



**Cour  
Pénale  
Internationale**  

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**International  
Criminal  
Court**

Le Greffe  
The Registry

**Herman von Hebel**  
**Registrar of the International Criminal Court**

**Remarks to the 16<sup>th</sup> Session of the Assembly of States  
Parties to the International Criminal Court**

*New York, 8 December 2017*

Mr Vice-President of the ASP,  
Madam President of the Court,  
Madam Prosecutor,  
Excellency, Ambassador, Facilitator for Budget,  
Esteemed Chair of the Committee on Budget and Finance,  
Esteemed External Auditor,  
Excellencies, Distinguished delegates, Ladies and gentlemen,

It is my great pleasure to address you today in relation to the ICC's proposed programme budget for 2018. While the Court's budget will, of course, be the central theme of my speech, I will also address a few issues that are central to the budgetary discussions, in particular the savings, efficiencies and other measures that the Court has been undertaking over the last years to make its operations more efficient and effective.

Let me, however, use this opportunity to thank President Kaba for his important role over the last three years and warmly congratulate President Kwon and the newly elected Judges, as well as the new members of the CBF. I would like to wish them all the very best in their new mandates. Working for the cause of international criminal justice is not always easy but it is always incredibly rewarding.

Next year, we are marking the 20<sup>th</sup> anniversary of the adoption of the Rome Statute. This inevitably leads to the important question: Where is the Court today? What are its achievements and its challenges?

A lot has been done. Investigations in ten different situations and in different parts of the world have led to 25 cases being brought before the Court. Around 14,000 victims have participated in the different proceedings, and more than 900 victims are currently participating in reparation proceedings, with potentially thousands of victims following soon in the Bemba reparations proceedings. Through the Trust Fund for Victims, over 400,000 victims in a number of situation countries have been in contact with the Fund's assistance mandated activities. Since 2008, more than 270,000 individuals within affected communities have been reached out to directly and have been able to be informed about the activities of the Court, thereby bringing justice to victims; the essential element of the mandate of the ICC.

But perhaps the greatest achievement of the ICC is the fact that by now the Court has matured into a credible, independent and internationally respected judicial body. The Court has firmly established itself and its activities – I am confident – have a deterrent effect on present and future leaders in different parts of the world.

Being a publicly funded institution, the Court, of course, has the responsibility to undertake its activities in the most efficient and effective way. It is a responsibility that we have always owned up to but one that only this year has found reflection in a separate Annex to the Proposed Budget, at the request of the ASP, with a detailed outline of the various measures we have taken that have led to these savings and efficiencies.

The President of the Court spoke earlier at the opening of the ASP of the importance of efficiencies and the various initiatives to improve the efficiency and quality of judicial proceedings. But there are many other areas where the Court is making advancements. To illustrate, I will only mention two, which both relate to witnesses protection and support.

One of the major changes that we have introduced in the Registry is to delegate authority for decision-making on witness protection and support from the Headquarters to the staff in the Field Offices. This has led to more prompt and effective support to witnesses, improving thus the quality of services that the Registry can offer in this regard. And it has also led to a substantial reduction in travel costs of headquarters staff dealing with witness protection and support. The new approach generates 25 per cent less need for travel requirements in this field of the Court's work, amounting to savings of over quarter of a million euros for next year. These savings are recurrent.

Secondly, we have redoubled our efforts regarding witnesses relocation, focusing not only on framework agreements but also on more flexible ad hoc arrangements. The number of countries with which we have concluded such agreements and arrangements has increased from 12 to 32 over the past five years. This has led to an increase in the number of permanent relocations of witnesses thereby providing them with more adequate care and support. But also, again, to a reduction in overall costs for the Court, generating savings of about a couple of hundred thousand euros for next year. These savings too are recurrent.

In this regard, I am also very pleased to note that the External Auditor looked into the functioning of the Registry's newly created Division of External Operations, which deals with field offices and witnesses issues, among others, and made generally very positive findings. While the External Auditor has made some specific recommendations for fine-tuning our operations, which we will gladly follow up on, the Auditor also found unanimous support, both within the Court and outside of it, for the new Registry structure and has commended the way that the Court has strengthened its presence in the field.

In general terms, I would also like to emphasise that the Court's achievements in the area of savings and efficiencies are also in no small part the result of the excellent working relationship between the Court organs that has been developed over the past years. Together, we produced the budgets based truly on a one-Court principle which was acknowledged by the Committee on Budget and Finance and, together, we have agreed on the very first Court-wide 5-year Information Technology and Information Management strategy.

As the Court reported in its Third Court's report on the development of performance indicators last month, improvement in performance can also be seen in three other areas: (1) in relation to budget implementation, whereby the Court's budget implementation has gradually increased over the past years; (2) in terms of completion of performance appraisals, which for the last cycle passed 90 per cent; and (3) regarding geographical distribution of staff due to a decrease in the number of underrepresented and non-represented States Parties between 2016 and 2017.

Having said that, naturally, the exercise on savings and efficiencies – within the broader search for an improved performance – is a long-term process that also includes a long-term commitment from the Court. We have duly noted the recommendations by the CBF and the ASP and will continue to work in these areas.

We have also heard the continued concerns of a number of States in relation to geographical representation, including those expressed at this Assembly. We are firmly committed towards further improving geographical representation and gender balance among the staff of the Court. Among other initiatives, the Registry's Human Resources Section launched earlier in 2017 a web campaign reaching out to nationals of underrepresented and non-represented States Parties. The campaign includes cooperation with LinkedIn and the use of promotional videos in order to broaden the pool of applicants from the most under-represented States, as well as the use of social media such as Facebook live sessions with the first session attracting tens of thousands of views since being launched only two weeks ago. We expect these measures to steadily contribute towards better geographical representation and gender balance in the next years.

Ladies and gentlemen,

Let me now turn to the Court's proposed programme budget for 2018. I will do so in a chronological order, as the budget process has unfolded.

As you all know, the Court has proposed a budget of just under €147,9 million which represents an increase of €6,3 million or 4.4 per cent over the 2017 approved budget.

In preparing the budget, the Court was very mindful of the difficult economic and financial situation that many States Parties face. That is why the Court has proposed for 2018 one of the most modest increases in years, after a most rigorous process of internal prioritisation and re-prioritisation. We only asked for what we considered as strictly needed.

The Court also took into serious consideration various recommendations made at the last ASP in the budget resolution, including the request to look into efficiencies and savings, as mentioned earlier. It has thus sought additional resources only as a last resort.

The Court's proposed programme budget for 2018 was based on three high-level priorities which were agreed upon by the Court's Coordination Council – consisting of the President, the Prosecutor and myself. These three priorities were: conduct of three trials; the conduct and support of six active investigations, including via field activities; and investments in key Court-wide information management projects and security capabilities.

The immediate reaction from a number of States, as well as the Committee on Budget and Finance, was: Why is the Court requesting an increase when the high-level parameters have remained the same?

The simplified answer is that this is because of two reasons. First, although the number of trials and investigations has remained the same – disregarding here for the moment the recently authorised investigation into Burundi – what goes towards carrying out these trials and investigations may require different resources depending on the stage of the trials or investigations, and other particular circumstances. For instance, one situation may involve higher security risks in the field than others; one investigation may involve higher travel costs due to geographical remoteness. Even within the same situation or investigation, circumstances change that alter the costs, such as the increased costs in Côte d'Ivoire due to the withdrawal of the UN mission there on whose security and logistical support the ICC had relied on and for which now the Court itself must bear the costs. In other words, the same priorities do not always imply the same costs.

The other main reason for the requested increase is the fact that there are a number of Cost-drivers of non-operational nature, such as those stemming from the restoration of the vacancy rate or the increases due to the application of the UN Common System.

Even a well-intended critic of the Court could rightfully ask – but can the Court not absorb these increases?

A straightforward answer is – unfortunately not. The vast majority of the Court's budget – around two thirds – is composed of staffing costs, which are fixed. The remainder is spread over non-staff costs within different organs and different sections, most of which have experienced tremendous increase in the workload over the past years.

For instance, the number of hearing days has increased by 241 per cent from 2013 to 2017. Hearings require a wide range of Registry services, including courtroom management, interpretation, transcription, security and technical support. The Court's and the Registry's workload has also expanded in terms of the number of victims applying for participation and reparations, the number of languages supported and the number of filings handled.

In light of everything above, and the Court's serious and genuine efforts to limit the requested increase, the Court believed that its budget proposal was modest and sound.

I would like to turn now to the recommendations of the Committee on Budget and Finance.

As you know, the CBF has recommended reductions to the proposed increases for 2018 in the amount of €3.46 million. This would bring the Court's total budget to €144.43 million, which represents an increase of €2.83 million (or 2 %) compared to the 2017 approved budget.

I will not go into the details of the CBF recommendations as you will have the opportunity to hear directly from the Chair of the CBF in a moment. It is however no secret that the Court was disappointed and taken by surprise by the CBF recommendations. This is particularly because the Court has presented the proposed budget in a new, improved format – as per recommendation of the CBF; because the Court delivered in its exercise on efficiencies and savings; and because the Court had responded to the total of 127 queries by the CBF and has provided in the Court's view explanations that lend full support to our budget proposal.

At the request of some States in the Hague Working Group, the Court provided a brief paper outlining the main consequences for the Court if all CBF recommendations were to be followed. It urged therefore that a very small number of those recommendations not be followed, while it accepted to cope with all the others. As a result, the Court identified 382 thousand euros above the recommendation of the CBF which, if approved, would greatly minimize the negative effect of CBF reductions.

We fully recognise the important work of the Committee. At the same time, we have the responsibility to alert the States Parties when we consider that the CBF recommendations may have a serious impact on the Court's activities.

The matter is now before the States Parties and I would like to urge you to carefully consider not only the CBF's recommendations but also the Court's arguments on the relevant issues on their own merits, and provide the Court with the budget that it needs in order to implement the mandate that you States Parties have given to us.

In this regard, I would like to thank Ambassador Holmstrom, in his capacity as Facilitator, and his team for their important work in this year's budget discussions. It is certainly not an easy task, in light of frequently diverging and strong views of States. But I am confident that under his leadership an acceptable compromise on the Court's 2018 budget will be reached.

In addition, there is a new situation before the Court for next year, which did not exist when the Proposed Programme Budget 2018 was being prepared and submitted.

On 9 November 2017, Pre-Trial Chamber III issued a public redacted version of its decision authorising the ICC Prosecutor to open an investigation regarding crimes allegedly committed in Burundi or by nationals of Burundi outside Burundi since 26 April 2015 until 26 October 2017.

At this moment, we cannot accurately estimate the total costs for Burundi since the exact operational requirements for this investigation are not yet fully known. According to Financial Regulation 6.6(b), when the resources required for a new development cannot be accurately estimated at the time of the adoption of the following year's budget, the Court can resort to the Contingency Fund for these requirements. This is similar to the situation in 2014, when the Court was exceptionally allowed by the Assembly to resort to the Contingency Fund for a new development.

In addition to Burundi, the Prosecutor's request for authorisation to open an investigation into crimes alleged to have been committed in connection with the armed conflict in Afghanistan is still pending. Should her request be authorised, the Financial Rules and Regulations dictate that the Court resort to the Contingency Fund, having first notified the Committee on Budget and Finance.

Finally, as also noted by the CBF, I would like to highlight the importance of States Parties making their payments in time, in order to ensure that the Court has sufficient funds throughout the year. The Court is concerned about the current level of outstanding contributions which – if not addressed – could lead to liquidity shortfalls and thus present a risk to our operations.

Before I conclude my remarks, I would like to reflect on a major challenge that the Court and indeed the Rome Statute system continue to face. That is cooperation with the Court, and I would like to mention three aspects where cooperation also has budgetary impact.

The first aspect is the need to enhance cooperation on financial investigations, namely the identification, seizing and freezing of assets, but also the need to improve the Court's capacity in this area. Only if the Court is capable of identifying the assets to be recovered, and if it has full cooperation from the States, can these assets be seized and frozen for the potential use for reparations to the victims. In light of the fact that four cases are currently in the reparations phase, this is a pressing matter.

In this regard, I would like to thank the co-facilitators on cooperation – France and Senegal – for bringing the matter to light this year, at a special conference held recently in Paris on this very topic.

The second aspect is the extent to which States are willing to engage in voluntary agreements with the Court, in particular those on relocation of witnesses. Having witnesses under the Court's protection is very costly, and the more States are willing to assist the Court with relocations, the shorter the time these witnesses will spend under the Court's care. I've mentioned earlier that the Court and a number of States have made a significant progress in this regard, but further work and support from other States in terms of voluntary agreements or ad hoc arrangements would be much appreciated.

And, finally, the third aspect of cooperation that also impacts on the Court's budget is the outstanding arrest warrants – which currently stand at 15. Although no trials can be initiated without the presence of the accused, the Court still has the obligation of support and protection towards witnesses, even before trial

proceedings may start. The longer the waiting period for the trial to commence, the longer the period over which the Court has to deliver on that important obligation, and hence the greater the costs for the Court.

Ladies and gentlemen,

Reflecting on the relationship between the Court and the States Parties, it is difficult not to come to one conclusion: The Court needs its States Parties, and the States need the Court.

On its part, the Court will do its utmost to successfully carry out the mandate that it has been entrusted with, in a most efficient and effective way.

On the other hand, we trust that we can continue to count on the financial, political and operational support of the States in the years to come. For the Court is much more than the sum of its parts or its activities. It is an expression of our collective aspiration for a better future, a historic achievement which we must protect and preserve.

Last but not least, I would like to thank President Fernández de Gurmendi for her excellent leadership of the Court over the last three years. I echo the sentiments of recognition and gratitude, expressed at this Assembly, for her important contribution to the ICC and the Rome Statute system.

Thank you very much.