



## Assembly of States Parties

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## **Report of the Court on payment plans for assessed contributions\***

### *Executive summary*

1. This report addresses the Assembly's request to the Court to develop guidelines, consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112(8) of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans. It further requested the Court to submit the guidelines to the Committee in advance of the Committee's thirty-second session.
2. The Court's proposal is compliant with the existing Financial Regulations and Rules. Contributions received under the payment plan will be applied in accordance with financial regulation 5.8. States Parties should have no outstanding amounts with respect to their financial obligations to the Court by the end of the proposed payment plan period. The proposed maximum duration of the payment plan is six years.

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\* Previously issued as CBF/32/12.

## I. Introduction

1. According to article 112(8) of the Rome Statute “[a] State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.”
2. The Assembly of States Parties (“the Assembly”), at its seventeenth session, requested the International Criminal Court (“the Court”) to develop guidelines, consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112(8) of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans. The Assembly further requested the Court to submit the guidelines to the Committee in advance of its thirty-second session and to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget.<sup>1</sup>
3. This report contains the proposed guidelines for establishing the payment plans as a mechanism for offering the States Parties concerned the flexibility to regularize the payment of their arrears and advances, and a way for States Parties to demonstrate their commitment to meeting their financial obligations under the Rome Statute.

## II. Existing legal framework and definitions

4. This section of the report provides definitions and information on the existing legal framework under the Court’s Financial Regulations and Rules.
5. States Parties in arrears subject to article 112:  

Article 112(8) of the Rome Statute: “A State Party which is in arrears in the payment of its financial contributions towards the costs of the Court shall have no vote in the Assembly and in the Bureau **if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years**. The Assembly may, nevertheless, permit such a State Party to vote in the Assembly and in the Bureau if it is satisfied that the failure to pay is due to conditions beyond the control of the State Party.” [Emphasis added].
6. Due assessed contributions:  

Financial regulation 5.6: “**Assessed contributions and advances shall be considered as due and payable in full within thirty days of the receipt of the communication of the Registrar...** or as of the first day of the calendar year to which they relate, whichever is the later”. [Emphasis added].
7. States Parties in arrears:  

Financial regulation 5.6: “[...] **As of 1 January of the following calendar year, the unpaid balance of such contributions and advances shall be considered to be one year in arrears.**” [Emphasis added].
8. Application of payments:  

Financial regulation 5.8: “Payments made by a State Party shall be credited first to the Working Capital Fund, then to the contributions due to the General Fund, and then to the Contingency Fund, in the order in which the State Party was assessed.”

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<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Seventeenth session, The Hague, 5-12 December 2018* (ICC-ASP/17/20), vol. I, part III, ICC-ASP/17/Res.4, section C, para. 2.

### III. Multi-year payment plan

9. The multi-year payment plan is presented by the Court as requested by the Assembly at its seventeenth session.<sup>2</sup> In this regard, a State Party which is in arrears and subject to the provisions of article 112(8) of the Rome Statute, and which faces significant economic hardship to settle its financial obligations, may submit its proposal for the multi-year payment plan through the Secretariat of the Assembly for the Court's consideration.

10. The payment plan proposal must meet the following requirements:

(a) Provision of an outline of the significant economic hardship and/or conditions beyond the control of the State Party underlying its request for a multi-year payment plan;

(b) The State Party's commitment to have no outstanding amount with respect to its financial obligations to the Court by the end of the proposed payment plan period;

(c) The State Party's commitment to pay the proposed yearly instalments, in full and on time, which should consist of the following two portions:

(i) a yearly payment of an equal amount with respect to the State Party's total arrears to all funds,<sup>3</sup> as established upon agreement of the payment plan; and

(ii) an amount equal to the total assessment for all funds with respect to the year the plan starts until the year the plan ends, as approved by the Assembly; and

(d) The maximum duration of the proposed payment plan should not exceed six years.

11. Any payment made by a State Party during the period of the established payment plan will be credited to the relevant funds in the order in which the State Party was assessed, in line with financial regulation 5.8 (annex).

12. The Registrar will review whether the received proposal complies with the financial requirements and duration mentioned in paragraph 10 (II to IV) above and submit the payment plans that meet those requirements to the Assembly. The Court will monitor the implementation of payment plans and report periodically to the Assembly in its monthly financial report.

13. The first instalment under an agreed payment plan will be considered as due and payable in full within 30 days of receipt of the Registrar's communication informing a State Party of the amount due. Subsequent instalments will be due within 30 days of receipt of the Registrar's communication informing a State Party of the amount due, or as of the first day of the calendar year to which they correspond, whichever is later.

14. If a State Party does not comply with the terms of an agreed multi-year payment plan during any year of the agreed payment plan, the multi-year payment plan will become void.

### IV. Conclusion

15. The Court seeks the Committee's recommendation on the proposed mechanism to establish multi-year payment plans.

<sup>2</sup> *Official Records ... Seventeenth session ... 2018* (ICC-ASP/17/20), vol. I, part III, ICC-ASP/17/Res.4, section C, para. 2. "The Assembly of States Parties, Requests the Court to develop guidelines, consistent with existing rules and regulations, for States Parties which are in arrears and subject to the provisions of article 112, paragraph 8 of the Rome Statute, and which face significant economic hardship, to enter into voluntary and sustainable payment plans, and further requests the Court to submit the guidelines to the Committee on Budget and Finance in advance of its thirty-second session, and to keep States Parties informed of any such payment plans and their implementation through The Hague Working Group facilitation on the budget."

<sup>3</sup> These funds refer to the Working Capital Fund, the General Fund (including contributions to the Host State Loan, if applicable) and the Contingency Fund.

## Annex

### Example

The following example illustrates a scenario in which, consistent with the Court's Financial Regulations and Rules and the proposed payment plan rules, a State Party with arrears, including arrears subject to the provisions of article 112(8) of the Rome Statute, agrees to enter into a payment plan in 2020. As a result of the plan, the State Party expects to pay its arrears in full by 2023.

### Scenario and plan

#### Amounts in arrears (for the years 2012-2019)

- In this scenario, a State Party has total arrears of €100,000 (€10,000 from 2012, €12,000 each year from 2013, 2014 and 2015, €13,000 each year from 2016, 2017 and 2018 and €15,000 from 2019). As of January 2020, the State Party is considered to be in arrears in accordance with financial regulation 5.6.

#### Payment plan for amounts in arrears (2012-2019)

- The State Party enters into a four-year payment plan in 2020, applicable until 2023.
- Under the payment plan, the State Party commits to make yearly payments of €25,000 in respect of the arrears (€100,000 divided by four years).

#### Newly assessed contributions (2020-2023) and total payments

- Assuming that the new contributions assessed according to financial regulation 5.4 are €15,000 per year from 2020 to 2023, the State Party makes a payment of the new assessed contributions the year they fall due, as established by the Court's existing rules and regulations (e.g. contributions for 2020 are paid within January 2020, contributions for 2021 are paid within January 2021, etc.).
- Furthermore, as the State Party is subject to the payment plan, the total expected payment in 2020 is €40,000 (€25,000 for the payment plan plus €15,000 for the new contribution). The same amounts are to be paid in 2021, 2022 and 2023.

#### Amounts in arrears [A]

| 2012    | 2013    | 2014    | 2015    | 2016    | 2017    | 2018    | 2019    | Total    |
|---------|---------|---------|---------|---------|---------|---------|---------|----------|
| €10,000 | €12,000 | €12,000 | €12,000 | €13,000 | €13,000 | €13,000 | €15,000 | €100,000 |

#### Payment plan for amounts in arrears [B]

| 2020    | 2021    | 2022    | 2023    | Total    |
|---------|---------|---------|---------|----------|
| €25,000 | €25,000 | €25,000 | €25,000 | €100,000 |

#### Newly assessed contributions [C]

| 2020    | 2021    | 2022    | 2023    | Total   |
|---------|---------|---------|---------|---------|
| €15,000 | €15,000 | €15,000 | €15,000 | €60,000 |

#### Total payments [B]+[C]

| 2020    | 2021    | 2022    | 2023    | Total    |
|---------|---------|---------|---------|----------|
| €40,000 | €40,000 | €40,000 | €40,000 | €160,000 |

### Application of payments

- In line with financial regulation 5.8, paid contributions will first be apportioned to the earliest year in which the State Party was assessed. Therefore:
  - o The contributions to be paid in 2020 (€40,000) will be considered to be the payment of arrears from 2012 (€10,000), 2013 (€12,000), 2014 (€12,000) and 2015 (€6,000).
  - o Similarly, the contributions to be paid in 2021 (€40,000) will be apportioned to arrears from 2015 (€6,000), 2016 (€13,000), 2017 (€13,000) and 2018 (€8,000).
  - o The contributions to be paid in 2022 (€40,000) will be apportioned to arrears from 2018 (€5,000) and 2019 (€15,000) and the new assessment for 2020 (€15,000) and 2021 (€5,000).
  - o Lastly, the contributions to be paid in 2023 (€40,000) will be the payment of a new assessment for 2021 (€10,000), 2022 (€15,000) and 2023 (€15,000).
- Upon payment in 2023, the State Party completes the plan and should have no outstanding amount for the current and past years.

#### *Application of payments (in €)*

| <i>2012</i> | <i>2013</i> | <i>2014</i> | <i>2015</i> | <i>2016</i> | <i>2017</i> | <i>2018</i> | <i>2019</i> | <i>2020</i> | <i>2021</i> | <i>2022</i> | <i>2023</i> | <i>Total</i>   |              |
|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|----------------|--------------|
| 10,000      | 12,000      | 12,000      | 6,000       |             |             |             |             |             |             |             |             | <b>40,000</b>  | 2020 payment |
|             |             |             | 6,000       | 13,000      | 13,000      | 8,000       |             |             |             |             |             | <b>40,000</b>  | 2021 payment |
|             |             |             |             |             |             | 5,000       | 15,000      | 15,000      | 5,000       |             |             | <b>40,000</b>  | 2022 payment |
|             |             |             |             |             |             |             |             |             | 10,000      | 15,000      | 15,000      | <b>40,000</b>  | 2023 payment |
|             |             |             |             |             |             |             |             |             |             |             |             | <b>160,000</b> |              |