

The Financial Challenges of the International Criminal Court

Par:

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Langue Undefined

Le:

14 Novembre 2013

In this blog, I provide perspective on the International Criminal Court's financial and budgeting challenges. As the [12th Session of the Assembly of States Parties](#) to the Rome Statute (ASP) approaches (to be held over 20-28 November 2013), the member states' officials will meet in The Hague, Netherlands, to decide on the Court's 2014 budget. As member states are the major contributors of the Court's budget, they will decide to increase or decrease its resources, thereby determining the Court's ability to function with respect to its mandate.

[The International Criminal Court's financial regulations](#) were established through articles 113 through 118 of the *Rome Statute of the International Criminal Court* ("Rome Statute"). These articles govern the financial matters further described in detail in the [Financial Regulations and Rules](#) adopted by the ASP. Article 114 of the *Rome Statute* describes the payment of expenses of the Court. Article 115 discusses the important role that the 122 member states that ratified the *Rome Statute* play in the Court's financing. [Article 115](#), which addresses the Funds of the Court and their allocation, states:

The expenses of the Court and the Assembly of State Parties, including its Bureau and subsidiary bodies, as provided for in the budget decided by the Assembly of State parties shall be provided for by the following sources:

- a. Assessed contributions made by State Parties.
- b. Funds provided by the United Nations subject to the approval of the General Assembly, in particular in relation to expenses incurred due to referrals by the Security Council.

The remaining articles focus on voluntary contributions, assessments of contribution levels, and the annual audit. The ASP decides the budget for the Court, which is composed of contributions made by states and funds from the United Nations.

Each member state contributes funds to the Court based on factors such as its capacity to pay, national income, and population. On the reverse, the maximum amount that a country can contribute is [22% of the total budget, and Japan reached that amount in 2008](#). Before the ASP convenes, the draft budget is prepared by the Registrar of the Court and then reviewed by the Committee on Budget and Finance (CBF). The CBF is composed of 12 member states who analyze the budget. During the ASP session, the vote is governed by the [Financial Regulations and Rules](#) on the draft budget based on projections for judicial activities. However, it is important not to overlook the six highest paying states, a list which includes Canada, France, Germany, Italy, Japan, and the UK. As the highest contributors to the Court, these states may then expect to shape the budget vote and in 2012 required the Court to use its resources efficiently.

One of the most difficult financial challenges for the Court is the necessity to ensure that it focuses on its mandate rather than planning about how to secure resources. If there is not enough financial stability, the Court might redirect some work and preserve resources instead of mitigating human rights violations. Another aspect is the potential political interference in the budgetary process vis-à-vis state interests. Instead of being treated like a highly politicized platform, the Court should be given the resources it needs to function.

An additional issue that the Court faces is how to deal with its unforeseen expenses. An outbreak of human rights violations and conflict might strain the proposed budget for the year. How much justice are the states prepared to pay for? In 2012 the Court's [contingency fund](#) was replenished to 7 million Euros. The possibility to overcome this situation might be to approve a supplementary budget similar to contingency fund designed to address the possible eruption of conflict.

Looking back over three years, in 2011 the ASP allocated 108.8 million Euros to the Court for the 2012 budget. In the 2013, the budget was 115.12 million Euros. [The 2014 budget request from the Prosecutor's Office represents a 26.5% uplift from the previous year.](#) The proposed increase is based on plans to grow the size of investigative teams, increase legal aid and update the technologies used by the Court. In the [Report of the Court on the impact of measures to bring the level of the International Court's budget for 2014 in line with the level of the 2013 approved budget](#), the CBF warns that if the overall increase in the proposed budget is 9.5% or a 10.95 million Euros increase, totaling to 126.07 million Euros, the Court might need to limit some of its activities. These limited activities may have a negative impact for the victims of any human rights violations.

Through the budget approval process at the ASP, the Court knows how many resources it has for implementing its mandate under the Rome Statute for investigations, working with victims, and for witness protection. [At this year's ASP, over 20-28 November](#), the Court has to review its mandate for the situation in Mali, the Banda/Jerbo trial starting in May 2014, and improving the capacity of the Office of the Prosecutor. The budget is crucial for the feasibility of these tasks.

The budget represents a crucial aspect for fulfilling the Court's mandate abroad. When considering the budget, the ASP ought to realize that each case is unique and may require more or less resources. In 2012 due to budget below resources required; the Court had to implement measures almost detrimental to it. These financial resources and associated planning should assist and not hinder Court in functioning effectively and independently.

Ultimately, the Court should reconsider its approach to future budgets, perhaps by shifting reliance mainly on member states' contributions to a larger scale base of contributions from international organizations, individuals, corporations, and other entities. The question that may follow is if this re-tailoring of the Court's finance would shift it from a highly politicized body into a corporatized body that would serve a commendable purpose? Since none of these financing options are a perfect solution for the Court's functionality, it remains to be seen what future holds for efforts to uphold human rights and seek justice for victims.

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