



**Human Rights Watch's Statement to the Assembly of States Parties to the Rome Statute
Committee on Budget and Finance
42nd session**

September 6, 2023

Human Rights Watch is grateful for the opportunity to address the Committee and we appreciate your openness to take onboard civil society's views.

Human Rights Watch is not an auditor of the court's finances, and we do not engage the Committee and the Assembly of States Parties to simply endorse the court's proposed budget. Rather we pursue two interconnected goals:

1. To call states parties to account for the financial investment needed to make their commitment to this court a more effective reality; and
2. Where we have expertise, to offer our observations to contribute to a budget process that achieves the resources necessary to support the full delivery of the court's mandate.

Chronic underfunding and double standards

Last year, the Assembly agreed on a nominal increase in the court's budget, but one which, in reality, barely covered costs associated with inflation. It was far below what the court had requested and what the Committee had recommended. The court's proposed budget for 2024 is affected by some of the same drivers of increase as last year, including developments in court activities and the ongoing inflationary pressure, as well as new ones, such as mounting security concerns. And while proposed budget illustrates needed investments in key areas – from field presence, to witness and victim protection, to arrests – it also reveals ongoing resource constraints that severely affect the court's delivery of justice, including by limiting its engagement with affected communities.

The long-term failure of states parties to come to terms with the investment needed to support access to justice has led to chronic underfunding. And while there will always be a need to make principled decisions in the prioritization of resources, underfunding has forced an overly selective approach to delivery on the court's mandate. This affects victims' access to justice and can contribute to perceptions of double standards in addressing impunity. During its last session, the Assembly reaffirmed its support for the "consistent implementation of the court's mandate" across

situations and cases and stressed the need for adequate resources to achieve this goal. States parties should back their stated support for the court's global mandate by strengthening its budget to ensure that all organs of the court have sufficient resources to execute their respective roles across situations. And that begins, of course, with recommendations from this Committee that reflect that goal.

What is also needed is a drastic change in discussions and approaches around the court's resources and their sustainability. During its 41st session, the Committee and the court discussed a range of topics, including "improving budgetary predictability." In our view, a crucial dimension of that is the ability to have an open dialogue and budget negotiations that provide space for the court to bring forward its full resource needs and for states to respond accordingly, without reference to arbitrary limits. The upcoming discussions in Siracusa for the 25th anniversary of the Rome Statute provide an opportunity to reflect on the long-term investment needed at the court.

Voluntary contributions

At the same time, we continue to be concerned by the use of voluntary contributions when it comes to funding court's activities that should be covered by the regular budget.

We have previously shared with the Committee our concerns around the issues of sustainability and independence that the use of voluntary contributions, including seconded personnel, raise. In addition, the court's proposed budget for 2024 lists the impact of the OTP Trust Fund among the drivers for the increase requested by the Registry, an issue previously identified by the Committee.

Against this background, and lacking clarity on the relationship between contributions to date to the Office of the Prosecutor and requests made through the ordinary budget, we are concerned to see references in the proposed budget to the establishment of a new Trust Fund on complementarity and cooperation, as well as a renewed call for seconded personnel.

The Committee has requested the court to provide information about the impact of the OTP Trust Fund and secondees on its operations and on the court's regular budget in the long-term. To support the upcoming budget negotiations and increase transparency, this information should be made public together with the reports that the court has submitted to the Committee to date on the OTP Trust Fund and secondees. The court should be given the resources it needs to fulfil its mandate through its regular budget.

Contingency Fund

Finally, we were glad to see the Committee reiterate its recommendation to replenish the Contingency Fund to its notional level, particularly in light of the current dangerously low level of

€2.2 million, which the court may have to draw from in 2023 for the situation in Ukraine. We believe the fund's notional level itself should be increased to put the court in a position to respond to major developments and sustain its activities across situations without the need for voluntary contributions.