

International Criminal Court

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**Audit Committee**

The Hague, 24-25 July 2019

### **Report of the Audit Committee on the work of its tenth session**

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## Executive Summary

1. This report provides a summary of the activities and recommendations made at the tenth session of the Audit Committee (“the AC”) of the International Criminal Court (“the Court”), which was held from 24 to 25 July 2019.
2. The AC focused at its tenth session on the following areas: (a) the Court’s governance structure, including an organizational manual; (b) oversight of internal audit matters; (c) oversight of external audit matters, including consideration of the three audit reports submitted by the External Auditor and the selection process for the incoming External Auditor; and (d) follow-up on previous recommendations.
3. With respect to governance matters, the AC took note of the report submitted by the Court and the efforts it has undertaken to prepare an organizational manual which is due to be ready in the first quarter of 2021. The Audit Committee looked forward to receiving an update on the progress of the work at its twelfth session in 2020, and the draft version of the manual for its consideration no later than its thirteenth session in 2021 before the final version is issued.
4. In the context of the oversight of internal audit matters, the AC requested that the OIA submit an amended 2020 draft internal audit plan for the AC’s consideration and validation in October 2019 by merging two audit assignments on asset management into one audit and by including one or two more audits related to high-risk areas.
5. In relation to the oversight of external audit matters and after considering the audit reports by the External Auditor, the AC recommended that the Assembly approve the financial statements of the Court and the Trust Fund for Victims for the year ending 31 December 2018. The AC further endorsed the three recommendations made by the External Auditor with respect to the Court’s financial statements and the two recommendations with respect to the Financial Statements of the Trust Fund for Victims.
6. In the context of the performance audit of the External Auditor on the Court’s budget process, the AC endorsed two out of ten recommendations made by the External Auditor with respect to the Court’s budget process, as they fall within the scope of the AC’s mandate in the areas of governance and risk management. As for the remaining eight recommendations, the AC suggested that the CBF consider them at its thirty-third session in September 2019, since they come under the CBF’s mandate.
7. For the selection process for the incoming External Auditor, the AC recommended that the Assembly at its eighteenth session in December 2019 extend the mandate of the current External Auditor, the Cour des comptes, for one additional year covering the Financial Statements of the Court and the TFV for the year ending 2020 and for it to undertake at least one performance audit.
8. Having noted a range of durations and modalities for the extension of the external auditor’s mandate in other international organisations, the AC requested that the Court explore these aspects and submit its findings at the AC’s eleventh session in March 2020.
9. In the context of the follow-up on the implementation of recommendations, the AC took note of the updated status of the implementation of recommendations made by the External Auditor, the External Assessor for the OIA and the AC itself. The AC decided that it would keep monitoring progress involving the implementation of all recommendations, and recommended that the OIA and the Court submit an updated status report on the implementation of the recommendations made by the External Assessor at its eleventh session in March 2020.

## I. Introduction

1. The Audit Committee of the International Criminal Court (“the AC”) held its tenth session from 24-25 July 2019 in The Hague. This report summarizes the main outcomes and recommendations made by the AC at its tenth session. Reports by the AC are shared with the management of the International Criminal Court (“the Court”), the Office of Internal Audit (“the OIA”), the External Auditor and the Independent Oversight Mechanism (“the IOM”).
2. The annual reports of the AC summarize the activities, outcomes and recommendations of the AC from September to September of each year and are publicly available on the AC webpage via the following link:

[https://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx)

## II. Consideration of issues on the agenda of the tenth session

3. Considering the comprehensive mandate outlined in the AC Charter, and the work of previous sessions, the AC decided to focus at its tenth session on the following key areas:
  - (a) Governance structure, including the organizational manual of the Court;
  - (b) Oversight of internal audit matters;
  - (c) Oversight of external audit matters; including the selection of the successor external auditor; and
  - (d) Follow-up on previous recommendations made by (i) the External Auditor; (ii) the External Assessor, and (iii) the AC.

### A. Governance structure

#### 1. Organizational manual of the Court, including the allocation of internal resources and skills as well as phases of implementation

4. At the fifth AC session in September 2017 and based on the recommendation raised by the AC at its second session,<sup>1</sup> the Court, whilst recognizing the importance of formalizing a fully-fledged organizational manual, explained that the current level of resources did not permit it at this time to embark on the preparation of an organizational manual. However, the Court provided the relevant links to the Court’s website and intranet, which contains all the relevant information on the organizational structure, such as information on policies, regulations and rules, objectives, processes and procedures.<sup>2</sup>
5. The AC stressed that the organizational manual is one of the key tools that describes the entire organizational structure of any organization in a holistic manner. An organizational manual is the general framework that highlights organizational relations between all organs and units, outlines key processes and procedures in a concise manner and, as such, contributes to the effective and efficient management and functioning of the organization. In addition, it helps to identify duplications and fragmentations, as well as shortcomings. Reiterating its prior recommendations, the AC recommended that the Court include within its priorities the preparation of an organizational manual and asked to be kept informed by the Court of progress and to receive a status update at its eighth session.<sup>3</sup>

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<sup>1</sup> AC/2/15, para. 10.

<sup>2</sup> AC/5/5, para. 17.

<sup>3</sup> *Ibid.*, para. 19.

6. At the AC’s eighth session in August 2018, the Court concurred with the Audit Committee on the importance of developing an organizational manual. However, the Court stated that in light of its current level of activities and resources, it was not in a position to prioritize the development of the manual at that stage.<sup>4</sup> Therefore, the AC recommended that the Court identify the required internal resources and skills to prepare an organizational manual, and provide a plan at its tenth session outlining the different phases of implementation.<sup>5</sup>

7. In this regard the Court submitted the “Report of the Court on its organizational manual”<sup>6</sup> in advance of the AC’s tenth session. The Court provided a plan for the steps that it intends to take in order to complete the Manual in the first quarter of 2021.

8. The Court has prioritized the design and development of its Organizational Manual and intends to include in its manual key elements of the Rome Statute, the history of the Court, information on its management oversight and a description of the roles and responsibilities of each organizational entity. The project will be led by the Office of the Director of the Division of Management Services in the Registry and will require input from various stakeholders throughout the Court.

#### ***FINDINGS AND RECOMMENDATIONS***

9. **The Audit Committee took note of the report submitted by the Court and its efforts undertaken to prepare an organizational manual, and looked forward to receiving an update on the work progress at its twelfth session in 2020, and the draft version of the manual for its consideration no later than its thirteenth session in 2021 before the final version is issued.**

### **B. Oversight of internal audit matters**

#### **1. Review of the draft amendments to the Office of Internal Audit Charter**

10. At the AC’s ninth session, the OIA indicated that it would review the Charter before the AC’s tenth session and that it would modify it to reflect any relevant changes in the OIA’s governance and practice.<sup>7</sup>

#### ***FINDINGS AND RECOMMENDATIONS***

11. The AC underscored its understanding that in the interests of transparency and accountability, the OIA should carry out audits in all organs of the Court in line with the “One-Court” Principle with due respect for the principle of independence and possible confidentiality requirements in accordance with the Rome Statute and other respective rules.

12. The AC considered the proposed amendments and has made some modifications that were discussed with the Director of the OIA who in return will share the modifications with Court officials for their comments as well. **Therefore, the AC decided that it would continue to consider the draft amendments to the Charter of the OIA at its eleventh session in March 2020.**

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<sup>4</sup> AC/8/6, para. 4.

<sup>5</sup> AC/8/5, para. 14.

<sup>6</sup> AC/10/6.

<sup>7</sup> AC/9/5, Annex III, recommendation 1.

## 2. Audit reports of the Office of Internal Audit

13. The AC considered the audit reports submitted by the OIA, namely the “Final Audit Report on the Audit of Security and Safety at the HQ Building”<sup>8</sup> and the “Final Audit of the Training Programme of Investigators.”<sup>9</sup>

14. The AC discussed with the Director of the OIA and the auditors some of the main findings and risks underlying the recommendations made in the audit reports submitted to the AC.

15. The overall objective of the Security and Safety at the HQ Building audit was to assess the effectiveness and efficiency of the Security and Safety Section’s organisation of its resources in the effective delivery of services under its mandate in accordance with the established policies, procedures and regulatory requirements set out by the host state, UN Security and the Court based on the identified threat levels. The primary focus of this audit was therefore to assess the effectiveness and efficiency of established measures aimed at providing a safe and secure environment for staff and non-staff that use the ICC HQ building and assets maintained in the building. 11 audit recommendations were raised, ten of which were of medium risk and one of low risk. **Upon request, the OIA and the Court provided a timeline for their implementation (see Annex III). Therefore, the Committee decided to follow up on their implementation at its eleventh session in March 2020 and requested that the OIA include such timelines in the future as an annex to its audit reports.**

16. The overall objective of the Training Programme of Investigators audit was to assess whether an adequate management framework is in place for the training of investigators in the Investigation Division and to ensure that it is implemented and monitored. In addition, the audit assessed whether there is an effective process in place for identifying training needs, evaluating delivered trainings and measuring the impact of trainings. Three audit recommendations were raised with medium risk.

### *FINDINGS AND RECOMMENDATIONS*

17. The AC noted with satisfaction that the executive summary for each internal audit report captures the main findings of the audit report.

18. **The Audit Committee recommended that the OIA in future include in its audit reports a separate section devoted to the follow-up on previous recommendations directly related to the area of the audit assignment, in order to speed up the implementation process.**

## 3. Implementation of the 2019 Internal Audit Plan and of the 2017-2019 IT Audit Plan

19. The AC considered the Status of implementation of the 2019 Internal Audit Plan and the status of implementation of the OIA 2017-2019 IT Audit Plan based on the relevant documentation submitted by the OIA in this regard.<sup>10</sup>

20. The AC monitored the progress that the OIA had achieved in terms of the implementation of the “2019 Internal Audit Plan,<sup>11</sup>” in its amended version of 15 October 2018.

### *FINDINGS AND RECOMMENDATIONS*

21. The AC noted that as of 28 June 2019, the OIA had completed two audit assignments out of seven, and one advisory service out of two, as shown in table 1 below:

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<sup>8</sup> AC/10/3.

<sup>9</sup> AC/10/13.

<sup>10</sup> AC/10/2 and AC/10/9.

<sup>11</sup> AC/9/6.

**Table 1: 2019 Audit assignments**

2019 Audit Topics		Number of planned days	Phases of development of the audit											
			Planning				Fieldwork				Reporting and closure			
Audit	Continuation of the Audit on the Training Plan for the investigators of OTP	40												
Audit	HQ Security	50												
Audit	Trust Funds - European Commission Grant	70												
Audit	Vehicles Management	80												
Audit	FO Operations: Administrative and Financial Controls follow-up	20												
Audit	Miscellaneous Obligating Documents	60												
IT Audit	Follow-up audit on Project Management	60												

  

Advisory service		Number of planned days	Progress Status in %
IT Advisory Service: Risk identification and evaluation facilitation for IMSS (Part 2)		50	100%
IT Advisory Service: Disaster Recovery		60	

22. The Director of the OIA assured the AC that all planned audits and advisory services would be completed by year-end, unless there were any unforeseen circumstances.

23. The AC expressed its great concern regarding what it considers to be an excessive number of work days required for each audit engagement, which amounts to three to five times the normal resources required for similar engagements in accordance with normal audit practice. This fact applies to all audit engagements without exception, which raises serious concerns about the efficiency of the OIA. For example, the audit of vehicles (net book value €1.33 million as at 31 December 2018) was planned to be undertaken in 80 days.

24. To give the benefit of doubt to the OIA on what the AC considered an excessive number of audit work days, the AC inquired if any additional service beyond the audit had been provided and requested an example of the work programme for the Audit on Vehicles Management used in such engagements. Inefficient use of audit resources is not in line with standard number 2030 of the International Standards for the Professional Practice of Internal Auditing (“the Standards”), which states:

*“The Chief Audit Executive must ensure that internal audit resources are appropriate, sufficient, and effectively deployed to achieve the approved plan.”*

25. The AC requested that it receive the work programme of the Vehicles Management Audit in line with §7 of its Charter,<sup>12</sup> in order to discharge its responsibilities and duties. Also, the existence of the work programme is an explicit requirement of Article 2240 of the Standards:

*“Internal Auditors must develop and document work programs that achieve that engagement objectives. 2240. A1- Work programs must include the procedures for identifying, analyzing, evaluating, and documenting information during the engagement. The work program must be approved prior to its implementation, and any adjustments approved promptly.”<sup>13</sup>*

26. The AC decided that it would keep monitoring the implementation status of the 2019 internal audit plan with the emphasis on increasing the efficiency and effectiveness of the audit process.

<sup>12</sup> § 7e of the Audit Committee Charter states the following:

*“The authority of the Audit Committee to perform its work is established within the scope of its Charter. In discharging its responsibilities, the Audit Committee shall have unrestricted access to members of Court management and staff, as well as all relevant information it considers necessary to discharge its duties. The Audit Committee also shall have unrestricted access to records, data, and reports”.*

<sup>13</sup> See: <https://na.theia.org/standards-guidance/Public%20Documents/IPPF-Standards-2017.pdf>

#### 4. 2020 draft Provisional Internal Audit Plan

27. In advance of the session, the AC received the “OIA Draft 2020 Audit Plan,”<sup>14</sup> which had been submitted by the OIA for consideration and validation by the AC. The OIA also submitted a Memorandum on the funding of a consultant in 2020 to fulfil the 2020 internal audit plan.

28. The draft internal audit plan submitted by the OIA for consideration and validation by the AC included the following eight audit assignments and three advisory services as shown in Table 2 below:<sup>15</sup>

**Table 2: 2020 Draft Provisional Internal Audit Plan**

Seq. #	Type	Topic	Number of man-days per engagement <sup>16</sup>	Estimated date	Overall risk assessment by OIA
1	Audit	Follow-up audit on the inventory of equipment and furniture	40	1 <sup>st</sup> semester	Low
2	Audit	Assets management – Property, plant, and equipment	50	1 <sup>st</sup> semester	Medium
3	IT Audit	Judicial workflow platform: project governance and implementation	70	1 <sup>st</sup> semester	High
4	IT Audit	Judicial workflow platform: identification of user requirements	To be defined for consultant; 15 for IT Auditor + 5 for Director (administration and supervision)	1 <sup>st</sup> semester	High
5	Audit	IT Procurement – Judicial workflow platform	50	1 <sup>st</sup> semester	High
6	Audit	Contract management	50	1 <sup>st</sup> - 2 <sup>nd</sup> semesters	Medium-High
7	Audit	Procurement process: technical evaluation review	30	2 <sup>nd</sup> semester	Medium-High
8	Audit	CO operations: administrative and financial controls follow-up	35	2 <sup>nd</sup> semester	Medium
9	Audit	CO security- CAR & Mali	35	1 <sup>st</sup> -2 <sup>nd</sup> semesters	High
1	Advisory service	Assistance in the selection process of a qualified audit firm for the TFV	25	1 <sup>st</sup> semester	Medium-High
2	IT Advisory service	Review of the procurement process of IT goods within OTP	60	2 <sup>nd</sup> semester	Medium-High
3	Advisory service	Contribution to the reengineering of Registry processes	25	1 <sup>st</sup> -2 <sup>nd</sup> semesters	Medium-High

29. In order for the AC to adequately discharge its responsibility to ensure the adequacy and effectiveness of the internal audit function,<sup>17</sup> the AC thoroughly reviewed and analysed the progress attained on the 2019 audit plan and the proposed audit plan for 2020. The review of the 2020 Provisional Internal Audit Plan included a discussion with the Director of OIA about each audit engagement in terms of its scope and required resources.

#### **FINDINGS AND RECOMMENDATIONS**

##### *Number of planned work days for the audits*

30. As with the implementation of the 2019 audit plan (please refer to Section B.3 above), and also for the draft provisional 2020 Internal Audit Plan, the AC expressed its great concern and dissatisfaction with the OIA’s effectiveness and efficiency in light of the number of planned days per audit engagement.

31. During the session, the OIA agreed with the AC on merging the “Follow-up audit on the inventory of equipment and furniture” and the “Audit on assets management – Property, plant, and equipment” into a single audit.

<sup>14</sup> AC/10/7.

<sup>15</sup> AC/10/7, page 3.

<sup>16</sup> Number of man-days per engagement does not include the supervision of the engagement by the Director that is estimated to be 10 per cent of the overall duration of each mission.

<sup>17</sup> §§ 2 e and 3 of the Charter of the Audit Committee.



32. **Considering the thematic overlap in terms of audit areas selected and the possibility of achieving synergies to free up resources, the AC recommended that the OIA carefully re-evaluate the number of planned days per audit engagement and include one to two more audits in the 2020 Internal Audit Plan related to high-risk areas.**

*Selection of audit topics based on a risk assessment*

33. Whereas the OIA emphasizes that the draft provisional 2020 audit Plan “was developed according to a risk-based approach to ensure that audit resources are directed towards entities and activities with the higher risks,”<sup>18</sup> the AC stressed the importance of selecting audit assignments in line with Article 2010 of the Standards, which states:

*“The chief audit executive must establish a risk-based plan to determine the priorities of the internal audit activity, consistent with the organization’s goals.”*

34. The AC took note of the specification of the various underlying risks for each audit assignment, as contained in the Risk Register of the Court and/or the risk register of the OIA. The Committee noted that the OIA’s risk rating varied frequently in relation to the same audit assignment, depending on the underlying risks that the OIA was referring to.<sup>19</sup> **Therefore, the Audit Committee recommended that the OIA specify the overall risk level for each audit assignment (low, medium or high) and incorporate such information in the annual Draft Internal Audit Plan for submission to the Audit Committee.**<sup>20</sup>

*Selection of audit topics in line with the “One-Court” Principle*

35. The AC noted that none of the proposed audits for 2020, as included in the OIA provisional 2020 Internal Audit Plan, related directly to the Office of the Prosecutor, although at least six high-level risks in the Court’s risk register refer directly to risk areas in OTP.<sup>21</sup>

36. The AC reiterated its previous recommendation that while taking note of the Court’s position on the coverage of audits and possible limitations, the Audit Committee strongly believed that in the interests of transparency and accountability, the OIA should carry out audits in all organs of the Court in line with the “One-Court” Principle with due respect for the principle of independence and possible confidentiality requirements.<sup>22</sup>

37. **The Audit Committee recommended that when submitting the draft internal audit plan for validation by the Audit Committee the OIA (i) give priority to high-risk areas; (ii) include audits in relation to all organs of the Court in line with the “One-Court” Principle and paragraph 4 of the OIA Charter;<sup>23</sup> and (iii) ensure effectiveness and efficiency in relation to the planned**

<sup>18</sup> AC/10/7, page 3.

<sup>19</sup> For example, in relation to the Audit on “Judicial Workflow Platform: Project governance and implementation” the risk rating is as follows:

ICC Risk Register: Unauthorised disclosure of confidential information. – Major;

OIA 2019 Risk assessment

- Lack of alignment of projects to the organisation’s objectives and user requirements – High;
- Inability of Court’s senior management to effectively direct and control key IM/IT activities – High;
- Absence of integration of risk management in the development and implementation of projects – Medium;
- Gaps between business objectives and IT/IM policies, guidelines and methodologies – Medium/High;
- Unauthorized modification of systems configuration - Medium.

<sup>20</sup> Such information should be included, after listing all underlying risks for each audit assignment and by incorporating the overall risk levels in a separate column as part of Table 1 of the draft Internal Audit Plan (e.g. in AC/10/7, page 3).

<sup>21</sup> Risk 5: Loss of life, injury, or other incident; risk 7: Witness intimidation or Interference; risk 9: Lack of cooperation by States; risk 11: Refusal of situation Countries to provide security for the Court’s operations; risk 12: Misunderstanding or misperception by States and general public; and risk 13: Withdrawal by States from the Rome Statute. For details please refer to AC/8/15, annex I.

<sup>22</sup> AC/9/5, para. 90.

<sup>23</sup> § 4 OIA Charter states as follows:

**number of man-days per audit engagement. These elements and the related recommendation made by the CBF should be taken into consideration by the OIA when resubmitting the 2020 draft audit plan for the Committee’s approval in October 2019.**

## **C. Oversight of external audit matters**

### **1. Financial statements of the Court for the year 2018**

38. The AC considered the “Financial Statements of the International Criminal Court for the year ended 31 December 2018”<sup>24</sup> paying due attention to the assessment of the External Auditors with regard to the financial statements of the Court.

39. Based on the opinion of the external auditor, the Financial Statements of the Court give a fair view of the financial position of the International Criminal Court as at 31 December 2018, as well as the Financial Performance, the Cash Flow and the Comparison of Budget and Actual Amounts for the 12 months period ended 31 December 2018 in conformity with the International Public Sector Accounting Standards (IPSAS).<sup>25</sup>

### ***FINDINGS AND RECOMMENDATIONS***

40. The Committee noted that in the context of the financial audit the External Auditor had made three recommendations to the Court, namely:

- i. that the Finance Section should strengthen its controls regarding the accuracy of the figures proposed by the consultants to be reported in the financial statements of the International Criminal Court for employee benefits, in particular to obtain more detailed information;
- ii. that a control be implemented to prevent the granting of access rights that lead to inappropriate access to the information system or non-respect of segregation of duties principles in a context of an integrated and centralized information system. The External Auditor also recommends implementing an annual check (as a minimum) to detect any inappropriate access rights granted within the SAP system; and
- iii. that an annual test be performed in order to ensure that it is possible to fully restore the IT environment in the event of any disaster.<sup>26</sup>

41. **The Audit Committee recommended that the Assembly approve the financial statements of the Court for the year ending 31 December 2018 and further endorsed the three recommendations made by the External Auditor with respect to the Court’s financial statements.**

42. The AC was informed that due to an omission of the 2017 pension liability pertaining to a retired Judge discovered by Deloitte during the actuarial valuation for 2018, the comparative figures of the prior 2017 reporting period have been adjusted in the 2018 financial statements in line with the International Public Sector Accounting Standards (IPSAS) 3.<sup>27</sup>

43. The reasons for the adjustment, the amount and the impact on the comparative figures were disclosed in note 2.79 to the Financial Statements, as follows:

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“The Office of Internal Audit performs therefore its assurance and consulting engagements in all four organs namely, Presidency and Chambers, the Office of the Prosecutor and the Registry. It also performs similar engagements in the independent offices of the Court.”

<sup>24</sup> AC/10/11.

<sup>25</sup> *Ibid.*, page 5.

<sup>26</sup> *Ibid.*, page 56.

<sup>27</sup> IPSAS 3 – Accounting Policies, Changes in accounting estimates and errors, available under: <https://www.ifac.org/system/files/publications/files/ipsas-3-accounting-po.pdf>.

Comparative information for 2017 is restated to reflect the correction of an error by the actuary in the actuarial calculation of the 2017 defined benefit obligation and reimbursement rights for Judges' pensions for the total amount of €1,358 thousand identified after the publication of the Court's 2017 Financial Statements. This correction does not affect net assets/equity and has the following effect as shown in Table 3 below:

**Table 3: Restatement of prior year comparatives**

In thousands of euros	2017 Financial Statements ICC-ASP/17/12	Correction	Comparative information in 2018 financial statements
Reimbursement rights	27,330	1,358	28,688
Employee benefit liabilities - current	10,542	89	10,631
Employee benefit liabilities - non-current	53,376	1,269	54,645
Total net assets/equity	98,825	-	98,825

44. The AC noted that the adjustment of the comparative figures in the 2018 Financial Statements led to a restatement of the assets and liabilities in the amount of €1.36 million, which did not affect the opinion of the External Auditor. The Audit Committee noted that the Court was informed of this omission by Deloitte in March 2019. The Court informed the External Auditor thereof during the final audit of the 2018 financial statements in May 2019. The AC noted with regret that it was informed of this omission *ex post facto* in July 2019 as the Financial Statements and the External Auditor's report were finalised.

45. **Reiterating a prior recommendation made at its fourth session,<sup>28</sup> the Audit Committee requested that the Court and the External Auditor inform the Committee in a timely manner of any matter of relevance that could potentially lead to the issuance of a qualified opinion before the audit reports on the financial statements of the Court and the TFV are issued.**

#### *Contract with Allianz for the judges' pensions*

46. The AC noted that the contract with Allianz for the judges' pensions will expire in 2019. The AC was reassured by the Court that the procurement process would be finalized before the end of the year. The Audit Committee advised the Court to undertake a risk assessment and identify risk-mitigating measures in case the contract with the current provider is not renewed.

## **2. Financial Statements of the Trust Fund for Victims for the year 2018**

47. The AC considered the "Financial Statements of the Trust Fund for Victims for the year ended 31 December 2018"<sup>29</sup> paying due attention to the assessment of the External Auditor on the financial statements.

48. Based on the opinion of the External Auditor, the financial statements give a fair view of the financial position of the Trust Fund for Victims as at 31 December 2018, as well as the financial performance, the changes in net assets, the cash flow and the comparison of budget and actual

<sup>28</sup> AC/4/10, para. 79.

<sup>29</sup> *Ibid.*

amounts for the 12 months period ending 31 December 2018 in conformity with the International Public Sector Accounting Standards (IPSAS).<sup>30</sup>

### ***FINDINGS AND RECOMMENDATIONS***

49. The Committee noted that in the context of the financial audit the External Auditor made two recommendations to the Trust Fund for Victims (TFV), namely:

- i. that the TFV adopt a budgetary charter or framework in order to clarify the annual and pluriennial planning of its appropriations and the authorizations of commitments on expenses and resources, distinguishing between resources coming from Major Programme VI (STFV) and voluntary contributions, for all its activities, approved by the adequate level of its governance; and
- ii. that a procedure is implemented to identify all the accruals with a deadline in accordance with the preparation of the financial statements.<sup>31</sup>

50. **The Committee recommended that the Assembly approve the financial statements of the TFV for the year ending 31 December 2018 and further endorsed the two recommendations made by the External Auditor with respect to the TFV's financial statements.**

### **3. Performance audit report on the Court's budget process**

51. Following best practice in international organizations, the Assembly decided at its fourteenth session in 2015 to expand the scope of the External Auditor's mandate by including performance audits.<sup>32</sup>

52. In the "Final audit report on the budget process of the International Criminal Court",<sup>33</sup> the External Auditor made ten recommendations in relation to the budget process of the Court,<sup>34</sup> of which four recommendations were classified "Priority 1",<sup>35</sup> four recommendations "Priority 2"<sup>36</sup> and two recommendations "Priority 3".<sup>37</sup>

53. The External Auditor made a presentation to the AC on the ten recommendations. The AC considered recommendation no. 1 and recommendation no. 9 as being part of its mandate in the areas of governance and risk management respectively:

- i. **Recommendation no. 1 (priority 1):** The External Auditor recommends that the Assembly put on its agenda, in the context of an upcoming evaluation of the Court or through any other forum, the interpretation of article 42(2) of the Rome Statute, in order to clarify to what extent it forbids the Prosecutor from transferring accountability for common administrative tasks to the Registry, which acts as the provider of shared services;<sup>38</sup> and
- ii. **Recommendation no 9 (priority 1):** to avoid adverse financial and reputational consequences in the event of liquidity shortfall, the Auditor recommends that the Assembly delegate some responsibility to the Bureau, in order:
  - (a) To announce, in good time (i.e. leaving a reasonable period, such as two/three weeks – which needs to be more precisely defined – before the forecasted available cash only represents less than one standard month of payments), that the Court will be

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<sup>30</sup> *Ibid.*, page 6.

<sup>31</sup> *Ibid.*, page 28.

<sup>32</sup> *Official Records ... Fourteenth Session ... 2015*, (ICC-ASP/14/20), vol. I, part III, ICC-ASP/14/Res.1, section K, para. 2.

<sup>33</sup> ICC-ASP/18/12/Add.2.

<sup>34</sup> *Ibid.*, pages 2-3.

<sup>35</sup> Priority 1 classification refers to a fundamental issue, requiring immediate action by management.

<sup>36</sup> Priority 2 classification refers to a less urgent control issue to be dealt with by management.

<sup>37</sup> Priority 3 classification refers to an issue on which possible improvement of controls could be made and which is brought to the attention of management.

<sup>38</sup> ICC-ASP/18/2, Recommendation no.1.

exceptionally authorized to use the Contingency Fund, and/or, in the event that insufficient cash is available in the fund, to pre-negotiate a credit line;

(b) To allow the Court to effectively use either or both facilities only if and when the liquidity crisis becomes obviously unavoidable (for instance, when only one or two days of cash are left), this timescale also needs to be defined in advance very precisely); and

(c) To provide for immediate reporting of the situation to the States Parties for both previous decisions.

54. The AC suggested that the CBF consider the remaining eight recommendations at its thirty-third session as they are related to its mandate.

#### ***FINDINGS AND RECOMMENDATIONS***

55. **The Audit Committee endorsed recommendations 1 and 9 of the External Auditor on the Court's budget process as being related to the Committee's mandate in the areas of governance and risk management.**

#### **4. Provisional audit plan of the External Auditor for 2020**

56. The AC noted the External Auditor's provisional audit plan for 2020, which would include three audits:

- i. the audit of the Financial Statements of the Court for the year ending 31 December 2019;
- ii. the audit of the Financial Statements of the TFV for the year ending 31 December 2019; and
- iii. a performance audit assignment.

#### **5. Procurement exercise for external auditing services**

57. The term of the External Auditor, the Cour des comptes, will end with the consideration of the financial statements of the Court and the TFV for the year ending 2019. In accordance with its Charter, the AC shall make recommendations to the competent organ concerning the nomination of the External Auditor.<sup>39</sup>

58. As noted by the Assembly at its seventeenth session in December 2018, a "[...] detailed selection procedure for procurement of an External Auditor will be completed in time for the eighteenth session of the Assembly of States Parties."<sup>40</sup>

59. The AC continued its consideration of the selection process for the external auditing services.

60. In advance of the session, the Executive Secretary shared some options as to the way forward, as indicated by the Court's Procurement Unit.

#### ***FINDINGS AND RECOMMENDATIONS***

61. The Selection Panel undertook a technical analysis of the bids based on the criteria in the RFP to identify those audit firms that would fulfil the criteria. After the completion of the technical evaluation, neither of the two companies met the requirements, and therefore, the Selection Panel decided to stop the procurement process. The outcome of this selection process was shared with the

<sup>39</sup> § 60 AC Charter.

<sup>40</sup> ICC-ASP/17/Res.4, section I, para. 2.

Court's Procurement Unit. At the request of the Selection Panel, the Procurement Unit submitted the financial envelopes for the two companies.

62. **The Audit Committee recommended that the Assembly at its eighteenth session in December 2019 extend the mandate of the Cour des comptes for a further year covering the Financial Statements of the Court and the Trust Fund for Victims for the year ending 2020 and to undertake at least one performance audit.**

63. **The Audit Committee encouraged the States Parties to liaise with their supreme national audit offices with a view to submitting an expression of interest for the next term of the external audit servicing of the Court.**

64. The AC noted that in other international organisations, the duration of the mandate for the external auditor varies; in the Food and Agriculture Organisation (FAO), the duration is six years renewable without limitation, which is longer than the duration foreseen in the Financial Regulations and Rules of the Court which makes provision for a term of four years renewable once (a total of eight years).

65. **The Audit Committee recommended that the Court explore the duration and modalities for extending the external auditor's term in other international organisations and submit its findings to the AC at its twelfth session in July 2020.**

## **D. Follow-up on the implementation of previous recommendations**

### **1. Follow-up on the recommendations made by the External Auditor**

#### **(a) Unimplemented recommendations from previous financial audit reports**

66. In advance of the session, the representative of the External Auditor provided an overview of the implementation of recommendations made by the External Auditor from previous financial audit reports and provided comments on the status of implementation of these recommendations in the presence of Court representatives.

67. As regards the recommendations addressed to the Court, the AC noted with satisfaction that the External Auditor considered that six out of nine pending recommendations had been *implemented* in relation to:

- i. the accounting of asset seizures: adoption of the ASP/17/4 resolution modifying the FRR on 12 December 2018 (2013-1);
- ii. internal accounting control (SAP parameter setting and accounting staff stabilization) (2015-6);
- iii. internal payroll control (2016-1);
- iv. formalization of checks and verifications at payroll level (2016-2);
- v. more precise information in the notes contained in the annexes of actuarial gains and losses (2017-3); and
- vi. obtaining documentation of VWS expenditures: all required access relevant to the audit was provided (2017-4).

68. Out of three pending recommendations, the External Auditor considered two recommendations as *partially implemented* in relation to:

- i. pending contributions and article 112: a project was to be submitted to the CBF in May 2019, further follow-up required (2017-1): partially implemented; and
- ii. information on the Judges' pension scheme: additional disclosures are expected in the 2019 financial statements (2017-2): partially implemented.

69. The External Auditor further considered one recommendation as *unimplemented* in relation to the permanent premises: a maintenance plan is expected from the new contractor, which was still pending at the time of the audit (2015-3).

70. As regards the recommendations addressed to the Trust Fund for Victims, the AC took note of the External Auditor's observations that one recommendation had been implemented in relation to the financial training of field agents (2015-2).

71. The implementation of one recommendation is outstanding, namely in relation to the delegation of the administrative authority of the Registry (2014-1).

72. The External Auditor considered four other recommendations to be partially implemented, namely in relation to:

- i. the strengthening of the control of the operations entrusted to partner NGOs (making use of the reports of their auditors) (2016-2);
- ii. the strengthening of the control of the operations entrusted to NGO partners (verification of the budget execution of the projects) (2015-3);
- iii. the reinforcement of field resources (2014-4); and
- iv. the establishment of a table of responsibilities (2014-2).

73. Moreover, the External Auditor outlined that one new recommendation for 2017 had started to be implemented in relation to the precise justification of the commitments relating to the reparations granted (2017-1).

#### ***Unimplemented recommendations from previous performance audit reports***

74. In relation to the performance audit on cash reserves conducted in 2015, the External Auditor considered a recommendation on financing commitments made to staff as being partially implemented pending decisions by the Assembly (2015-3).

75. As for the performance audit report on the Division of External Operations (DEO) conducted in 2017, four out of five recommendations are considered to be implemented; one recommendation on synergies between the DEO and other organs of the Court has been partially implemented and requires more time to be fully implemented.

76. Regarding the performance audit report on Human Resources Management, submitted in July 2018, three out of ten recommendations are implemented and seven are partially implemented.

#### ***FINDINGS AND RECOMMENDATIONS***

**77. Noting with satisfaction the progress achieved by the Court in implementing the External Auditor's recommendations, the Audit Committee requested that the External Auditor continue to monitor closely the implementation of all outstanding recommendations and looked forward to discussing the progress made by the Court at its twelfth session in July 2020.**

#### **2. Follow-up on the implementation of recommendations made by the External Assessor**

78. At its eighth session in August 2018, the AC requested that the OIA and the Court draft an action plan for the implementation of all the recommendations of the External Assessor and report thereon.<sup>41</sup> On the basis of this recommendation, an action plan for the implementation of the External Assessor's recommendations was jointly submitted by the Court and the OIA at the AC's ninth

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<sup>41</sup> AC/8/5, para. 53.

session.<sup>42</sup> After having carefully reviewed the implementation status, action plans and comments provided by the OIA and the Court in the Annex of the Joint Report, the Audit Committee believed that all of the recommendations addressed to the OIA/the Court require further attention. The Audit Committee recommended that some modifications to the action plans be made with a view to ensuring the full and timely implementation of all the recommendations made by the external assessor.

79. The Court and the OIA submitted the “Second Joint Report of the Court and the Office of Internal Audit on action plans for the implementation of the external assessor’s recommendations”<sup>43</sup> in advance of the AC’s tenth session.

#### ***FINDINGS AND RECOMMENDATIONS***

80. The AC noted with satisfaction that the Court and the OIA had updated the status of the implementation of recommendations taking into account the comments made by the AC at its eighth session.

**81. The AC took note of the updated status of the implementation of recommendations and will keep monitoring the status in terms of implementing the recommendations, and recommended that the OIA and the Court submit an updated status report on the implementation of recommendations of the external assessor at its twelfth session in July 2020.**

### **3. Follow-up on recommendations made by the Audit Committee**

82. The AC considered the report entitled “Follow-up on the recommendations of the Audit Committee”,<sup>44</sup> which is an updated log of all the recommendations issued since the AC’s re-establishment submitted by the Executive Secretary. The document contains an updated register of all recommendations issued so far by the AC with a view to ensuring full implementation and an efficient follow-up.

83. The AC has generated 110 recommendations, covering all areas of the AC’s mandate, with a view to assisting the Court in improving its work. The recommendation log specifies the recommendation holder, the acceptance or rejection of a recommendation, the deadline for implementation and the implementation status for each recommendation.

#### ***FINDINGS AND RECOMMENDATIONS***

84. The AC noted that of the 110 recommendations made so far, two recommendations had been rejected by the Court because of the underlying risk had been accepted.

85. Of the 108 accepted recommendations, 78 recommendations (or 72 per cent) have been implemented, whereas 13 recommendations (or 12 per cent) have not been implemented or only partially implemented. The implementation of the remaining recommendations is pending, as the deadline for their implementation has not yet expired.

86. The AC decided to keep monitoring progress in relation to the implementation of its recommendations at its future sessions.

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<sup>42</sup> Please refer to AC/9/20.

<sup>43</sup> AC/10/4.

<sup>44</sup> AC/10/13.



### **III. Other matters**

#### **A. Amendments to the Charter of the Audit Committee**

87. At its ninth session in March, the AC discussed amendments to its Charter, which is a living document and requires regular review to ensure compliance with international standards and best practice.

88. The AC finalized its deliberations and would like to submit the proposed amendments included in Annex III to this report for consideration by the CBF at its thirty-third session and for approval by the Assembly at its eighteenth session in December 2019.

#### **B. Work plan for the eleventh session of the Audit Committee**

89. The eleventh and twelfth sessions of the AC are scheduled to take place from 9-10 March 2020 and from 27-29 July 2020, respectively.

90. The AC decided to focus during its eleventh session on the following matters: risk management, including the annual review of the Court's risk register; oversight of internal audit matters; and follow-up on previous recommendations of (a) the OIA, (b) the External Auditor, (c) the Audit Committee, and (d) the External Assessor.

## **Annex I: Procedural matters related to the tenth session**

### **A. Opening of the tenth session**

1. In accordance with its Charter, the AC shall meet at least two times annually.<sup>45</sup> The AC held its tenth session from 24-25 July 2019 in The Hague.
2. During its tenth session, the AC considered the documentation listed in annex IV of this report.
3. At its tenth session, the AC held four meetings. The session was attended by the following members:
  - 1) Mr. Samir Abu Lughod (Jordan);
  - 2) Mr. Aiman Ibrahim Hija (Australia);
  - 3) Ms. Margaret Wambui Ngugi Shava (Kenya); and
  - 4) Ms. Elena Sopková (Slovakia).
4. The Executive Secretary to the Committee on Budget and Finance, Mr. Fakhri Dajani, acted as the Executive Secretary to the Audit Committee and, together with his team, provided the substantial and logistical servicing.

### **B. Adoption of the agenda**

5. The Executive Secretary, in consultation with the Chairperson, prepared a provisional agenda and a work programme for the tenth session of the AC. At its first meeting the AC adopted the following agenda:
  - 1) Opening of the session
    - (a) Adoption of the agenda and organization of work
    - (b) Participation of observers
  - 2) Governance structure of the Court
    - (a) Organizational manual of the Court, including allocation of internal resources and skills and outline of the phases of implementation<sup>46</sup>
  - 3) Internal Audit matters
    - (a) Review of the draft amendments to the Charter of the Office of Internal Audit<sup>47</sup>
    - (b) Audit reports of the Office of Internal Audit
    - (c) Status of implementation of the 2019 Internal Audit Plan and of the OIA 2017-2019 IT Audit Plan<sup>48</sup>
    - (d) 2020 Provisional Internal Audit Plan
  - 4) External audit matters
    - (a) Financial statements of the Court for the year ended 31 December 2018
    - (b) Financial statements of the Trust Fund for Victims for the year ended 31 December 2018

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<sup>45</sup> § 40 AC Charter.

<sup>46</sup> AC/5/5, para. 19 and AC/8/5, para. 14.

<sup>47</sup> AC/9/5, Annex III, recommendation 1.

<sup>48</sup> AC/3/5, paras. 16-20.

- (c) Performance audit report on the Court's budget process
  - (d) Analysis of the Court's liquidity risk and possible mitigating measures<sup>49</sup>
  - (e) Procurement exercise for external auditing services: Technical evaluation of the bids received<sup>50</sup>
- 5) Follow-up on previous recommendations
- (a) Follow-up on recommendations made by the External Auditor, including the implementation of recommendations in the area of the payroll system<sup>51</sup> and the Ethics Charter<sup>52</sup>
  - (b) Follow-up on recommendations by the external assessor
  - (c) Follow-up on recommendations by the Audit Committee
- 6) Other matters
- (a) Review of the Charter of the Audit Committee
  - (b) Work plan of the eleventh session of the Audit Committee.<sup>53</sup>

### C. Participation of observers

6. The Vice-President of the Court, Judge Marc Perrin de Brichambaut, the Registrar of the Court, Mr. Peter Lewis, and other Court representatives attended the opening of the session. The Vice-President delivered the welcoming remarks on behalf of the President, elaborating on the Court's organizational manual, the audit reports by the External Auditor, and the implementation of the recommendations made by the External Assessor.

7. Representatives of the Court were available to answer questions from the Committee related to the governance structure of the Court, internal audit matters, external audit matters other matters, as appropriate.

8. The representatives of the External Auditors, Mr. Camoin and Mr. Guy Piolé presented the audit report on the financial statements of the Court and the Trust Fund for Victims for the year ending 2018, as well as the performance audit on the budget process.

9. The Director of the Office of Internal Audit presented the draft amendments to the Charter of the OIA for consideration by the Audit Committee; gave an overview of the main findings of the audit reports; presented the status of implementation of the 2019 Internal Audit Plan and of the OIA 2017-2019 IT Audit Plan; and also introduced the provisional audit plan for 2020 for the Committee's consideration.

10. Ms. Shweta Dhiman, a consultant engaged by the Court to carry out an assessment of ways of instituting an informal conflict resolution mechanism at the Court with a view to complementing and reinforcing the Court's internal system of administration of justice, briefed the Committee on her work.

11. The Committee wished to thank the Court representatives and all other observers for their participation in the session and input to the discussion.

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<sup>49</sup> AC/8/5, para. 59.

<sup>50</sup> AC/9/5, paras. 59-61.

<sup>51</sup> AC/8/5, para. 28.

<sup>52</sup> ICC-ASP/17/Res.4, section M, para. 6.

<sup>53</sup> AC/10/1.

## Annex II: Draft amendments to the Charter of the Audit Committee<sup>54</sup>

### A. Introduction

1. The Audit Committee plays an important role in providing oversight of the governance, risk management, and internal control practices of the International Criminal Court (“the Court”). This oversight mechanism also serves to provide confidence in the integrity of these practices. The Audit Committee performs its role by providing independent advisory and assurance services to the Assembly of States Parties (“the Assembly”).

### B. Purpose

2. The purpose of the Audit Committee is to provide structured systematic oversight of the Court’s governance, risk management, and internal control practices. The Audit Committee assists the Assembly by providing advice and guidance on the adequacy of the Court’s initiatives in relation to its mandate:

- ~~— (a) Governance structure; (b) Risk management;~~
- ~~— (c) Values and ethics;~~
- ~~— (d) Internal control framework;~~
- ~~— (e) Oversight of internal and external audit; and~~
- ~~— (f) Financial statements and public accountability reporting.~~

3. In broad terms, the Audit Committee reviews each of the key areas of its mandate items noted above and provides the Assembly with independent advice on the adequacy and effectiveness of the Court’s management practices. This advice and guidance may also include suggestions and recommendations to strengthen those practices.

### C. Mandate

4. The mandate for the re-establishment of the Audit Committee derives from the Assembly’s approval of the recommendations of the ~~Committee on Budget and Finance~~ (“the CBF”).<sup>55</sup>

5. The mandate of the Audit Committee is to assist the Court in meeting States Parties’ demands for transparency and accountability by providing oversight of its management practices in key ~~governance~~ areas, including:

- (a) Values and ethics;
- (b) Governance of the Court ~~structure~~;
- (c) Risk management;
- (d) Internal control framework;

<sup>54</sup> At its fourteenth session, the Assembly approved the Charter of the Audit Committee as contained in Annex IV of the Report of the Committee on Budget and Finance on the work of its twenty-fifth session. Cf. *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Fourteenth Session, The Hague 18-26 November 2015* (ICC-ASP/14/20), vol. II, part B.3, annex IV. At its sixteenth session, the Assembly approved the amendments recommended by the Committee on Budget and Finance at its twenty-ninth session in relation to Articles 10 and 40 of the Charter. Cf. *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.2, para. 214.

<sup>55</sup> *Official Records ... Thirteenth session ... 2014*, (ICC-ASP/13/20), vol. I, part II, para. 8.

- (e) ~~Internal A~~ Internal Audit activities;
- (f) ~~External assurance providers~~ audit activities, including:
  - (i) ~~The examination and monitoring of the independence of the External Auditor and of his recommendations, as well as of any other questions raised by the External Auditor or by any other external assurance provider; and~~
  - (ii) ~~Making recommendations to the competent organ~~ Assembly concerning the nomination of the External Auditor; ~~and~~
  - (iii) ~~Consideration of the financial statements, and public accountability reports and performance reports; and~~
- (g) ~~Follow-up on management action plans; and~~
- (h) ~~Financial statements and public accountability reports.~~

6. ~~The list of mandates~~ key areas is non-exhaustive, with the possibility of adding or changing items. Exhaustion of the full list of items each calendar year is not mandatory. Rather, the Audit Committee should be able to address issues whenever the need arises.

#### D. **Authority**

~~3.7.~~ The authority of the Audit Committee to perform its work is established within the scope of its Charter. In discharging its responsibilities, the Audit Committee shall have unrestricted access to members of Court management and staff, as well as to all relevant information it considers necessary to discharge its duties. The Audit Committee shall also have unrestricted access to records, data, and reports.

8. The Audit Committee is entitled to receive all ~~the such clarifications explanations~~ from Court management and staff ~~that~~ it deems necessary to discharge its responsibilities.

9. The Audit Committee may engage ~~such~~ independent ~~counsel~~ consultants and/or other advisers ~~as~~ it deems necessary to carry out its duties.

#### E. **Composition of the Audit Committee**

~~4.10.~~ ~~40.~~ The Audit Committee shall consist of three to five external members from States Parties to the Rome Statute. Members of the AC shall be independent of the Court and its organs, whereby two out of the five members shall be active members of the CBF Committee on Budget and Finance and nominated by the CBF for approval by the Assembly. Where ~~the such~~ conditions of active membership of the CBF are no longer met during the mandate of an Audit Committee member, the CBF shall recommend a new member for approval by the Assembly.<sup>56</sup>

~~11.~~ ~~41.~~ The members should collectively possess sufficient knowledge of audit, finance, IT, law, risk and control. As the responsibilities of the Audit Committee evolve in response to regulatory, economic and reporting developments, it is important that ~~members'~~ members' competencies and the overall balance of skills on the Audit Committee be periodically evaluated to respond to emerging needs.

<sup>56</sup> At its sixteenth session, the Assembly approved the recommendation of the Committee on Budget and Finance that the amendments in relation to paragraph 10 in the AC Charter become effective after the completion of the mandates of the current AC members. C.f. Official Records ... Sixteenth session ... 2017 (ICC-ASP/16/20), vol. II, part B.2, para. 215.

~~12. For the recruitment procedure, all efforts should be made to ensure that the criteria of geographical and gender balance are observed. An Ad Hoc Audit Committee is tasked with recruiting the members of the Audit Committee.~~

12. Secretarial services shall be provided to the Audit Committee by the Executive Secretary ~~of~~to the CBF (“the Executive Secretary”).

#### **F. ~~F.~~ Selection of the Audit Committee members**

~~13. Every~~All efforts should be made to ensure that the most qualified candidate is selected based on merits taking into consideration, as much as possible, geographical representation and gender balance.

14. Without prejudice to article 10, for the selection of the remaining ~~For the selection of the Audit Committee members~~members, a Selection Panel will be convened at the ~~upon~~request of the Audit Committee in consultation with the President of the Assembly or his/her representative, ~~established~~comprising of the following members:

- ~~(a) the President of the Assembly, or his/her representative or the Vice President of the Assembly in The Hague/Coordinator of The Hague Working Group;~~
- ~~(b) the Chairperson of the Committee on Budget and Finance (or his/her representative); and~~
- ~~(c) the Chairperson of the Audit Committee (or his/her representative).~~

15. The Executive Secretary will carry out the secretarial duties of the Selection Panel.

16. The Executive Secretary will prepare a “Call for expression of interest” for review by the Selection Panel. After consideration by the Selection Panel, the “Call for expression of interest” will be published on the website of the International Criminal Court for two weeks.

17. After receiving applications, the Selection Panel will proceed with the short-listing of the most qualified candidates based on the criteria determined in the “Call for expression of interest”.

18. The Selection Panel will recommend candidate(s) for approval by the Assembly at its session.

#### **G. ~~The~~ Chairperson and the Vice-Chairperson of the Audit Committee**

19. Each year, at its first meeting, the Audit Committee shall elect a Chairperson and a Vice-Chairperson from among its members.

20. The election process shall be handled by the Executive Secretary ~~of the Audit Committee~~ who will invite candidacies for election as Chairperson or Vice-Chairperson.

21. The Chairperson and the Vice-Chairperson shall be elected for a term of one year. They shall be eligible for re-election twice.

22. In the absence of the Chairperson, the Vice-Chairperson shall take his/her place.

23. If the Chairperson or the Vice-Chairperson ceases to be able to carry out his/her functions or ceases to be a member of the Audit Committee, he/she shall cease to hold such office and a new Chairperson or Vice-Chairperson shall be elected for the unexpired term.

24. If the Chairperson ceases to hold office pursuant to paragraph ~~47~~23 above, the Vice-~~Chairperson~~Chairperson shall take his/her place until ~~election of~~a new Chairperson is elected.

25. A Vice-Chairperson acting as Chairperson shall have the same powers and duties as the Chairperson.

26. The Chairperson, in the exercise of his/her functions, remains under the authority of the Audit Committee.

27. ~~22.~~ In addition to exercising the powers conferred upon him/her elsewhere in these rules, the Chairperson shall declare the opening and closing of each meeting of the Audit Committee, direct the discussions, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He/she shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Audit Committee and over the maintenance of order at its meetings. The Chairperson may, in the course of the discussion of an item, propose to the Audit Committee ~~at the~~ limitation on the amount of time to be allowed to speakers, ~~at the~~ limitation on the number of times each member may speak on any question, the closure of the list of speakers or the closure of the debate. He/she may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.

28. The Chairperson shall represent the Audit Committee at sessions of the Assembly and its subsidiary bodies~~meetings of the CBF or at meetings of the Assembly as appropriate.~~

#### H. ~~G.~~ Terms of Office

29. The term of office for an Audit Committee member shall be three years. ~~Independent~~The members of the Audit Committee may not serve more than two terms.

~~To ensure continuity within the Audit Committee, the appointment of members shall be staggered by extending once an additional one year the term of the first appointed Chairperson and Vice Chairperson to be four years instead of three.~~

#### I. ~~H.~~ Quorum and Decision-making

30. The quorum for the Audit Committee shall be a majority of the members.

31. As a general rule, decision-making ~~by~~in the Audit Committee should be by consensus. If all efforts to reach a decision by consensus have been exhausted, decisions shall be taken by a majority of members present and voting.

32. Each member of the Audit Committee, including the Chairperson, shall have one vote.

33. If a vote is equally divided, the proposal or motion shall be regarded as rejected.

## **J. Operational Principles of the Audit Committee**

### **1. Audit Committee values**

**34.** The Audit Committee shall conduct itself in accordance with the code of values and ethics of the Court, and with international standards.

### **2. Communications**

**35.** The Audit Committee expects that all communication with the management and staff of the Court, as well as with any external assurance providers, will be direct, open, and complete.

### **3. Work plan**

**36.** The ~~Audit Committee Chair~~Chairperson, in concert with other members and with the assistance of the Executive Secretary ~~to the Audit Committee~~, will establish a work plan to ensure that the responsibilities of the Audit Committee are properly scheduled and effectively carried out.

### **4. Meeting agenda**

**37.** The ~~Chair~~Chairperson shall establish meeting agendas in consultation with Audit Committee members, and with the Executive Secretary ~~of the Audit Committee~~.

### **5. Information requirements**

**38.** ~~34.~~ The Audit Committee shall establish and communicate its information requirements. These shall include the nature, extent, and timing of such information requirements. Information shall be provided to the Audit Committee at least six weeks prior to each meeting.

### **6. Preparation and attendance**

**39.** Audit Committee members have an obligation to prepare for and participate in Audit Committee meetings.

### **7. Incompatible activities**

**40.** Members of the Audit Committee shall have no financial interest in any activity relating to matters upon which the Audit Committee has the responsibility to make recommendations.



Members of the Audit Committee shall not be eligible to assume any other functions at the Court.

### **8. Conflict(s) of interest**

41. It is the responsibility of an Audit Committee member to disclose a conflict of interest or the appearance of a conflict of interest to the Audit Committee. If there is any question as to whether Audit Committee member(s) should recuse themselves from a vote, the Audit Committee shall vote to determine whether the member should recuse himself or herself.

### **9. Confidentiality**

42. Members of the Audit Committee shall not disclose, even after termination of their functions, any confidential information ~~they become aware of as a result coming to their knowledge by reason~~ of their duties for the Audit Committee.

### **10. 10.-Orientation and training**

43. The Audit Committee members shall receive formal orientation on the purpose and mandate of the Audit Committee and on the ~~Court's~~Court's objectives.

## **K. Operational Procedures**

### **1. Meetings**

~~5.44.~~ The Audit Committee shall meet at least ~~twice~~ two times annually.<sup>57</sup>

45. The structure of the Audit Committee should be kept as lean and as efficient as possible. ~~Therefore, if possible, one or more of its meetings should be conducted by video link.~~

46. ~~42.~~ The Committee shall normally meet at the seat of the Court. Sessions of the Audit Committee may be held elsewhere if the Audit Committee and/or the CBF so decide.

### **2. Convening of sessions**

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<sup>57</sup> As amended by the Assembly at its sixteenth session. Cf. *Official Records ... Sixteenth session ... 2017* (ICC-ASP/16/20), vol. II, part B.2, para. 214.

47. Sessions of the Audit Committee shall be convened at the request of the majority of the members of the Audit Committee ~~or, the Chairperson of the Audit Committee.~~ Whenever the Chairperson makes a request to convene a session of the Audit Committee, he/she shall consult the members of the Audit Committee beforehand.

48. In addition, the Assembly; ~~or at the request of the CBF~~ may request that the Audit Committee ~~to convene~~ to address specific matters.

49. ~~Before the Chairperson makes a request to convene a session of the Audit Committee, he/she shall consult the members of the Audit Committee, including on the date and duration of the session.~~

50. Any session of the Audit Committee called pursuant to a request ~~of the CBF~~ shall be convened as soon as possible but no later than 60 days from the date of the request. The Chairperson shall notify the members of the Audit Committee as early as possible of the date and duration of each session.

51. ~~46. The Chairperson shall notify the members of the Audit Committee as early as possible of the date and duration of each session.~~

### **3.-Agenda**

52. ~~47.~~-The provisional agenda for each session of the Audit Committee shall be drawn up by the Executive Secretary, in consultation with the Chairperson, whenever possible, and shall include:

- (a) ~~(a)~~-All items proposed by the Audit Committee; ~~and~~
  - (b) ~~(b)~~-All items proposed by the Assembly;
  - (c) ~~All items proposed by the CBF; and~~
  - (d) ~~All items proposed by the Court.~~
- ~~the CBF.~~

53. The provisional agenda for each session of the Audit Committee shall be communicated to its members and the Court as early as possible in advance of the session, but at least 21 days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be communicated ~~brought to the notice of the members of the Audit Committee and to the members of the CBF~~ sufficiently in advance of the session.

54. At the beginning of each session the Audit Committee shall adopt its agenda for the session; ~~on the basis of the provisional agenda.~~ The Audit Committee may, if necessary, amend the agenda.

### **4. Access to officials**

~~The Audit Committee shall have such unrestricted access to officials of the Court as may be required to discharge their duties.~~

## **L. Compensation of Audit Committee Members**

55. Members of the Audit Committee shall work on a *pro bono* basis, with the Court being responsible for travel, accommodation and related costs. Travel costs shall correspond to a business class airfare. A daily subsistence allowance (DSA) shall be paid at 140 per cent.

## **M. Responsibilities**

56. It is the responsibility of the Audit Committee to provide the Assembly through the CBF with independent, objective advice on the adequacy of the Court ~~management's~~management's arrangements with respect to the following ~~aspects~~key areas:

### **1.-Values and ethics**

57. To obtain reasonable assurance with respect to the ~~Court's~~Court's values and ethics practices, the Audit Committee shall:

- (a) ~~(a)~~ Review and assess the policies, procedures, and practices established by the governing body to monitor ~~compliance~~ conformance with its code of conduct and ethical policies by all Court managers and staff;
- (b) ~~(b)~~ Provide oversight of the mechanisms put in place by management to establish and maintain high ethical standards for all Court managers and staff-; and
- (c) ~~(c)~~ Review and provide advice on the systems and practices established by management to monitor compliance with laws, regulations, policies, and standards of ethical conduct and identify and deal with any legal or ethical violations.

### **2.-Governance of the Court**

58. To obtain reasonable assurance with respect to the ~~Court's~~Court's governance arrangements, the Audit Committee shall review and provide advice on the governance arrangements established and maintained within the Court and the procedures in place to ensure that they are operating as intended.

### **3.-Risk management.**

59. To obtain reasonable assurance with respect to the ~~Court's~~Court's risk management arrangements, the Audit Committee shall:

- (a) ~~(a)~~ Provide oversight of ~~the~~ significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by senior management;
- (b) ~~(b)~~ Review and provide advice on the risk management arrangements established and maintained by management and the procedures in place to ensure that they are operating as intended;
- (c) ~~(c)~~ Annually review the ~~Court's~~Court's corporate risk profile; and
- (d) ~~(d)~~ Obtain from the Internal Auditor an annual report on ~~management's~~management's implementation and maintenance of an appropriate integrated risk management process.

#### 4. Internal Management control framework

60. To obtain reasonable assurance with respect to the ~~Court's~~Court's management control framework, the Audit Committee shall:

- (a) ~~(a)~~ Review and provide advice on the ~~Court's~~Court's overall and management ~~units'~~units' internal control arrangements; and
- (b) ~~(b)~~ Receive reports on all matters of significance arising from work performed by others who provide financial and internal control assurance to senior management.

### N. Oversight of Internal and External Audit and Other Assurance Providers

#### 1. Internal audit activities

61. To obtain reasonable assurance with respect to audit activities, the Audit Committee shall:

- (a) ~~(a)~~ Review and approve the internal audit charter at least once every two years. The charter should be reviewed to ensure that it is consistent with changes in the ~~Court's~~Court's financial, risk management, and governance arrangements and reflects developments in internal audit professional practices;
- (b) ~~(b)~~ Review and approve proposed risk-based internal annual audit ~~work plans and changes thereto, as well as any other services requested by clients and~~ and make recommendations concerning internal audit projects;
- (c) ~~(c)~~ Advise the Assembly through the CBF regarding the qualifications and recruitment, retention and release of the Director of the Office of Internal Audit;
- (d) ~~(d)~~ Provide input to management on the annual performance evaluation of the Director of the Office of Internal Audit;
- (e) ~~(e)~~ Recommend to management the appropriate compensation of the Director of the Office of Internal Audit;
- (f) ~~(f)~~ Review the budget, expertise and staffing levels of the ~~internal audit programme~~Office of Internal Audit;
- (g) ~~(g)~~ Advise the Assembly through the CBF about increases and decreases in the requested budget for the ~~internal audit programme~~Office of Internal Audit and any additional expertise needed. Evaluate whether additional expertise should be in the form of permanent staff or outside consulting services;
- (h) ~~(h)~~ Review internal audit reports and other communications to management;
- (i) ~~(i)~~ Review and track ~~management's~~management's action plans to address internal audit recommendations;
- (j) ~~(j)~~ Enquire of the Director of the Office of Internal Audit whether any internal audit engagements or tasks have been carried out that did not result in a report to the Audit Committee. If such activity has taken place, enquire as to the matters of significance, if any, arising therefrom;
- (k) ~~(k)~~ Review and provide input on ~~the internal audit's~~audit's strategic plans, programme goals, performance measures, and outcomes;
- (l) ~~(l)~~ Enquire of the Director of the Office of Internal Audit about steps taken to ensure that the audit activity is consistent with the Institute of Internal ~~Auditors'~~Auditors' International Standards for the Professional Practice of Internal Auditing Standards;
- (m) ~~(m)~~ Ensure that the internal audit function has an external quality assurance review every five years; and
- (n) ~~(n)~~ Review the results of the independent external quality assurance review and monitor the implementation of the action plans to address recommendations raised.

## 2. External audit activities

~~62.~~ ~~58.~~ To obtain reasonable assurance with respect to the work of the external assurance providers (including, but not limited to, the External Auditor), the Audit Committee shall meet with such providers during the planning phase of the audit, the presentation of the audited financial statements, and the discussion of the letter to management on recommendations.

~~63.~~ The Audit Committee shall examine and monitor ~~of~~ the independence of the External Auditor and of his recommendations, as well as ~~of~~ any other questions raised by the External Auditor or by any other external assurance provider.

~~64.~~ The Audit Committee shall make recommendations to the ~~competent organ~~ Assembly concerning the nomination of the External Auditor.

### ~~3.~~ Follow up on management action plans

~~61. To obtain reasonable assurance that management has acted on the observations and recommendations from internal and external audit, the Audit Committee shall review regular reports on the progress of implementing approved management action plans and audit recommendations resulting from completed audits.~~

## ~~3.~~ 4. Financial statements and public accountability reporting

~~65.~~ The Audit Committee is responsible for oversight of the independent audit of the ~~Court's~~ Court's financial statements, including, but not limited to, overseeing the resolution of audit findings in areas such as internal control, legal and statutory compliance, and ethics.

### ~~4.~~ Follow up on management action plans

~~66. To obtain reasonable assurance that management has acted on the observations and recommendations from internal and external audits, the Audit Committee shall review regular reports on the progress of implementing approved management action plans and audit recommendations resulting from completed audits.~~

## ~~5.~~ 5. Other responsibilities

~~67.~~ In addition, the Audit Committee shall:

- ~~(a)~~ ~~(a)~~ Perform other activities related to this charter as requested by the Assembly or by the CBF; and
- ~~(b)~~ ~~(b)~~ Regularly evaluate its own performance and that of individual members as appropriate.

### ~~1.~~ 6. Reporting on Audit Committee performance

~~64.~~ The Audit Committee shall submit, after each session, ÷

(a) ~~Make an annual~~ Aa report to the CBF summarizing its activities and recommendations. This Such; (b) ~~The~~ report should include:

- (i) ~~(i)~~ A summary of the work performed by the Audit Committee to fully discharge its responsibilities; ~~during the preceding year;~~
- (ii) ~~(ii)~~ A summary of the ~~Court's~~ Court's progress in addressing corrective actions on the findings and recommendations made in internal and external audit reports; and
- (iii) ~~(iii)~~ An overall assessment of the ~~Court's~~ Court's risk, control, and compliance framework, including details of any significant emerging risks or legislative changes impacting the Court; and
- ~~(iv) Details of meetings, including the number of meetings held during the relevant period and the number of meetings attended by each member.~~

68. ~~The~~ Audit Committee may, at any time, report ~~to the Assembly through the CBF~~ any other matter it deems of sufficient importance to the Assembly via the CBF.

## O. ~~Languages~~

69. ~~The~~ working languages of the Audit Committee shall be the official working languages of the Court.

70. ~~All~~ recommendations and other documents of the Audit Committee shall be published in the official languages of the Court, unless otherwise decided by the Chairperson of the Audit Committee.

## P. ~~O.~~ Review

~~671.~~ 1. ~~The~~ Audit Committee shall keep the present Charter under review.

### Annex III: Target timelines for the implementation of the recommendations made in the Final Audit Report on the Audit of Security and Safety at the HQ Building and the Final Audit of the Training Program of Investigators

Recommendation No	Recommendation Date	Audit Title	Audit Recommendation	Risk Level	Unique Leader	Completion Due Date
OIA.01.19/001	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.1	Medium	OD-DMS	Q3 2019
OIA.01.19/004	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.3	Medium	SSS	Q4 2019
OIA.01.19/005	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.5	Medium	SSS	Q2 2019
OIA.01.19/006	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.6	Medium	SSS	2Q 2019
OIA.01.19/007	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.7	Medium	SSS	2-3 Q 2019
OIA.01.19/008	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.8	Medium	SSS	Q4 2019
OIA.01.19/009	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.9	Medium	SSS	Q3 2019
OIA.01.19/010	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.10	Medium	SSS	Q3 2019
OIA.01.19/011	16/05/2019	Audit of Security and Safety at the HQ Building	Recommendation no.11	Medium	SSS	Q4 2019
OIA.08.18/001	18/12/2018	Audit on the Physical and Environmental Protection	Recommendation no.1	Medium	SSS	3Q 2019
OIA.08.18/002	18/12/2018	Audit on the Physical and Environmental Protection	Recommendation no.2	Medium	SSS	3Q 2019
OIA.04.1/001	02/04/2019	Audit of the Training Program of Investigators	Recommendation no. 1 Please refer to the report distributed via email on the 2 <sup>nd</sup> of April 2019.	Medium	ID – Investigation Division	By 30th June. [GL/CR] Submit the feasible solution, where appropriate in line with the timelines used by the Court. (ID had provided update on the work done so far) Timeline/Who: Tbd in function of the chosen solution]
OIA.04.1/002	02/04/2019	Audit of the Training Program of Investigators	Recommendation no. 2 Please refer to the report distributed via email on the 2 <sup>nd</sup> of April 2019.	Medium	ID – Investigation Division	3Q 2019
OIA.04.1/003	02/04/2019	Audit of the Training Program of Investigators	Recommendation no. 3 Please refer to the report distributed via email on the 2 <sup>nd</sup> of April 2019.	Medium	ID – Investigation Division	3Q 2019 for the input to the project business analysis; And roll-out – to be defined, based on the timelines set by such project.

**Annex IV: List of documents**

<i>Document symbol</i>	<i>Title</i>	<i>ASP reference (if available)</i>
AC/10/1	Provisional agenda of the tenth session of the Audit Committee	
AC/10/1/Add.1	Annotated provisional agenda of the tenth session of the Audit Committee	
AC/10/2	Status of implementation of the 2019 Audit Plan – Quarter 1	
AC/10/3	Office of Internal Audit: Final Audit Report on the Audit of Security and Safety at the HQ Building	
AC/10/4	Second Joint Report of the Court and the Office of Internal Audit on action plans for the implementation of the external assessor’s recommendations	
AC/10/6	Report of the Court on its organizational manual	
AC/10/7	2020 Audit Plan (June 2019)	
AC/10/8	Charter of the Office of Internal Audit – version of May 2019	
AC/10/9	Status of implementation of the 2019 Audit Plan – Quarter 2	
AC/10/10	Financial statements of the Trust Fund for Victims for the year ended 31 December 2018	ICC-ASP/18/13
AC/10/12	Financial statements of the International Criminal Court for the year ended 31 December 2018	ICC-ASP/18/12
AC/10/13	Final Audit of the Training Program of Investigator	
ICC-ASP/18/2/Rev.1	Audit report on the budget process at the International Criminal Court	