

***An Examination of the Registry's 2016 Budget and  
implications of the ReVision Project***  
**17 September 2015**

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## Introduction

In 2013, the ICC Registrar sought a mandate from States Parties to restructure the Registry for the purposes of: generating savings in the Registry's budget;<sup>1</sup> achieving a leaner structure which would enable the Registry to be able to do more with the same or less resources;<sup>2</sup> and supporting greater efficiency in its functions and operations.<sup>3</sup> Upon formally receiving this mandate at the 12<sup>th</sup> session of the Assembly of States Parties (ASP), the Registrar proceeded with the restructuring process known as the ReVision Project.

This paper, *An Examination of the Registry's 2016 Budget and the implications of the ReVision Project*, provides a substantive analysis of: the Registry's proposed budget for 2016 including with respect to the restructuring process; the ReVision Project including the declared and undeclared costs of the new structure and the financial and other implications of the Project; and the impact of ReVision on the growing disparity in the gender and geographical representation issues within the Registry, with reference to the data provided by the Registry in its most recent ReVision document, titled, *Questions and Answers on the Registry's restructuring* (Registry's August Q&A Paper or the most recent Q&A Paper), disseminated by the Registry on 14 August, 2015.

The earlier paper produced in July 2015, by the Women's Initiatives for Gender Justice analysing the restructuring process is available on our website in English and French. <http://4genderjustice.org/gender-and-geographical-representation-at-the-icc/>; <http://4genderjustice.org/repartition-geographique-et-representation-des-hommes-et-des-femmes-a-la-cpi/>

## Executive Summary

- The Registry's Q&A papers and its' report to the Committee on Budget and Finance (CBF), as well as the Presidency's note, stated that: the cost of the new Registry structure achieved by the ReVision Project was realised within the budgetary envelope of €42.9 million, as mandated by the Assembly of States Parties; the cost of the new structure was €42.5 million with savings of €444,000 per annum; the new structure included 550 posts; and almost all General Temporary Assistance (GTAs) positions, had been converted to established posts with only seven temporary GTA positions remaining for up to two years.
- Given the outcomes of the ReVision Project, as described by the Registry and the Presidency (above), the 2016 budget request of €82 million was highly unexpected. This represents a €17 million increase from the 2015 budget and includes:
  - a 12% increase in the staff positions approved for 2015; and
  - 13% more posts than outlined in the outcomes of the restructuring process.

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<sup>1</sup> ICC-ASP/13/26, para 21.

<sup>2</sup> Statement from the ICC Registrar to the ASP, 15 December 2014.

<sup>3</sup> Statement from the ICC Registrar to the ASP, 15 December 2014.



- The Registry's request for an increase of €17 million for its 2016 budget is unprecedented as is its request for an overall budget of €82 million.
- In recent years, the Office of the Prosecutor (OTP) has taken a steady, measured approach to its budget planning process, in which it has adopted a strategy of incremental increases in order to meet operational demands and fulfil its mandate. By contrast, the substantial increase in the Registry's 2016 budget request suggests that its previous budget submissions in recent years may not have been accurate and may not have been based upon sound short, medium and long term planning.
- It now appears that perhaps the Registry did not effectively align its structural review process (ReVision) and its duties to provide the administrative services of the Court with its budget planning responsibilities. As a result, the ReVision Project does not seem to have produced a cost-effective structure that balances 'affordability' for States Parties whilst also ensuring the institutional capacity of the Registry to fulfil its mandate.
- The Registry's 2016 budget includes 580 posts (30 additional professional and general staff positions than were indicated in the outcomes of the ReVision Project) and 47 GTA posts. According to the Registry, the new structure following ReVision would only have seven temporary GTAs for up to two years. The 2016 budget request is inclusive of 47 GTAs.
- The Registry intends to cover a large part of the costs associated with the enhanced separation package associated with the ReVision Project through use of the employee benefit liabilities. This is also the same source of funds (employee benefit liabilities) that states parties have indicated they may use to partially or fully cover the €3 - €4 million increase in the costs of the Permanent Premises. The convergence of two major costs centres drawing from one finite source of funds will significantly diminish the employee benefit liabilities and may create potential vulnerabilities for the Court in the near future.
- There are questions about the real costs regarding the new structure designed as a result of ReVision, including whether the 550 staff posts were calculated based on the standard practice of budgeting for each post at the maximum cost of each position. If this has not been applied to all posts, then the cost of ReVision exceeds the €42.9 million envelope approved by States, and in turn likely contributes to the substantial increase in the budget requested by the Registry for 2016.
- The ReVision Project's most costly, disruptive and destabilising phase associated with the abolishment of 113 posts, coincides with the final stages of preparations for the Court to move to the Permanent Premises. The abolishment of posts has impacted areas such as security, administration and IT, whose work includes specific responsibilities relevant to preparing for the move to the new premises. It is possible that the relocation to the new Permanent Premises may be further delayed due to an insufficient number of staff available to execute this move. In turn, this may be also contributing to the increase in the 2016 budget request of the Registry, as it is unclear whether these expenses were included within the €42.5 million cost of the new structure. Hiring external contractors could cover some of



these areas to support the Court's preparations for the move. However, this will add further costs associated with the move to the new premises, as a result of ReVision.

- Relocation costs for those leaving the Registry, either because they have accepted the enhanced separation package or because they were not appointed to a post, have not been addressed in the Registry's Q&A Papers, the report to the CBF, or the Presidency's note. With approximately half of the 113 people whose posts have been abolished deciding to take the enhanced separation package, the relocation costs for those departing as well as for incoming staff taking up the positions, will be significant. It is unclear whether these costs were included within the €42.5 million cost of the new structure, or whether it is a component of the substantial increase in the Registry's 2016 budget request.
- Questions surrounding the legality of the ReVision Project remain unanswered and seem to have been confused with issues of legitimacy. The Registrar sought and received a mandate from the ASP to undertake a restructuring process. Thus, it was legitimate for the Registrar to embark upon this process. It was then incumbent upon the Registrar, who exercises his functions under the authority of the President, to ensure that the manner in which the ReVision Project was initiated and managed complied with the appropriate legal instruments. It appears that the document outlining the Principles and Procedures applicable to the ReVision Project was promulgated by way of an incorrect administrative issuance. The legality of other aspects of the Revision Project have also been questioned including the priority candidacy system. It appears that the manner in which the restructuring process was initiated, managed and implemented may have created substantial liabilities for the Court in the coming years. It is highly possible that the true costs of the ReVision Project may not be fully known for some time and may not be wholly realised until after the completion of the term of the current Registrar.
- According to the Registry's report on ReVision to the CBF, one of the flagship changes related to increasing efficiency is the establishment of a Legal Office of the Registry. This Office exists outside of the divisional structure and the Head of Office reports directly to the Registrar. The Legal Office has already been operating in this manner for over a year. Amongst its wide ranging areas of responsibility, the Legal Office is responsible for the production, coordination and review of *all* judicial filings coming from the Registry, whether from the Victims Participation and Reparations Section (VPRS), the Victims and Witnesses Section (VWS), Court Management Services or other sections. There have already been reports over the past year of a bottleneck in the Office regarding work products and filings, delays in review and approval of submissions and the issuance of service agreements, and confusion over the coordination of the legal filings. As such, there are concerns regarding whether the design of the Office will enable the Registry to achieve greater efficiency.
- The Registry's ReVision report to the CBF utilises phrases such as, 'cascading delegation of authority', to describe the new management structure and the empowerment of managers, as a primary strategy to achieve greater efficiency. In reality, a wide range of key activities



and functions of the Registry,<sup>4</sup> are being channeled through, and therefore dependent upon, the Legal Office. In this regard, there now appears to be less delegation and greater streamlining of control through this Office. The Legal Office is now responsible for areas which in the past would have been overseen by other Division Heads or Section Chiefs.

- The data produced by the ICC Human Resources Section as at 31 July, 2015, reveals that there are currently no female Heads of Division within the Registry and no women have ever been appointed at a D1 level. There has been a 14% decrease in the number of women in mid-to-senior level management posts within the Registry in the last three years. As at 31 July 2012, 53% of P4 posts were occupied by women compared to 39% of P4 posts, at 31 July 2015.
- Of the 80 professional posts occupied by women within the Registry as at 31 July 2015, 62 of these positions (78%) are in the P1-P3 level, with only 18 women (five at the P5 level and 13 at the P4 level) appointed to higher professional grades.
- With 18 out of 48 positions at the P4-D1 level held by females (37.5%) and 30 out of 48 P4-D1 level posts held by males (62.5%), it is clear that significantly fewer women than men participate in the management meetings where key policy, operational and institutional issues are discussed. No women participate in senior management meetings of the Registry where key policy, operational and institutional issues are decided.
- Based on the number and grade level of posts abolished, more women than men have been affected at the P4 and P1 grade levels. More men than women have been affected by posts abolished at the P5, P3 and P2 grade levels.
- Even after the abolishment of posts, there are 55% more males than females employed at the P5 and P4 levels (17 males, 11 females).
- After the abolishment of posts, there are almost twice as many males than females at the P4 level (13 males, seven females). After the abolishment of posts, there are nine more males than females at the P3 level (28 males and 19 females).
- The largest proportion of established professional posts abolished under the ReVision Project were held by nationals of states from the Africa region. In total, 36% of the professional posts held by nationals of states from this region were abolished (nine posts out of 25 professional posts in the Registry).

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<sup>4</sup> Including: providing advice on general legal issues; negotiating and preparing agreements and memoranda of understanding (MoUs) between the Court and third parties; representing the Court in litigation internally and externally; acting as an interlocutor between the Court and states regarding privileges and immunities; and interpreting the Headquarters Agreement in addition to other agreements; and reviewing, approving and coordinating all legal filings generated by the Registry.



- In reviewing the staff composition of the Court by geographical representation at each professional grade level, the overall regional representation within the Registry, and considering the abolishment of senior posts held by nationals of states from the Africa region prior to and during ReVision, it is evident that the Africa region has been the most affected by recruitment decisions within the Registry since 2013 including the abolishment of professional posts under the ReVision Project.
- In the past, the Africa region was slightly over-represented at every grade level (P1-P5). However, as at 31 July, 2015, the Africa region is now under-represented at two grade levels (P4 and P2).
- Compared with 31 July 2014, Africa's representation as at 31 July 2015 has decreased at every professional grade level, except at the P3 grade.
- WEOG is over-represented in a range of 6.03% (P1 grade) - 28.44% (P5 grade). The level of over-representation of the WEOG region continues to increase each year and has increased in all of the professional grades since 31 July 2014, except at the P3 level. On average, nationals from WEOG states are over-represented by 18.81% in professional posts across the Court. The more senior the grade level, the more the WEOG region is over-represented.
- Asia as a region and nationals of states from this region, are disproportionately affected by the ReVision Project with 55% of the professional posts and GTA positions occupied by those from the Asia region abolished under the ReVision Project (four professional posts and two GTA posts out of 11 professional posts in the Registry).
- Eastern Europe is the third most affected region with 33% of the professional posts held by nationals of states from this region abolished under the ReVision Project (four professional posts and one GTA post out of fifteen professional posts).
- WEOG is the fourth most affected region with 28% of the professional posts held by nationals of states from this region abolished under the ReVision Project (23 professional posts and six GTAs out of 105 professional posts).
- GRULAC is the least affected region with 12.5% of the professional posts held by nationals of states from this region abolished under the ReVision Project (two posts out of 16 professional posts).

## Background

During the 2010 and 2011 annual ICC budget discussions at the Assembly of States Parties (ASP), delegates, concerned by the expanding costs of the Court, took a position which became known as 'zero growth', in an attempt to contain the size of the Court's budget. Since that time, 'zero growth' has been an important reference point for the organs of the Court and States Parties in the consideration of the ICC's annual budget. The challenges, and at times tensions, surrounding the budget discussions have often arisen as a result of the growing work and caseload of the ICC, balanced against the willingness and/or ability of states to provide the resources requested. In more



recent years, this 'balance' has been found through the Court being required to reduce its overall budget request with each organ providing detailed justifications regarding their individual budget proposals, and States Parties agreeing to annual increases, although not always at the levels desired by each of the organs. In the past three years, the overall budget for the Court has increased by approximately 5%-7% each year.

In 2010 and 2011, the Women's Initiatives for Gender Justice suggested that perhaps the budget discussions should not focus on zero growth or a stagnant budget for the Court, but should consider the performance of the Court, the quality (and to some extent quantity) of its outcomes, issues of efficacy, contribution to global justice and associated issues of efficiency, competence, internal management and the performance of each organ. As such, the Women's Initiatives was and remains supportive of efforts, including the restructuring of the Registry, to address the above issues and ensure the Court is effective, institutionally sound and sufficiently resourced.

Our concerns regarding the ReVision Project, along with those of many other stakeholders,<sup>5</sup> are therefore not about restructuring per se, but relate to: the legal basis of ReVision including the manner in which the restructuring process was conducted; the veracity of the outcomes and costs of the ReVision Project, as described by the Registry; and the financial and other institutional implications for the Court in 2016, and beyond. Serious questions on a range of substantial issues associated with the restructuring process have been raised and remain unanswered. It also appears that many of these issues form the basis of the expanded resources requested by the Registry in its 2016 budget proposal and may also have financial implications for the Court in the future.

## **Registry's 2016 Proposed Programme Budget**

### **Budget Request**

In its submission, *Report of the Registry on the outcome of the ReVision process*, to the Committee on Budget and Finance (CBF) on 10 July, 2015, the Registry provided a detailed outline of the outcomes of the ReVision Project and informed the Committee that the new structure of the Registry will have 550 posts, 11 fewer positions than the original structure.<sup>6</sup> The new structure includes revised posts, new positions and indicates a significant reduction in the use of GTAs, with only seven GTAs needed on a temporary basis for two years to support the transition to the new structure.<sup>7</sup> The savings projected by the Registry as a result of ReVision is €444,000 per annum. The Registry states that the total annual cost of the new structure is € 42.5 million.<sup>8</sup>

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<sup>5</sup> Stakeholders known to have expressed substantial concerns about ReVision include a number of: States Parties, ICC judges, staff of the Registry, other staff of the ICC, and civil society actors.

<sup>6</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 11.

<sup>7</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, p 3-4; See also, 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 18.

<sup>8</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 11; See also, 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 18.



This information is also echoed in the *Presidency note on the issues raised relating to the ReVision project* (Presidency's note).<sup>9</sup> In this document, the Presidency confirms: the size of the Registry staff within the new structure; that seven GTAs will be needed on a temporary basis for two years; the cost of the new structure (€ 42.5 million); and the annual savings of €444,000.<sup>10</sup>

In spite of the above outcomes of the ReVision process, unexpectedly, in its budget submission, the Registry requested €82 million for 2016, which is an increase of €17 million (26%) above its 2015 budget.<sup>11</sup> Given the objectives of the restructuring process and the debates associated with the budget in recent years, the Registry was expected to submit a significantly lower budget request. No other organ has ever requested or received such a substantial increase (€17 million) in the budget in one year.

For example, the average increase for the OTP over the past three years has been €5.9 million, with the maximum increase in a single year being €6.4 million. During this same period, despite claims of cost savings and being able to do more with the same or less funds, the Registry *sought* and *received* increases, albeit at a lower level than the OTP, in both their 2013 and 2014 budgets. The savings reported by the Registry with respect to their 2015 budget request was €35,700 less than their approved budget in 2014. Whilst technically a reduction, this saving was surely not on the scale implied by the Registrar, expected by States, or at a level to make a difference to the budget of the Registry or the Court.

The difference in the increases requested and received by the OTP and that of the Registry in the period 2013-2015 are difficult to compare because prior to 2013, the OTP had consistently submitted budget requests that were manifestly insufficient to support its work and operations. Under Prosecutor Bensouda, more realistic budgeting practices have been adopted which more accurately reflect the costs of its operational needs. As such, the budget requests from the OTP for 2013-2015 have reflected incremental increases and concomitantly, the ASP has approved increases of €5.9 million, on average. For 2016, the OTP is requesting an increase of €6.5 million and a total budget of €46.09 million. This steady approach by the OTP to managing its budget development process suggests that its budget requests rest upon sound short, medium and long-term planning, coupled with a measured process for incrementally increasing its capacity, in response to the demands on its operations and in fulfilment of its mandate.

The Registry's request for an increase of €17 million for its 2016 budget is unprecedented. So also is its request for an overall budget of €82 million. This figure, €82 million, is more than the entire budget of the Court in 2006,<sup>12</sup> and only €6 million less than the Court's total budget in 2007.<sup>13</sup>

<sup>9</sup> 'Presidency note on issues raised relating to the ReVision project', made available by the Coalition of NGOs for the International Criminal Court (CICC) on behalf of the ICC President on 24 July 2015.

<sup>10</sup> 'Presidency note on issues raised relating to the ReVision project', p 11-12.

<sup>11</sup> 'Proposed Programme Budget for 2016 of the International Criminal Court', ICC-ASP/14/10, 7 August 2015, para 5; and 2 September 2015 version, para 1(c).

<sup>12</sup> €80,417,200. ICC-ASP/4/Res.8, p 1.

<sup>13</sup> €88,871,800. ICC-ASP/5/Res.4, p 1.





Such a significant increase in the budget from 2015 to 2016 seems to suggest that the annual budgets proposed by the Registry for the period 2013-2015 may have been inaccurate. It also suggests that the short, medium and long term planning needed to develop sound budget projections and annual requests, may not have been undertaken within the Registry since 2013. It appears that absent from the Registry's approach to the budget is a measured, well planned methodology to increase its capacity in incremental stages, ensuring that its annual budget provides a sound basis for its yearly operations as well as a solid foundation for the budget (and workload) the following year, and for the foreseeable future.

It now appears that perhaps the Registry did not effectively align its structural review process (ReVision) and its duties to provide the administrative services of the Court with its budget planning responsibilities.

In short, it appears that the ReVision Project has not produced a cost-effective structure that balances affordability for States Parties whilst also ensuring the institutional capacity of the Registry to fulfil its mandate.<sup>14</sup>

Not only is the structure designed under ReVision not ready to meet medium range demands, it is, by the Registry's own admission, not a structure which was designed to meet the immediate needs of the Court from 1 January 2016.<sup>15</sup>

According to the Registry's report to the CBF, one of the key elements contributing to its proposed increase in the 2016 budget relates to the heightened activities of the OTP and the multiple commencements of trials. In 2016, there will be four concurrent trials requiring administrative and operational services provided by the Registry. These are the trials against: William Samoei Ruto and Joshua Arap Sang; Bosco Ntaganda; Laurent Gbagbo and Charles Blé Goudé; and Jean-Pierre Bemba Gombo et al (Article 70 case).<sup>16</sup>

For the sake of comparison, in 2011, there were three trials simultaneously underway for the entire year which required and received a full range of administrative, operational and field support from the Registry. It should be noted, that these services were provided without a significant increase in the Registry's budget, which at that time was €61,611,400.<sup>17</sup> The structure and staff experience within the Registry in 2011, enabled it to respond with the flexibility required to absorb the additional service and administrative demands. This same structure has provided the Registry with the ability to absorb additional activities, prior to and during ReVision. The 2016 and 2011 trial support workloads for the Registry are not identical, however they are comparable.

According to the Registry, the new revised structure, which is reportedly €444,000 less expensive than the old structure, now requires an increase of €17 million to be operational.

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<sup>14</sup> Article 43(1), Rome Statute.

<sup>15</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 7.

<sup>16</sup> *The Prosecutor v. Thomas Lubanga Dyilo; The Prosecutor v. Jean-Pierre Bemba Gombo; and The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*.

<sup>17</sup> ICC-ASP/9/Res.4, p 1.



If the Registry's 2016 budget request is 26% more than its budget for 2015, then its claim that the new ReVision structure falls *within* the 2015 envelope seems likely to be erroneous. Instead, it appears that the real cost of the structure developed under the ReVision Project substantially exceeds the financial envelope approved by States (€42.9 million). In reality, it appears that the real costs of the new structure are reflected within the 2016 budget request, and thereafter in all future budget requests from the Registry.

Should any reductions in the ICC's overall 2016 budget proposal be considered by States Parties, it may be most appropriate to focus primarily on the composition of the budget submitted by the Registry. Amongst other options, this may include: delaying implementation of some of the changes associated with ReVision; delaying recruitment of new posts in less critical areas; and/or reviewing the grade levels of certain posts which have not already been advertised.

### **Staff Composition**

According to the Proposed Programme Budget for 2016, the Registry is requesting funding to support 580 staff posts.<sup>18</sup> This is at odds with the Registry's ReVision Report to the CBF where it states that the new structure developed under the ReVision Project will have 550 staff. The number of positions, (550), was also confirmed in the Presidency's note.<sup>19</sup>

The 2016 budget, indicates 30 additional professional and general staff positions within the Registry (580 compared with 550). Based on a careful review of the Proposed Programme Budget for 2016, it appears that the Registry is also including 47 GTAs in their budget request. In the Registry's report to the CBF, and reiterated in the Q&A paper produced by the Registry and the Presidency's note, under ReVision almost all GTAs were converted to established posts with only seven GTAs remaining on a temporary basis for up to two years to fill gaps in the new structure.<sup>20</sup> The proposed 2016 budget for the Registry, includes 47 GTA posts. In total, there are 70 more positions (40 more GTAs and 30 more established posts) in the Registry's budget than indicated in its report to the CBF regarding the outcomes of the ReVision Project. This discrepancy has significant financial implications for States Parties not only for the 2016 budget but also future budgets.

In total, the Registry's 2016 budget request is based on 627 positions.

Combined, the staff posts and GTAs in the Registry's structure for 2016 represents a 12% increase in the number of positions approved within the Registry in 2015.

Compared with the new structure developed under the ReVision Project of 550 posts and seven temporary GTAs, the Registry's structure for 2016 represents a 13% increase in the number of staff positions.

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<sup>18</sup> ICC-ASP/14/10, 7 August 2015 version, p 222; ICC-ASP/14/10, 2 September 2015 version, p 195.

<sup>19</sup> Presidency note on issues raised relating to the ReVision project', para 42.

<sup>20</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, paras 8-9; 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 7, 18; 'Presidency note on issues raised relating to the ReVision project', para 43.



The Registry submitted its report on ReVision to the CBF on 10 July 2015, claiming the size of the Registry would be 550 posts with seven temporary GTAs at a cost of €42.5 million. Twenty working days later, the Registry, provided its proposed programme budget request for 2016 to States Parties on 7 August 2015, requesting a budget of €82 million with 580 staff positions and 47 GTAs.

### **ReVision – financial implications for 2016 and future budgets**

Over time, many of those closely following the ReVision process noted a change in the narrative of the Registrar and the Registry regarding the aim and intention of ReVision. The original discourse around the Project was that the restructuring process aimed to achieve both cost savings and efficiency. In recent months, a new narrative emerged which indicated that ReVision was, and has only ever been, solely about efficiency.

### **Cost Calculations of the new structure**

The Registry's Q&A papers, its report to the CBF, as well as the Presidency's note all confirmed that the cost of the new structure would €42.5 million per annum.<sup>21</sup>

However, none of these documents indicate how this figure was reached. It is unclear whether the calculations underpinning this figure complied with the standard practice utilised by the Registry of budgeting for each position based on the maximum cost of the post. The practice of budgeting for the ceiling costs per post ensures that regardless of who is in the position, the post is properly and adequately addressed within the budget. If the calculations of the new ReVision structure departed from this practice, and if posts were budgeted based on the costs of the current incumbents in the positions, rather than the standard practice of budgeting for the maximum costs associated with each post, then the figures for the cost of the new structure have been grossly under-budgeted.

As a result, States Parties will be facing significantly higher costs to support the new Registry structure than they were led to believe. This is now evident in the Registry's proposed budget for 2016. The Registry's explanation that the increase for 2016 would have been higher without the ReVision Project may not be accurate given it appears that the real costs of ReVision may not have been presented, as demonstrated by several examples provided in this paper.

States Parties should request clarification from the Registrar regarding whether all of the 550 posts indicated in the new ReVision structure were properly budgeted for at the maximum cost of each position, as per the standard budgeting practices of the Registry in the past. This issue has serious implications.

If this has not been applied to each post, then the real costs of the staffing structure designed as a result of ReVision exceeded the financial envelope of €42.9 million approved by States Parties.

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<sup>21</sup> 'Questions and Answers on the Registry's restructuring', Registry, 14 August 2015, p 18; Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, p 3-4; 'Presidency note on issues raised relating to the ReVision project', p 11-12.



This issue, along with 70 additional posts requested within the Registry's budget (30 more established posts and 40 additional GTAs above those indicated in the Registry's report to the CBF on the outcomes of ReVision), are some of the factors contributing to the substantial increase requested in the Registry's 2016 budget, and will be requested in all its future budgets.

### **Liability - legality questions and implications**

There have been sustained concerns regarding the legality of the ReVision process. In particular, there are serious questions about the legality of the Project due to the promulgation of the Principles and Procedures applicable to the ReVision Project, by way of an Information Circular. According to the established delegations within the ICC, prescribing procedures, such as for ReVision, require an Administrative Instruction and are beyond the legal scope of an Information Circular. It appears that the Registrar may have erroneously promulgated the Principles and Procedures applicable to the ReVision Project using the incorrect administrative issuance.

The Presidency's note takes up the issue of legality but does not address it. The explanation provided by the Presidency examines the legitimacy of embarking upon a restructuring process, but it does not address the legality issues related to the manner in which the ReVision Project was undertaken.<sup>22</sup>

It is legitimate for the Registrar or either of the other two Principals to want to embark upon a restructuring process and to seek a mandate from the ASP to do so. However, the mandate for initiating a restructuring process is not the same as ensuring that the manner in which it is launched and undertaken complies with the proper legal instruments. Having requested and received the mandate from the ASP to initiate a restructuring process, it was the Registrar's responsibility, with the oversight of the President,<sup>23</sup> to ensure that the initiation, methodology, process, related mechanisms, and outcomes of the ReVision Project complied with the Rome Statute, the appropriate legal instruments, the hierarchy of administrative issuances within the Court and international labour law.

There have also been questions raised about the legality of terminating over 113 employees without first exploring alternative solutions to redeploy affected staff prior to the abolishment of their posts, and the priority candidacy system of the ReVision Project.

It is likely that some of the staff members affected by the ReVision Project will appeal the Registrar's decision to abolish their posts. To ensure a fair process and to reduce, to some extent, additional risks for the Court regarding ReVision-related liabilities, States Parties should request the Registry to provide information regarding: the number of staff who have appealed; the decisions of the Appeals Board (in broad terms); and whether the Registrar has complied with or rejected the Board's recommendations.

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<sup>22</sup> 'Presidency note on issues raised relating to the ReVision project', p 2.

<sup>23</sup> Article 43(2), Rome Statute: The Registry shall be headed by the Registrar, who shall be the principal administrative officer of the Court. The Registrar shall exercise his or her functions under the authority of the President of the Court.



It is highly conceivable that some, possibly several cases may proceed to the International Labour Organisation and Administrative Tribunal (ILOAT). Should any of these cases reach the ILOAT, the rules of the Tribunal would allow any staff member affected by the ReVision Project to join the case in what could then become a mass claim. Under rule 13 of the ILOAT, individuals do not need to have exhausted the internal appeals process to intervene and join in a case regularly brought before the Tribunal. It is possible that significant compensation costs may be payable to staff, perhaps a number of staff given over 113 posts were abolished.

Whilst many, including the Women's Initiatives, support the idea of restructuring the Registry, the manner in which the ReVision Project has been undertaken may have created substantial liabilities for the Court in the coming years. It is highly possible that the true costs of the ReVision Project may not be fully known for some time and may not be wholly realised until after the term of the current Registrar is completed.

### **Cost of Enhanced Separation Package**

To the best of our knowledge, the Registry's Q&A paper disseminated on 14 August 2015, was the first time the Registry provided information to States Parties regarding the likely costs of the enhanced separation package to States Parties.

The Registry's August Q&A Paper states that if *all* of the affected staff were to choose the enhanced separation package, the cost would be €7.6 million of which €6 million would come from the funds set aside for employee benefit liabilities. Currently €11 million is set aside for employee benefit liabilities.<sup>24</sup> The paper also states that a more realistic scenario is a cost of €4.3 million to cover the costs of staff who take the enhanced separation package, of which €3.5 million will be taken from the employee benefit liabilities.<sup>25</sup> As of 7 September, approximately half of the 113 individuals whose posts were abolished had taken the enhanced separation package. Unofficially, this amounts to a figure of approximately €4.2 million.

One of the major challenges in covering the costs associated with the separation package is the proposed source of the funds. Following the discovery at the ASP resumed session in July 2015, of the permanent premises costing an additional €3 - €4 million, states indicated they may look to cover this increase (partially or fully) from the funds available under employee benefit liabilities.

This creates the convergence of two major costs centres – those associated with the enhanced separation package related to the restructuring process and the expanded costs of the permanent premises – both expecting to be covered by one finite source of funds.

By drawing on employee benefit liabilities to cover the costs associated with the permanent premises and seeking approximately €3.5 million from these funds to cover the costs of the enhanced separation packages under ReVision, the employee benefit liabilities will be significantly depleted. It has taken the Court 12 years to build up the employee benefit liabilities to its current

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<sup>24</sup> 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 19.

<sup>25</sup> 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 19.



level. It should be noted, that the employee benefit liabilities apply to staff of the Court as a whole, not only Registry staff.

Amongst other implications, should either of the other organs have been considering any kind of restructuring process even on a small scale, it will no longer be possible, or at least such a restructuring process will be difficult to pursue. Simply put, the Court will most likely not have the funds to cover enhanced separation packages for staff of the other organs without completely draining the funds remaining in employee benefit liabilities. This could give rise to discrepancies and legal considerations regarding the differential treatment of staff of the Judiciary and the OTP compared with staff of the Registry, if their posts were to be affected by a restructuring process.

The implications of ReVision are multi-layered, far-reaching and have the potential to impact the Court at large for several years.

### **Permanent Premises – possible additional delays**

One of the areas affected by the management of the ReVision process is the Permanent Premises. ReVision's most costly, disruptive and destabilising phase related to the abolishment of 113 posts, coincides with the final stages of preparations for the Court to move to the Permanent Premises. Key sections whose functions are directly relevant to the preparations of the move to the Permanent Premises have had a number of staff positions abolished under ReVision, most notably Security Lieutenants and Security Assistant posts and IT positions.

With significant depletions occurring in areas relevant to securing the new premises and preparing the administrative and IT infrastructure for the new Court, it is likely that the relocation to the new Permanent Premises will be further delayed due to insufficient staff available to execute this move.

The hiring of external contractors to cover some of these areas may be feasible but it will also contribute to the ongoing expansion of the costs associated with the move to the new premises. It is unclear whether such contingencies were foreseen and included within the €42.5 million budget associated with ReVision, or whether these costs are embedded within the Registry's proposed 2016 budget, or whether they are within the expanded budget related to the Permanent Premises.

States Parties should seek clarification regarding delays and associated costs with respect to the move to the new premises.

### **Relocation Costs**

It is also unclear from the Registry's Q&A papers and the Presidency's note, whether the costs associated with ReVision have incorporated the expenses related to relocating professional staff who are departing, either through taking the enhanced separation package or because they have not been appointed to a post. This issue, and its related costs, do not appear to be addressed within the Registry's report to the CBF, its' Q&A papers or the Presidency's note. It is therefore unclear whether the relocation costs for approximately 60 departing staff and the relocation costs for the in-coming staff taking up posts under the ReVision Project, have been included within the €42.5 million cost of the new structure. If these costs have not been budgeted for, then this will create significant



additional ReVision-related costs. It also further underscores the importance of budgeting for each post at the maximum (ceiling) level as the costs of relocation are charged to each individual post.

States Parties should ask the Registrar to clarify whether the costs of ReVision-related relocations (outgoing and incoming staff) have been budgeted for within the €42.5 million budget.

Given the recruitment practices within the Registry which have led to a demonstrable over-representation of male nationals of states from the WEOG region, along with the bias acknowledged in the Registry's July Q&A Paper of its practice of hiring nationals from WEOG states as GTAs because of their proximity to the Netherlands,<sup>26</sup> there are concerns that the Registry may appoint a disproportionate number of WEOG nationals in order to reduce relocation costs associated with ReVision.

### **GTAs – disparity with the Registry's 2016 budget request**

The Registry's August Q&A paper and its report to the CBF address the issue of ongoing GTAs and indicate that only seven GTA posts will exist in the new Registry.<sup>27</sup> According to these documents, these posts are only provisionally required for up to two years to create temporary capacity in key areas. In the paper, the Registry states that these are not part of the new structure and will cost €600,000. As the seven GTA posts are outside of the new structure, these posts create additional costs to the €42.5 million budget. Of note, the cost of €600,000 per annum for the GTA posts exceeds the amount saved by the new structure of €444,000 per year. Based on the Registry's figures and including the GTA posts, the actual cost of the structure for 2016 will be €43 million. However, in reality, the Registry's proposed 2016 budget supersedes this figure with costs for staff and operations expanding to €82 million.

It now appears that not all of the GTAs within the new structure were disclosed.

According to the Registry's proposed budget for 2016, there are 47 GTAs in its structure in 2016.

### **Language Services Section and Security and Safety Section**

Two further observations of the Registry's Report to the CBF, relate to the budgets for the Language Services Section (LSS) and the Security and Safety Section (SSS).

In the report, the Registry states that under the new structure the cost of the LSS will be €667,300 less expensive (annually) than the current staff costs.<sup>28</sup> The report also states that 'the net decrease in staff costs despite an unaltered head count reflects the overall decrease of other staff costs'.<sup>29</sup> Without having any other detail or information available, it does not seem reasonable to consider that savings of almost €700,000 can be made by keeping the same number of posts (49 in total), and the same number of professional posts with one more P4 and one less P2 post in the new structure.

<sup>26</sup> 'Q&A: Recruitment, gender balance, geographical distribution, *ReVision*', *Registry*, July 2015, p 6.

<sup>27</sup> 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 18.

<sup>28</sup> 'Report of the Registry on the outcome of the *ReVision* process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 127.

<sup>29</sup> 'Report of the Registry on the outcome of the *ReVision* process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 127.



States Parties should ask the Registrar for more information regarding the cost savings indicated for LSS. It is possible that a miscalculation or misrepresentation of the LSS figures has contributed to the increase of €17 million requested by the Registry in its 2016 proposed programme budget.

The second noteworthy area is in relation to the significant savings in the Security and Safety Section.<sup>30</sup> In the report, the Registry states that it will save €2,864,800 annually with the new structure which has been achieved through the realignment of two previous SSS units and focusing the revised SSS on its core functions.<sup>31</sup> Given the queries regarding the cost of ReVision and the large savings indicated in this Section, States Parties should ask for further clarification and confirmation of the veracity of these figures.

States Parties should also inquire whether the full range of security-related tasks required to be carried out by the Registry can be fulfilled with 19 fewer staff in SSS, as proposed under the ReVision structure.

States Parties should also note that the Registry's report to the CBF states that as 'the new premises are of a considerably different size, SSS staffing requirements for the new premises will have to increase'.<sup>32</sup> The costs associated with this increase are outside of the €42.5 million budget represented as the cost of the new structure. This is one of several factors contributing to the €17 million increase requested by the Registry in its 2016 budget.

### **Additional Armed Security Guards**

As a result of ReVision, Security Guards hired by the ICC at a G3 level now require arms training in order to qualify for the upgraded security posts. States Parties should ask the Registry for clarification regarding the rationale behind expanding the grade levels requiring arms training or increasing the number of ICC Security Guards permitted to carry weapons. States should also ask whether this means that all Security Guards will be armed, or only some guards, and on what basis? Will the new premises include a weapons storage room and was this envisaged in the design of the new building? If arms are to be kept on site at the Court, who will have access to this room and who will oversee the management of the weapons?

In introducing the requirement of arms training as part of upgrading the G2 posts to the G3 level, states should enquire whether the training complied with the standard training period and process? If the training did not comply with the standard training period, does this mean there will be Security Guards at the Court bearing arms without the proper training to secure and use their weapons? Have there ever been any incidents related to the mismanagement or misfiring of weapons? If so, what are the disciplinary procedures in place to address these issues and are all security staff aware of this framework?

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<sup>30</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, paras 91-99.

<sup>31</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 99.

<sup>32</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 95.





Finally, what impact (by gender and region) has the new requirement had on the eligibility of security staff whose posts were abolished, to reapply for the new G3 positions?

## **Questions of Efficiency**

### **Structural Changes**

In reviewing the Registry's Report to the CBF it appears that most of the changes are structural in nature. Many of the changes within and between divisions relate to 'structural realignments', the 'realignment of units', the separation of single sections or units such as establishing two sections for Budget and Finance, respectively, and the movement of positions between sections such as between Information Management Services Section and the Court Management Section. It is hoped that these changes may lead to more efficient practices. However, what appears to be missing or less developed in the outcomes of the ReVision Project, are changes in the structure at the operational levels as well as changes in practice which are known to have greater potential for generating changes in efficiency, than structural changes alone.

### **Division of External Relations (DER)**

Included within the Registry's report to the CBF is the establishment of a Division of External Relations (DER). This Division has a diverse range of functions with an emphasis on the public image of the Court.<sup>33</sup> Overall, more information is needed to describe the operations and work of the Division. At this stage, it is unclear whether locating the Victims and Witnesses Section (VWS) within a division which is primarily geared towards public relations and external affairs will provide the appropriate level of discretion and invisibility as is desirable in relation to the witness protection programme. It may be useful for issues related to witness agreements between the ICC and states parties, however the synergy is less clear in relation to the functions of the witness protection programme itself. These are issues the DER will need to explore once it is established.

Similarly, outlining how the DER will relate to the other divisions of the Registry or to the other organs of the Court will be important to clarify. These issues are not addressed in the Registry's report to the CBF. States Parties should request more information about the DER including whether it will overlap with the operations of the Jurisdiction, Cooperation and Complementarity Division (JCCD) of the OTP and what steps have been taken by the Registry to avoid duplication or confusion. It will be important that the functions and operations of the DER and JCCD remain clearly defined and distinct.

### **The Legal Office of the Registry**

One of the changes highlighted by the Registry in its report to the CBF is the establishment of a Legal Office of the Registry which is independent from the divisional structure and the 'only section

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<sup>33</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, paras 141-142.



keeping a direct reporting line to the Registrar in the new structure'.<sup>34</sup> This Office was established in 2014 and has already been operating outside of the two divisions for more than a year.

With respect to the Legal Office, the Presidency's note states that, 'the central focus of the office will be on judicial filings'.<sup>35</sup> However, according to the Registry's report to the CBF, the Legal Office has a wide ranging role including: providing advice on general legal issues; negotiating and preparing agreements and memoranda of understanding (MoUs) between the Court and third parties; representing the Court in litigation internally and externally; acting as an interlocutor between the Court and states regarding privileges and immunities; and interpreting the Headquarters Agreement in addition to other agreements.<sup>36</sup>

Within these roles, the Legal Office is also responsible for the production, coordination and review of all judicial filings. In other words, all filings coming from the Registry, whether from the Victims Participation and Reparations Section (VPRS), the Victims and Witnesses Section (VWS), Court Management Services or other sections, will all be managed, reviewed and coordinated by this office.

Two immediate concerns come to mind. Firstly, the likelihood that filings and other work products may become bottlenecked within the Legal Office, especially as the judicial work increases alongside the other legal areas for which the Office has responsibility. In reality, since the establishment of the Office in 2014, there have already been reports of such bottlenecks regarding its management of service agreements, other contracts and the timeliness of approving legal filings. Despite the intention that a single office coordinating all Registry filings will streamline its work and contribute to greater efficiency, over the past year there have been reports of confusion within the Office regarding: responsibility for the coordination of filings; at what stage of drafting the filings should be sent to the Legal Office for review; and responsibility for the submission of the filings to chambers.

There have also been concerns expressed about the possible over-involvement of this office in activities appropriately addressed by other Divisions or at a sectional level.

In the new structure, the heads of the Divisions will be dependent upon and subject to the Legal Office regarding all judicial filings, contracts, agreements or MoUs that may be generated by units and sections within their Division. The role of the Legal Office is one of the flagship changes associated with the ReVision Project to increase the efficiency of the Registry. However, it seems questionable that the design of the structure will enable it to achieve this goal and that it will be able to meet its multi-faceted responsibilities, including the oversight of all legal filings, in a timely and efficient manner.

The Registry's ReVision report to the CBF repeatedly utilises phrases such as 'cascading delegation of authority',<sup>37</sup> to describe the new management structure and the empowerment of managers, as a

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<sup>34</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 43.

<sup>35</sup> 'Presidency note on issues raised relating to the ReVision project', para 36.

<sup>36</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 42.

<sup>37</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 19(a).



primary strategy to achieve greater efficiency. In reality, many of the key activities and functions of the Registry are being channeled through, and therefore dependent upon, the Legal Office. In this regard, there now appears to be less delegation and greater streamlining of control through the Legal Office, whose head reports directly to the Registrar. In the Registry's report to the CBF, it emphasises that this office will 'be playing a prominent role in the functioning of the Registry'.<sup>38</sup>

The second area of concern is the possibility of conflicts of interest with the Office managing and coordinating all of the legal filings and also being involved in legal matters relating to human resource issues, and a range of other areas. It is conceivable that some of these areas will overlap with the same staff members or units/sections being involved in several of these areas at one time. This may create a difficult environment and potentially unproductive working relationships.

Concerns have also been expressed about the development of a retaliatory and intimidating culture within the Registry. These concerns appear to coalesce around the manner in which the powers bestowed upon the Legal Office are being exercised with respect to personnel issues, and the reporting line of this office to the immediate Office of the Registrar.

Given one of the responsibilities of the Legal Office is to provide advice on matters related to human resources, it is surprising that the post occupied by the only staff member in the Office with substantial administrative law experience was abolished under ReVision.<sup>39</sup>

The Head of the Legal Office was appointed by the Registrar and is a national of the Netherlands. This is relevant to note in the context of the significant increase (73%) in the number of nationals from the Netherlands appointed to professional posts and GTA positions over the past 2.5 years. As of 31 July 2014, the number of nationals from the Netherlands appointed to professional posts within the ICC as a whole, exceeded the top end of the desirable range of appointments, as determined by the CBF, by 186%.<sup>40</sup> This level represents the highest over-representation of nationals from a single state within the WEOG region since the ICC was established.

## **Overview of gender and geographical representation within the Registry**

### **a. Gender**

While no gender figures were provided in the Registry's first Q&A Paper regarding the abolishment of posts, its August Paper included half a page addressing the gender distribution of affected staff.<sup>41</sup> The two charts on page 16 of the August Q&A paper provide information regarding the number of females and males at each grade level whose posts are being abolished and provides the overall

<sup>38</sup> 'Report of the Registry on the outcome of the ReVision process', 10 July 2015, CBF/24/27, ICC-ASP/14/19, para 43.

<sup>39</sup> This post was held by a male of a state party from the Africa region who was one of the few individuals from the region remaining in a P4 post within the Registry.

<sup>40</sup> For a detailed discussion of over-representation of states parties, see 'Analysis of the Gender and Geographical Impact of ReVision', *Women's Initiatives for Gender Justice*, Expert Paper, July 2015, p 10-16, available at <<http://4genderjustice.org/pub/ReVision-Analysis-of-the-Gender-and-Geographical-Impact-of-ReVision.pdf>>.

<sup>41</sup> 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 16.



numbers and percentages of male and female employees affected by ReVision. However, the Q&A paper does not provide the overall numbers of women and men at each grade level within the Registry. As such it is impossible for States Parties and ICC staff to assess the proportionate impact on the gender profile of the Registry as a result of posts abolished under ReVision. Such figures are produced on a regular basis by the ICC Human Resources Section and should be readily available to States Parties, upon request.

### **Overview of the gender profile of staff within the Registry**

In August, 2015, the Women's Initiatives for Gender Justice analysed the gender profile of the Registry at each grade level. This analysis was based on the data produced by the ICC Human Resources Section on professional staff as at 31 July, 2015.

The ICC data reveals that there are currently no female Heads of Division within the Registry and no women have ever been appointed at a D1 level.<sup>42</sup> In addition, there has been a 14% decrease in the number of women in mid-to-senior level management posts within the Registry in the last three years. As of 31 July 2012, 53% of P4 posts were occupied by women compared to 39% of P4 posts at 31 July 2015.<sup>43</sup>

Overall, there is a profound and ongoing practice of isolating women into lower and mid-level posts with no improvements over a ten year period in appointing more women to senior management and senior leadership positions. Of the 80 professional posts occupied by women within the Registry as of 31 July 2015, 62 of these positions (78%) are in the P1-P3 level, with only 18 women (5 at the P5 level and 13 at the P4 level) appointed to higher professional grades.<sup>44</sup>

With 18 out of 48 positions at the P4-D1 level held by females (37.5%) and 30 out of 48 P4-D1 level posts held by males (62.5%), it is clear that significantly fewer women than men participate in the management meetings where key policy, operational and institutional issues are discussed. No women participate in the senior management meetings of the Registry where key policy, operational and institutional issues are decided.

In addition to all of the Heads of Divisions being males from the WEOG region, the new acting Chef de Cabinet within the Office of the Registrar, an appointment made without an internal recruitment process (for the acting role), is also a male from the WEOG region.

It is clear from the data and the limited figures provided by the Registry in its Q&A Papers, that its assertions that gender issues 'are considered at virtually all stages of the recruitment process' is likely to be profoundly overstated.

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<sup>42</sup> Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>43</sup> Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>44</sup> Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.



### The impact of ReVision on the gender profile

Based on figures produced by the ICC Human Resources Section for the period up to 31 July 2015,<sup>45</sup> and the data provided by the Registry in its August Q&A Paper,<sup>46</sup> the Women's Initiatives for Gender Justice has analysed the impact of ReVision by gender and for each grade level.

The impact on gender representation within the Registry as a result of the abolishment of professional posts under the ReVision Project is as follows:

- More women than men are impacted by the abolishment of professional posts at two grade levels – P4 and P1.
- More men than women are impacted by the abolishment of professional posts at three grade levels – P5, P3 and P2.
- After the abolishment of posts, there are 55% more males than females employed at the P5 and P4 levels (17 males, 11 females).
- After the abolishment of four P5 posts held by males and one P5 post held by a female, there are an equal number of males and females at this grade level (four females, four males).
- After the abolishment of posts, there are almost twice as many males than females at the P4 level (13 males, seven females).
- After the abolishment of posts, there are nine more males than females at the P3 level (28 males and 19 females).
- After the abolishment of posts, there are 28 more females than males in P2 level posts (29 females, one male).

This statistic is worth exploring given the significant gender gap between the number of males and females whose posts have been abolished. This appears to be mostly explained by the abolishment of posts within the VWS and other positions, as described below. Under ReVision, eight P2 level Associate Protection Officer and Field Outreach Officer posts within the VWS, to which men have been exclusively or predominantly appointed, were abolished. As noted by the Women's Initiatives in the past and referenced in the report of the Independent Review Team, one of the issues revealed in the discovery of the sexual violence committed by VWS staff against ICC witnesses within the Kinshasa safe house, was the absence of any female field officers employed by the VWS.<sup>47</sup> Thus in the context of the ReVision Project there were fewer women appointed within the VWS as P2 Protection Officers and Outreach Officers to begin with. It is also worth noting that under ReVision, 15 new P2 protection officer and outreach officer posts are to be hired. It is hoped that the working culture and significant gender issues which have prevailed

<sup>45</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>46</sup> 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 16.

<sup>47</sup> *Gender Report Card 2013*, p 239, 254.



within the VWS even after the internal and external inquiries into the sexual violence allegations, will finally be addressed in the recruitment process. However, it should be noted, that many of those whose posts were abolished and who chose to take the enhanced separation package in the VWS, were those with significant institutional memory and capacity in relation to witness protection issues. This is an area where institutional loss is significant.

Beyond the VWS, the abolishment of P2 level posts appear to be spread across the Divisions with posts abolished in areas to which male candidates have dominated including ICT, field security officers and court room officers.

There have always been more women than men appointed at the P2 level. Prior to ReVision, 62 of the 80 women employed in professional posts within the Registry occupied posts within the P1-P3 levels.

- After the abolishment of posts, two females will remain at the P1 level and one male will remain at this grade level.

Given the persistent regression in the number of women appointed to mid-level and senior level posts within the Registry in the 2.5 years, there is a real possibility that ReVision will further escalate, rather than reduce, the existing gender bias within professional posts in the Registry of the ICC.

See also the Charts in Annex I of this paper.

#### **b. Geographical representation**

In the Registry's August Q&A paper, new figures were provided regarding the number of professional posts affected by ReVision. In the papers on ReVision disseminated in July 2015, the Registry indicated that of the 113 posts to be abolished under the ReVision Project 42 were professional posts. In the August Q&A paper on ReVision, the Registry indicates that there are now 51 professional posts to be abolished. The Registry has reached this figure (51) by combining professional posts to be abolished (42) with the number of GTA posts also being abolished (9) under ReVision. The remaining 62 posts to be abolished relate to general service positions of which 56 were established posts and six were GTAs.

Unfortunately, in keeping with the first two ReVision papers issued by the Registry, the August Q&A paper does not provide figures regarding the *overall* regional and grade level breakdown of professional posts within the Registry, and instead only provides the regional and grade level figures for the posts to be abolished. As we stated in our earlier analysis of these papers, without the overall gender and grade level figures it is difficult for states parties and ICC staff to be able to assess the proportionate regional impact of the abolishment of posts under the ReVision Project.

In addition, in the August Q&A Paper, the Registry converged different types of posts which are normally considered and reported on separately. In the August paper, GTAs and established posts were combined. The figures produced on a regular basis by the ICC Human Resources Section for the past 11 years has always listed established professional posts and GTAs separately. The GTA and established posts figures were also provided separately in the two ReVision papers produced in July



by the Registry. The reason for converging these types of positions is unclear as it seems to further obscure rather than clarify the regional impact. Combining GTAs and professional posts increases the regional figures for WEOG as six of the nine GTA posts to be abolished were held by nationals of states from the WEOG region. By combining these figures for professional and GTA posts it also appears to conceal the impact on the Africa region of the abolishment of posts under the ReVision Project.

### **The impact of the ReVision Project on geographical representation**

Based on the August Q&A Paper, 51 of the posts to be abolished under ReVision are a combination of professional posts (42) and GTAs (9). The regional breakdown of these posts are as follows: WEOG 23 professional posts and six GTAs; Africa nine (9) professional posts and no GTAs; Eastern Europe four (4) professional posts and one GTA; Asia four (4) professional post and two GTAs; and GRULAC two (2) professional posts and no GTAs.

#### **Asia**

Based on a review of the Registry's new ReVision figures disseminated on 14 August, 2015, Asia as a region and nationals of states from this region, are disproportionately affected by the ReVision Project with 55% of the professional posts and GTA positions occupied by those from the Asia region to be abolished (four professional posts and two GTA posts out of 11 professional posts in the Registry).

When assessed solely on the basis of professional posts, and based on the Registry's first two Q&A papers produced in July, 2015, 36% of professional posts held by nationals of states from the Asia region have been abolished.

#### **Africa**

The Africa region is also disproportionately affected by ReVision with 36% of the professional posts held by nationals of states from this region being abolished (nine posts out of 25 professional posts in the Registry). This is the largest proportion of established professional posts impacted by the ReVision Project for any region.

It appears that none of the GTA posts abolished were held by nationals of states from the Africa region and the Registry has not provided data on the overall regional breakdown of GTA posts within the Registry nor the specific number of nationals from states within the Africa region appointed to GTA positions.

In reviewing the staff composition of the Court by geographical representation at each professional grade level,<sup>48</sup> the overall regional representation within the Registry,<sup>49</sup> and considering the abolishment of senior posts held by nationals of states from the Africa region prior to and during ReVision, it is evident that the Africa region has been most affected by recruitment decisions within the Registry since 2013 and the abolishment of professional posts under the ReVision Project.

<sup>48</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>49</sup> 'Q&A: Recruitment, gender balance, geographical distribution, ReVision', *Registry*, July 2015, p 5.



This reality is further underscored when one considers the ICC regional membership of states which have ratified the Rome Statute and are therefore States Parties to the ICC, the number of self-referrals to the Court, the Situations under investigation and the cases currently before the ICC. Bearing in mind these realities, the decision by the Registrar to disproportionately abolish professional posts held by nationals of states from the Africa region seems unwise and poorly conceived.

### **Eastern Europe**

Eastern Europe is the third most affected region with 33% of the professional posts held by nationals of states from this region being abolished (four professional posts and one GTA post of fifteen professional posts).

When assessed solely on the basis of professional posts, and based on the Registry's first two Q&A papers produced in July, 2015, 27% of professional posts held by nationals of states from Eastern Europe have been abolished.

The regional ranking in relation to the impact of the ReVision Project on Eastern Europe did not change between the original figures produced by the Registry in July and the figures in the Registry's August Q&A paper disseminated on 14 August. It was the third most affected region and remains in this position even with the GTAs being included.

### **WEOG**

WEOG is the fourth most affected region with 28% of the professional posts held by nationals of states from this region being abolished (23 professional posts and six GTAs out of 105 professional posts). The regional ranking in relation to the impact of the ReVision Project on WEOG did not change between the original figures produced by the Registry in July and the figures in the Registry's August Q&A paper disseminated on 14 August. It was the fourth most affected region and remains in this position even with the GTAs included.

Although it doesn't alter the regional effect, the apparent statistical impact of 28% is likely to be significantly lower (closer to 20%) when one compares the GTAs and established professional posts held by nationals of states from the WEOG region to be abolished within the Registry with the overall number of GTAs and established professional posts held by nationals from this region in the Registry. The number of GTAs held by nationals of states from the WEOG region has not been provided by the Registry and as such a thorough proportional analysis is not possible.

### **GRULAC**

Finally, GRULAC is least affected with 12.5% of the professional posts held by nationals of states from this region being abolished (two posts out of 16 professional posts). GRULAC is the only region not affected by the new ReVision-related figures disseminated by the Registry on 14 August, 2015.

See also the Charts in Annex II of this paper.





## Annex I

### Gender Statistics

The Chart below was provided by the Registry in its August Q&A Paper (page 16), disseminated on 14 August, 2015.

Professional Staff							
	P5	P4	P3	P2	P1	TOTAL	%
Male	4	7	7	14	0	32	62,75%
Female	1	6	3	8	1	19	37,25%
TOTAL	5	13	10	22	1	51	100%

Analysis of the impact of the ReVision Project on gender representation, at each professional grade level, within the Registry.

	P5 to be abolished	Number of female/males in P5 posts within the Registry <sup>50</sup>	% of P5 posts to be abolished by gender	
Male	4	8	50%	
Female	1	5	20%	With the abolishment of 4 P5 posts held by men, and one P5 post held by a female, there are an equal number of males and females remaining at the P5 level.

<sup>50</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.



	<b>P4 to be abolished</b>	<b>Number of female/males in P4 posts within the Registry<sup>51</sup></b>	<b>% of P4 posts to be abolished by gender</b>	
Male	7	20	35%	13 males remain in P4 posts.
Female	6	13	46%	7 females remain in P3 posts.

	<b>P3 to be abolished</b>	<b>Number of female/males in P3 posts within the Registry<sup>52</sup></b>	<b>% of P3 posts to be abolished by gender</b>	
Male	7	35	20%	28 males remain in P3 posts.
Female	3	22	14%	19 females remain in P3 posts.

	<b>P2 to be abolished</b>	<b>Number of female/males in P2 posts within the Registry<sup>53</sup></b>	<b>% of P2 posts to be abolished by gender</b>	
Male	14	15	93%	1 male remains in a P2 post.
Female	8	37	22%	29 females remain in a P2 post.

<sup>51</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>52</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.

<sup>53</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.



	P1 to be abolished	Number of female/males in P1 posts within the Registry <sup>54</sup>	% of P1 posts to be abolished by gender	
Male	0	1	0%	1 male remains in a P1 post.
Female	1	3	33%	2 females remain in P2 posts.

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<sup>54</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.



## Annex II

### Geographical Representation

#### ii. Regional representation at each Professional Grade

According to the Registry's August Q&A Paper, the regional representation amongst professional posts within the Registry is as follows: WEOG 61.24%; Africa 14.73%; GRULAC 9.30%; Eastern Europe 8.53%; and Asia 6.20%.<sup>55</sup>

#### Grade levels by region for Professional Posts across the ICC<sup>56</sup>

Based on the data produced by the ICC Human Resources Section as at 31 July 2015, only the WEOG region is consistently over-represented at every grade level. The Africa region is over-represented at the P5, P3 and P1 grade levels and Eastern Europe is only over-represented at the P1 grade level. Whereas in the past, nationals from Africa were slightly over-represented at every professional grade, albeit at a significantly lower level than WEOG, Africa is now *under-represented* at two professional grades – P4 and P2. Compared with 31 July 2014, Africa's representation as at 31 July 2015 has significantly decreased at every grade level except at the P3 grade. The range of over-representation for the Africa region is from 1.99% (P1 grade) to 6.22% (P3 grade).

WEOG is over-represented in a range of 6.03% (P1 grade) - 28.44% (P5 grade). The level of over-representation of the WEOG continues to increase each year and has increased in all of the professional grades since 31 July 2014, except at the P3 level. On average, nationals from WEOG states are over-represented by 18.81% in professional posts across the Court. Interestingly, the more senior the grade level, the more the WEOG region is over-represented.

#### Grade Levels by region for the ICC as a whole

In the charts below, the target figures (per region) for the Court as a whole are based on data provided by the Registry in its July Q&A Paper on ReVision, page 5. The figures for the actual regional representation per grade level are from data produced by ICC Human Resources Section on the professional profile of ICC staff as a whole as at 31 July, 2015.

Grade Level	Region	Target	Actual
P5	WEOG	43.97%	72.41%
	Africa	13.01%	17.24%
	Asia	18.69%	3.45%

<sup>55</sup>, 'Questions and Answers on the Registry's restructuring', *Registry*, 14 August 2015, p 17.

<sup>56</sup> 'Geographical Representation of ICC Professional Staff', Status as at 31 July 2015, *Human Resources Section*.



	Eastern Europe	8.33%	3.45%
	GRULAC	16.00%	3.45%
Grade Level	Region	Target	Actual
P4	WEOG	43.97%	64.81%
	Africa	13.01%	12.96%
	Asia	18.69%	7.40%
	Eastern Europe	8.33%	5.56%
	GRULAC	16.00%	9.26%

Grade Level	Region	Target	Actual
P3	WEOG	43.97%	59.62%
	Africa	13.01%	19.23%
	Asia	18.69%	5.77%
	Eastern Europe	8.33%	5.77%
	GRULAC	16.00%	9.62%

Grade Level	Region	Target	Actual
P2	WEOG	43.97%	67.04%
	Africa	13.01%	11.36%
	Asia	18.69%	5.68%
	Eastern Europe	8.33%	9.09%
	GRULAC	16.00%	6.82%

Grade Level	Region	Target	Actual
P1	WEOG	43.97%	50%

### Women's Initiatives for Gender Justice



	Africa	13.01%	15%
	Asia	18.69%	5%
	Eastern Europe	8.33%	20%
	GRULAC	16.00%	10%

