

## Member State Inputs on the Financial Management and Funding of the International Criminal Court

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For this blog entry, I reflect on the first couple days of Plenary Session at the 12<sup>th</sup> Assembly of the States Parties (ASP) in The Hague. During the first two days, various States considered the Court's budgetary issues. At the opening of the Plenary, [Judge Sang-Hyun Song](#) emphasized that, "[t]he ICC's budget will be another important issue before the Assembly." The negotiations that take place this week were hence crucial for the future functionality of the Court.

His statement was followed by statements from State Delegates, four of which are important for monitors of this week's budget negotiations. The delegate from [Brazil](#) mentioned that "the Court will only be as strong as the support it receives," and "Brazil, regrets that, to date, the expenses incurred by the Court due to referrals have been met exclusively by the States Parties." As mentioned in the previous blog entry, the Court ought to expand and receive contributions from the United Nations as well as corporations. This would add more flexibility to the Court's functioning.

Furthermore, the statement of the [Canadian](#) delegation was so far the strongest, claim that they "are deeply concerned about growing costs, and in particular the increase to this year's budget [....]. Canada's objective for the budget of international organizations is **zero nominal growth**." Canada further expressed its confidence in the [Independent Oversight Mechanism \(IOM\)](#) "to pursue, with suitable safeguards, the independent investigation of alleged misconduct in all three organs of the Court," and encouraged the Assembly to "take action and operationalize all three functions of the IOM at this Twelfth Session, bearing in mind that this and other actions should not lead to an increase in cost."

Thirdly, one of the main contributors to the ICC, [Germany](#), expressed that a budget based on the recommendations of the Committee on Budget and Finance (CBF) will represent an excellent compromise for the Court and the State Parties. However, Germany expressed that additional financial resources on their own will not result in the better performance of the Court. The Germans advocate the need to strengthen the efficiency of the Court, as well as to closely examine the Court's politics, structure, and procedures.

Lastly, while "mindful of the need for fiscal restraint," the [New Zealand](#) delegation also recognizes that "the Court needs adequate funds to carry out its work. So too does the Office of the Prosecutor. However the prosecutorial functions need to be carried out with restraint and discipline and with due regard to the essential role of the Prosecutor which is to serve the court."

The reflections of the State Parties put forward some objections to the Court's proposed budget and need for compromise. The next days of the ASP will reveal which states had the most influence on the budget negotiations.

After the expressions of the States Parties, the [five new members](#) to the Committee on the Budget and Finance were successfully elected by consensus on 23 November and the candidate from [Burkina Faso](#) withdrew his candidature. The elections were followed by the panel presentation consisting of the Registrar (Mr. Hebel), the Chairman of the Committee (Mr. Finkelstein), and the External Auditor.

The [Registrar](#) presented the program budget with five main points. First was an update on the [Court's 2013 budget](#) and how it was implemented. The Court obtained 115.12 million Euros in 2013, and presented a compromised proposal from which it spent 97.3%, or 112 million Euros. Secondly, the Registrar discussed the Contingency Fund where the Court submitted seven requests to withdraw 7.2 million Euros for the Ntaganda case and the situation in Mali, however the actual expenditure so far is only 3.9 million Euros. Thirdly, the

2014 budget request is for 126.07 million Euros, which reflects a 10.9 million Euros increase for the Registry, Judiciary, and Prosecutor's office. There are reductions and a reprioritization of the activities during which the CBF proposed nearly 4.52 million Euros to be cut as a part of the consensus. The recommendations from the CBF are justified, such as the overall decrease in the budget, but when decreasing the budget the State Parties need to be mindful of the performance of Court. That said, the [CBF Report](#) represents a compromised position. Lastly, the Registrar called for reorganization, as the ICC has seen growth. States have expressed the need for efficiency. However, creating and assuring the operational needs, growing together, and avoiding micromanagement might have budgetary impacts. It is important for the Court to ensure transparency in its process and fully adjudicate its mandate.

A second presentation came from the [Chair of the CBF, Mr. Finkelstein](#), who spoke about work through consensus and collegiality. The ASP should determine its position and provide guidance for the Court. He stressed to not only think about financial issues, but also how to deliver them. For instance, states in arrears put pressure on the cash flow of the Court. There need to be rules for transparent management. The draft budget for 2014 represents the Court's multi-annual approach, which defines budgetary objectives and puts in place a monitoring mechanism. The OTP needs to ensure quality, efficiency, and guiding principles for their actions. For instance, in analyzing the Prosecutor's office, the CBF found that some 1.31 million Euros were spent per case over the 16 ongoing cases. However, the Chair of the CBF expressed that OTP budget requests are slightly about justifying financial elements. On the other hand, budgetary cuts might negatively impact the management of the Court and restrain the quality and efficiency of the Court performance.

The last panelist was the external auditor from Austria, who produced the *Report on Financial Statements* with recommendations. There is need for quality, clarity, and efficiency for the accounting functions of the Court. There should be an improvement in the positions, responsibilities of the OTP, and Registrar, such that they can move towards more managerial capabilities with transparency, independence, and accountability. The OTP should have the power to overrule decisions of the Registry. There is a need for a comprehensive overview of the Court's financial management. The Court lacks transparency for future financial budget. However, so far only 76% of these recommendations have been implemented so far, and the rest are part of the internal audit.

To conclude, the message that States Parties and as some of the Court's offices are sending emphasizes the need for increased efficiency and clarity, however that might not be feasible without some budgetary increase. As the Court takes on an increased role with cases such as the case of Ntaganda and the situation in Mali, the need for a higher budget is crucial.

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