

Review Conference

Statement by the Chairperson of the Committee on Budget and Finance,

Mr. Santiago Wins

1 June 2010

Distinguished representatives,

On behalf of the Committee on Budget and Finance of the Assembly of States Parties of the International Criminal Court, I have the honor of making a statement on the main areas of our work.

I must say that it was difficult to adjust our presentation to the context of this historic Conference of a mainly politico-legal nature, and I will therefore raise a couple of general points in relation to budgetary and administrative matters.

Allow me first of all to emphasize again that it has been an honor for our Committee, since its establishment by the ASP as an administrative and financial advisory body composed of 12 independent budgetary and financial experts, to contribute to the development and establishment of the Court.

It has always been our objective to support the Court and to facilitate the approval by States Parties of the resources that the Court needs to carry out its work in an efficient and effective manner. Allow me therefore to thank my colleagues on the Committee for their valuable contribution.

We believe that this Conference both represents the definitive establishment of a permanent judicial body and demonstrates that its structure and administration have reached a level of maturity that will ensure that it remains permanent, whilst also representing a challenge in terms of multilateral administration. From the outset we have tried to turn the ICC into a model of international public administration, to ensure its credibility and permanence, as well as its visibility.

It is true that international justice is costly, but I do not believe that there is a single person in this room who doubts that it is a price worth paying. I should add, however, that the ICC has maintained a reasonable budget, given the numerous challenges that it faces and the scale of its operations.

As you all know, the budget of the ICC has stabilized at around 100 million euro annually, with slight variations based on the work carried out each year. Once a full judicial cycle has been completed we will doubtlessly have a much clearer idea of the cost of operating this unique organization.

The Registry should now be in a position to submit a draft budget calculated on the basis of the actual budget expended in the previous year, subject to adjustments in line with the anticipated programme of work, and to discard the practice of basing itself on the approved budget figures.

Given that the Conference will focus on the subject of cooperation during the exercise to take stock of international criminal justice, I wish to recall that, at its thirteenth session, held in August 2009, the Court informed the Committee that delays on the part of States Parties in the area of cooperation could have negative implications on future programme budgets. Delays in responding to requests for assistance in relation to witness relocation and protection could increase the costs of the Court's protection system and might result in a prolongation of proceedings. While the Committee will consider this issue further at a future session, the Committee would note, in the context of the Review Conference, that rapid and efficient action by States Parties to cooperate with the Court when requested would ultimately reduce the additional expenditure identified by the Court in future budgets.

With a staffing level of over 780 permanent posts, more than 70 per cent of the budget relates to staff costs, an area that is therefore very important. The Committee is in the process of requesting the Registry to redistribute its resources to fulfill its needs before seeking any new posts and to eliminate posts that are no longer necessary. This is in keeping with one of the strategic objectives of the organization, which is to avoid creating a bureaucratic organization.

The Committee therefore is of the view that the Court should set itself the following two goals:

- To specify the number of staff that it needs, including in circumstances where no judicial activities are under way, to differentiate between its central core structure and the posts related to a specific task;
- To continue to apply flexible hiring conditions and fixed term contracts, in keeping with the work of the Court, given that its very existence may have a deterrent effect in the future, which, ideally, will reduce its judicial workload;

Another issue that I would like to address in view of its budgetary implications pertains to the permanent premises of the Court. This is a project of significant importance but one that will also have financial implications of over €200 million euro for the States Parties. The Assembly of States Parties has set up an Oversight Committee for this purpose, and, in response to that decision, the Committee stands ready to provide the necessary advisory assistance to said Committee and to The Hague Working Group. Cooperation with the host state has had to be stepped up due to the current delay in the project and its financial repercussions, owing to the need to continue renting temporary premises.

As regards the use of the Contingency Fund, the Registrar has had the opportunity to notify the Committee, under the Financial Regulations and Rules, of the Court's intention to access the Contingency Fund to cover unforeseen costs. The Committee has, in the past, sought to provide guidance to the Court on accessing the Contingency Fund. The Committee wishes to seize this opportunity to say that budget assumptions must be as realistic as possible at the time of the preparation of the proposed programme budget, and also that the notification of the potential use of the Contingency Fund should not be just a formality for the Registry.

As a new and unique organization, the Court presents interesting challenges for the future. The Committee will continue its work with these considerations in mind, while seeking a balance with the flexibility needed to achieve its objective of becoming a model of international public administration.

I would like to draw attention in this context the commitment of President Song, and to his efforts to clarify and support the mandate of each of principal organ, while maintaining the independence of each function. His recent report on governance and cooperation presents a first step and a valuable contribution to the task of reducing the management risks identified

in the performance of the Court's work, which will help when reviewing other subjects with financial implications.

The Committee would like to draw the attention of States Parties to the fact that in future, owing to various circumstances and to the development of the work of the Court, additional judges may be required, which is already the case in practice. The Committee believes that it would therefore be useful to consider options that, for instance, have worked well in other international tribunals such as the use of ad litem judges. The Committee is reviewing this issue at the moment and may make a proposal in future on this topic, but it is important to maintain the flexibility of the institution in all its aspects.

Another idea which is currently being looked at is whether, where oversight is concerned, all the bodies that are being set up are really necessary and whether their structure should not be adjusted to the size of the Court. For example, for the performance of audit functions, we currently have an internal auditor, an external auditor, an audit committee and also the Committee on Budget and Finance, and we are currently setting up an internal oversight mechanism. All of these have considerable budgetary implications, and they also create the risk of duplicating roles and failure to achieve the desired results. We believe that it is necessary to adjust those structures to the Court's actual needs.

The Committee is mindful that the participation of victims in the proceedings of the Court is an innovation of the Rome Statute. While acknowledging the importance for the international community of this step forward in international criminal justice, as well as the sensitivity of the issue, the Committee believes that it is necessary to highlight the potential cost driver that legal aid to victims has become, given that large numbers of persons who may be eligible to be declared victims by the Chambers. The Committee has suggested that the Court look at ways and means of minimizing these costs, for example by grouping victims, something that we are told the Court is already implementing whenever possible.

Finally, I would like to conclude on a very positive note in terms of how much has been achieved in such a short period of time regarding the administration and budget of the Court. This is a success which is to be attributed to the heads of organs and to all the staff of the institution who, through their work, have contributed to making the Court a reality, and also to the contribution of all Member States which, through the various working groups, follow-up on the work and provide a fundamental contribution to the common objective of international justice.

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