

Women's Initiatives for Gender Justice

Statement on the Budget, ASP 2015

The Women's Initiatives for Gender Justice has been monitoring and analysing the institutional development of the ICC for the past 11 years. Every year for more than a decade we have documented and published our analysis of the Court - with respect to its substantive work and institutional developments - in our annual *Gender Report Card on the ICC*.

The Women's Initiatives has always invested in monitoring the Court as a global public institution based on a very simple premise that without a sound and stable structure, the ICC will not be able to deliver on its substantive mandate.

Based on the longitudinal data we have gathered over the past 11 years, it is our view that at this time the ICC is institutionally more vulnerable in its administrative areas, than it has ever been before. Largely this appears to be due to diminished compliance within the Registry with respect to the Court's regulatory framework, primarily in relation to the implementation of ReVision.

In the past 18 months, we have observed an unprecedented volume and range of issues within the Registry in particular, where compliance with ICC staff rules, administrative law, financial regulations and ASP resolutions, appears to not have been met.

Many stakeholders have expressed concerns about the ReVision process including members of the ICC judiciary, states parties, staff of the Registry, legal counsel and members of civil society.

We believe that the management of the restructuring process has placed the Court in a precarious position with respect to its institutional integrity and stability. This has significant financial consequences for the Court as we saw this year with the Registry's budget request for 2016. However, many of the liabilities and overall implications for the Court associated with ReVision are yet to be fully disclosed and realised. Unfortunately, getting through a tough and at times unpleasant 2016 budget process is likely to be just the tip of the iceberg.

We welcome the constructive decision included within the ASP budget resolution to conduct an external audit of ReVision, its process, cost, implementation and impact. We hope that the audit will be comprehensive and that it will be allowed to be conducted without internal or political interference. We trust that states will genuinely engage with and objectively assess the results of the audit process.

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We also hope that once the intensity of the ASP is over, time has passed and the dust has settled, that the current somewhat defensive position by some states with respect to ReVision and the passive position by a large number of states on this issue, will give way to a more rigorous, impartial and honest critique. We think that this will in the process of identifying and enhancing any gains associated with ReVision, and also address the multitude of errors in this process and ensure that these will not be repeated again within the ICC or ever applied to other institutional reform processes elsewhere.

We note the regret expressed in the ASP budget resolution with respect to the use of funds by the Registry for costs associated with ReVision without seeking and securing the necessary authorisation.

If rules are not taken seriously and statutory requirements are treated as an after-thought, a culture of non-compliance can quickly develop. If added to this there are no sanctions or inadequate sanctions for breaches of the regulatory framework, then rules can become meaningless and those responsible become emboldened.

We note the findings of the CBF in its November 2015 report in which it describes the information provided by the Registry about the costs of ReVision and its implications for the 2016 budget as 'contradictory, inconsistent and lacking in comparability'. These same words could also be used to describe the data provided by the Registry regarding the geographical and gender impact of the ReVision process.

The retaliatory and 'with us or against us' mentality which exists within the Registry has created a profoundly intimidating environment, one not conducive to creating a harmonious and effective workplace— factors essential to achieving greater efficiency - one of the promises of ReVision. There are reports that some staff are being instructed to do things which they feel are a breach of the rules or depart from standard procedures and best practice principles, but feel too intimidated to object for fear of losing their jobs. As we said last year at the launch of our 2014 *Gender Report Card on the ICC*, arguably the biggest internal threat to the Court could be the Court itself if it were to develop a culture of non-compliance, indifference to the Rome Statute requirements and an inconsistent commitment to institutional accountability.

The Court need not be perfect, but it must always be credible and its institutional credibility is directly derived from its compliance with its rules and regulations and ASP resolutions.

