

No Peace Without Justice

**Remarks by No Peace Without Justice to the Committee on Budget and Finance, 10 May 2022, delivered by Alison Smith, International Justice Director**

We welcome the opportunity for civil society to interact with the Committee on Budget and Finance and thank you for your time today.

First, we would like to express our gratitude to those States who have answered the Prosecutor's call for additional resources, not just for Ukraine but for all situations with which the OTP is seized with voluntary funding and gratis personnel to support the OTP's work. We believe this is an important vote of confidence in international justice in general, and the ICC in particular.

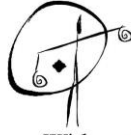
At the same time, the Prosecutor should not have been in a position where he had to ask for this extra-budgetary support. The Office, and the ICC more broadly, should have enough resources in house and in pocket to cover their existing situations and to absorb new ones. Both the request and the positive response to it demonstrates what many have been saying for some time: there is clearly a mis-match between the Court's needs and the resources that have been allocated to it. This is partly the responsibility of the Court, which should ask for what it needs, but it is also the responsibility of States and of this Committee. There is a need to reconsider the budget process as a whole so it is less about numbers and more about principles like independence, effectiveness, efficiency and sustainability.

That is perhaps the longer-term goal. In the shorter-term, there are four issues we would like to put forward for your consideration.

First, we are concerned that this temporary fix not become the standard moving forward. Extra-budgetary funding and the use of gratis personnel should be the exception, not the rule. The worst thing for the Court's independence would be to become reliant on extra-budgetary support for items that should be in the regular budget. We only have to consider the experiences of the Special Court for Sierra Leone and, more pertinently, the Special Tribunal for Lebanon to see where that road leads, especially when external political priorities shift. At the ICC, we have seen the effect of extra-budgetary support for specific outreach activities on the outreach budget, which has recently been described as "miniscule" and not fit for purpose by the Independent Expert Review.

Second, we would be asking for transparency in respect of what is received, from whom and for what it is used, both in terms of voluntary contributions and gratis personnel. Many States and civil society were deeply concerned at the prospect of ear-marking these kinds of contributions and what it might mean for the Court's independence. We therefore welcomed that the Prosecutor's call made it clear that his request related to all situations under his purview. This is crucial not only for the Court independence, but for its integrity and credibility. To preserve those essential elements, it would be important to demonstrate openly and transparently that extra-budgetary support has indeed been used for all situations in need, especially since some States announced their contributions as being provided for one particular situation.

Third, while the boost to the OTP's capacity is welcome, attention needs to be paid to what this means for the rest of the Court. The OTP has been described as the engine of the Court and



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indeed is its main cost driver: better investigations and prosecutions inevitably leads to increased needs in other areas, including victims participation and reparations, outreach, witness support, legal aid, family visits, court management, interpretation and everything else that goes into ensuring a fair trial and a process that is meaningful for victims and affected populations. This will need to be reflected in the 2023 budget and feature prominently in the budget negotiations to that end.

Fourth, and finally, a word on the 2023 budget more generally. As mentioned, the call from the Prosecutor for additional resources and the positive response to that request demonstrates that the 2022 budget was simply insufficient for the Court to carry out its work, even without the addition of a new, high profile situation. We therefore strongly recommend that the budget discussions for 2023 should have as a starting point not the approved budget for 2022, but the actual budget for 2022, including voluntary contributions and gratis personnel. That plus the additional resources the rest of the Court needs to support a more effective OTP reflects the real costs of the Court in 2022 and should be the baseline for discussions moving forward.

Thank you.