Appeals	Judicial Re	Judicial Re	Judicial Re	Judicial Re	Reparation	Reparation	Reparation	Reparations						
Country E	Sit 7	Case 8	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Appeals	Appeals	Judicial Re	Judicial Re	Judicial Re	Judicial Re	Reparation	Reparation	Reparation	Reparations						
Country F	Sit 8	Case 9	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Appeals	Appeals	Judicial Re	Judicial Re	Judicial Re	Judicial Re	Reparation	Reparation	Reparations							
Country B	Sit 9	Case 10	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals	Appeals	Appeals							
Country B	Sit 9	Case 11	Investigative	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Judgment	Judgment	Judgment	Appeals	Appeals	Appeals							
Country E	Sit 10	Case 12	Investigative	Investigative	Investigative	Investigative	Investigative	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Judgment	Judgment							
Country G	Sit 11	Case 13	Investigative	Investigative	Investigative	Investigative	Investigative	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Judgment	Judgment							
Country H	Sit 12	Case 14	Start-up	Start-up	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Trial	Trial	Trial	Trial	Trial							
Country (A to H)	Sit 13	Case 15			Start-up	Start-up	Investigative	Wrap-up	Wrap-up																	
Country J	Sit 14	Case 16							Pre-trial	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial	Judgment	Judgment	Judgment							
Country I	Sit 15	Case 17							Start-up	Start-up	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep							
Country K	Sit 16	Case 18							Start-up	Start-up	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep							
Country (A to K)	Sit 17	Case 19							Start-up	Start-up	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep							
Country M	Sit 18	Case 20											Start-up	Start-up	Investigative	Wrap-up	Wrap-up	Pre-trial	Pre-trial							
Country M	Sit 18	Case 21													Start-up	Start-up	Investigative	Wrap-up	Wrap-up							
Country N	Sit 19	Case 22											Start-up	Start-up	Investigative	Wrap-up	Wrap-up									
Country O	Sit 20	Case 23															Pre-trial	Pre-trial	Pre-trial	Pre-trial	Trial prep	Trial prep	Trial prep	Trial prep	Trial	Trial
Country N	Sit 19	Case 24															Start-up	Start-up	Investigative							
Country P	Sit 21	Case 25															Start-up	Start-up	Investigative							
Country P	Sit 21	Case 26																	Start-up	Start-up	Investigative	Investigative	Investigative	Investigative	Investigative	Investigative
Country Q	Sit 22	Case 27																			Start-up	Start-up	Investigative	Investigative	Investigative	Investigative
Country Q	Sit 22	Case 28																					Start-up	Start-up	Investigative	Investigative
Country R	Sit 23	Case 29																							Start-up	Start-up

Number of phases per quarter of a year	2017				2018				2019				2020				2021				2022			
Quarters	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Investigation	3	3	3	3	4	4	2	2	4	4	4	4	4	4	6	6	4	4	5	5	5	5	4	4
Wrap-up	1	1	1	1	0	0	2	2	0	0	1	1	1	1	0	0	2	2	1	1	1	1	2	2
Start-up	1	1	1	1	0	0	2	2	1	1	1	1	2	2	0	0	2	2	1	1	1	1	2	2
Investigation teams	4	4	4	4	4	4	4	4	4.5	4.5	5	5	5.5	5.5	6	6	6	6	6	6	6	6	6	6
Investigation (incl. Start and Wrap-up)	5	5	5	5	4	4	6	6	5	5	6	6	7	7	6	6	8	8	7	7	7	7	8	8
Pre Trial	0	0	1	1	2	1	2	1	2	2	1	0	1	1	2	1	1	1	2	2	2	0	1	1
Trial prep	0	0	0	0	0	1	1	2	1	1	1	2	2	1	0	1	1	1	1	1	1	3	2	2
Trial in session	5	5	4	4	3	3	3	1	1	1	2	2	2	3	4	4	3	3	3	3	3	2	2	2
Judgment phase	0	0	1	1	2	1	1	2	3	3	1	0	0	0	0	0	1	1	2	1	1	1	2	2
Trial (incl. trial prep/session/judgement)	5	5	5	5	5	5	5	5	5	5	4	4	4	4	4	5	5	5	6	5	5	6	6	6
Appeal	2	2	2	1	0	1	1	2	2	2	4	3	3	3	3	3	1	0	0	1	1	2	2	2
Judicial Reparations	1	1	0	1	1	1	1	1	0	0	0	2	2	2	2	0	2	3	3	3	1	0	0	0
Reparations implementation	1	1	2	2	1	1	1	1	2	2	1	1	1	1	1	3	2	2	2	2	4	5	5	3
Reparations	2	2	2	3	2	2	2	2	2	2	1	3	3	3	3	3	4	5	5	5	5	5	5	3