



Final audit report on the financial statements of the International Criminal Court for the year ended 31 December 2021

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Executive Summary

The Board of Audit and Inspection of the Republic of Korea was appointed as the External Auditor of the International Criminal Court (ICC) and the Trust Fund for Victims (TFV) for four years starting with the financial year 2021, at the fourth plenary meeting of the Assembly of States Parties on 16 December 2020.

To accomplish our initial audit engagement as the External Auditor, we communicated with the predecessor auditor, Cour de Comptes, several times and performed an interim audit in December 2021 to understand the ICC's operations and environment and identify various risk factors that will determine the focus of audit team's efforts. We conducted a final audit for three weeks in May 2022, focusing on performing audit procedures to test the appropriateness of journal entries and accounting estimates, along with verifying evidence about amounts and disclosures in the financial statements.

Based on our audit, we have provided an unmodified audit opinion on the financial statements of the ICC for the year ended 31 December 2021, by concluding that they present fairly, in all material respects, the financial position, financial performance, changes in net assets, cash flows, and comparison of budget and actual amounts for the year ended 31 December 2021 in accordance with the International Public Sector Accounting Standards (IPSAS). We also added more detailed explanation regarding matters that require the attention of the Assembly of States Parties (ASP). Some adjustments brought up by the External Auditor were incorporated to the 2021 financial statements such as the calculation of doubtful debt provision, additional note disclosures and other adjustments.

As a result of our audit, we observed the total assets decreased by € 13,747 thousand and the total liabilities decreased by € 23,143 thousand, while the total revenues and the total expenses decreased by € 1,537 thousand and €1,576 thousand, respectively. Some noticeable changes to the total net assets during the year were as follows: assessed contributions receivable decreased by € 2,135 due to slight increase of the collection rate, PP&E decreased by € 8,022 thousand from the annual depreciation, employee benefit liabilities decreased by € 17,106 thousand from the change in actuarial assumptions such as discount rate, and deferred revenue and accrued expenses decreased by € 2,856 thousand mainly from the decrease in advance payment received.

The External Auditor also recommended that the ICC make the appropriate action plan to recover the overpayments of the relocation grants for judges and strengthen the monitoring of salaries and allowances, formalize procedure to align with useful life of the building components in the capital replacement plan and the asset register, develop an Administrative Instruction on special post allowance considering the UN system and other international organizations, establish the amounting criteria for approval of Registrar or Prosecutor regarding fund transfer, and finally limit elevated SAP access, mitigate the risk of unauthorised program deployments and configuration changes, ensure that a full SAP data change history is available, and perform SAP access review annually or quarterly.

With regard to the follow-up of previous recommendation, only one came from the audit report on the financial statements: voting rights of States in arrears. We note that although continuous efforts have been made by the Court, the recommendation is still not fully implemented.

We would like to express our deepest gratitude to all the members of the ICC who had been supportive and cooperative during the audit.

I. Audit objectives, scope and approach

1. We have audited the financial statements of the International Criminal Court (the Court) in accordance with the International Standards on Auditing (ISA) and Regulation 12 of the Financial Regulations and Rules (FRR) of the Court, including the additional terms of reference governing the audit of the Court.
2. The objective of audit was to determine with reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, thereby enabling the External Auditor to express an opinion that the financial statements present fairly, in all material respects, the Court's financial position, financial performance, changes in net assets, cash flows, and comparison of budget and actual amounts in accordance with the International Public Sector Accounting Standards (IPSAS) for the financial year 2021.
3. The additional terms of reference governing the External Auditor are set out in the annex to the FRR, paragraph 6 (c), which stipulates that the External Auditor can indicate other matters that should be brought to the notice of the Assembly of States Parties (ASP) such as improper use of the Court's money and other assets, and any expenditure not in accordance with the intention of the ASP.
4. Financial statements prepared in accordance with IPSAS contain a statement of financial position, a statement of financial performance, a statement of changes in net assets, a statement of cash flows, a statement of comparison between budget and actual amounts and notes for the financial year then ended.
5. A set of seven schedules presenting additional information (Schedules 1 to 7) not falling within the scope of this audit was appended to the financial statements by the Court. The audit team ensured that those schedules were coherent with the financial statements, but did not carry out any other due diligence in regards to them.
6. The audit consisted of three phases:
 - i. Communication with the previous auditor, focused on risk analysis to conduct an initial audit engagement of the external audit mandate as well as hand-over discussion with the predecessor auditor, Cour des Comptes, was held remotely on 8 March and 4 May, and in-person on 7 September 2021;
 - ii. An interim audit, concentrated on understanding the Court's activities and environment and performing walk-throughs on various internal control procedures, was held from 1 to 10 December 2021; and
 - iii. A final audit, focused on obtaining evidence about the amounts and disclosures in the financial statements and making observations concerning the financial management of the Court, was held from 4 to 24 May 2022.
7. The audit observations and recommendations were discussed with the Division of Management Services (DMS) within the Registry. The final meeting was held on 24 May 2022 with the Director of DMS, the Head of the Finance Section and his team, the Head of the Human Resources Section, the Head of the Facilities Management Unit and the SAP Systems Officer.
8. The External Auditor received a letter of representation, signed by Registrar on 13 July 2022.
9. We express an unmodified opinion on the financial statements of the Court for the financial year ended 31 December 2021.

II. Restatement of prior year financial statements

10. Comparative information for 2020 is restated to derecognise employee benefit liabilities of the Secretariat of Trust Fund for Victims which were previously recognised on a pooled basis with the Court's staff. The more details for this matter can be found in the TFV final audit report.
11. In addition, annual leave liability was split between current and non-current liability both in 2021 and the comparative period.

III. Financial highlights for 2021

12. Notwithstanding the challenges caused by COVID-19, the Court's efforts to implement its mandate have continued throughout 2021.

Financial position

13. Total assets represent € 241.202 million in 2021, a decrease of about € 13.747 million (5.4 percent) from € 254.949 million in 2020. This decrease was mainly due to the annual depreciation of property, plant and equipment (PPE).
14. The level of cash is mainly linked to advance payment of € 18.276 million contributions related to 2022 assessments received. Accounts receivable and other receivables, totaling € 23.949 million, mainly relate to receivables from the States Parties. Total outstanding assessed contributions to regular budget are € 36.267 million (€ 38.402 million at the end of 2020), which are still at higher level.
15. From 2007 to 2021, the status of outstanding assessed contributions is presented as below.

Table 1. Outstanding assessed contributions from 2007 to 2021 (in thousands of euros)

<i>Year</i>	<i>Assessed Contribution (A)</i>	<i>Collections for current year(B)</i>	<i>Collection current year / Assessed contribution</i>	<i>Outstanding current year as at 31 December (C=A-B)</i>	<i>Collection for prior year</i>	<i>Outstanding as prior year as at 31 December(D)</i>	<i>Total outstanding as at 31 December (E=C+D)</i>
2007	88,872	83,021	93	5,851	9,672	2,298	8,149
2008	90,382	90,077	100	305	7,896	252	557
2009	96,230	95,469	99	761	225	332	1,093
2010	103,623	97,849	94	5,774	612	481	6,255
2011	103,608	101,222	98	2,386	5,849	406	2,792
2012	108,800	102,640	94	6,160	2,382	409	6,569
2013	112,040	105,381	94	6,659	6,248	321	6,980
2014	118,706	110,672	93	8,034	525	6,455	14,489
2015	125,598	112,959	90	12,639	6,343	8,147	20,786
2016	138,786	124,726	90	14,060	16,440	4,345	18,405
2017	144,587	126,353	87	18,234	5,592	12,813	31,047
2018	147,432	132,092	90	15,340	25,266	5,782	21,122
2019	148,135	133,724	90	14,411	9,761	11,361	25,772
2020	148,726	130,651	88	18,075	5,445	20,327	38,402
2021	148,259	133,763	90	14,496	16,630	21,771	36,267

Source: The previous audit reports, and list of outstanding accounts receivable provided by the Court

16. The most significant outstanding assessed contributions as at 31 December 2021 are as below.

Table 2. The five largest outstanding assessed contributions by amount as at 31 December 2021 (in thousands of euros)

<i>States Parties</i>	<i>Outstanding related to prior years</i>	<i>Outstanding related to 2021</i>	<i>Total 2021 Outstanding as at 31 December 2021</i>
Brazil	7,608	8,231	15,839
Venezuela	10,798	2,019	12,817
Argentina	2,433	2,425	4,858
Peru	434	420	854
Nigeria	76	675	751
Sub total	21,349	13,770	35,119
(%)	98%	95%	97%
Total (36)	21,771	14,496	36,267

Source: Financial statements of the Court for the year ended 31 December 2021

17. By the end of 2021, 36 States Parties (compared with 41 in 2020) had not entirely paid their assessed contributions. The five States Parties with the most significant outstanding arrears made no payment for assessed contributions attributable to 2021. Overall, the five States Parties represent approximately 97 percent of the total outstanding balance as at 31 December 2021.
18. Brazil owed € 15.8 million of arrears in 2021, constituting 44 percent of the total outstanding. It is shared out between € 7.6 million due to prior years and € 8.2 million related to 2021. Venezuela has accumulated unpaid amounts for several years. Its outstanding contributions (€ 10.8 million) related to prior years represent 84 percent of its total amount due (€ 12.8 million). Actually, it has not paid any assessed contribution since November 2018. The receivables related to these contributions in arrears are classified as doubtful debts of € 12.6 million. Argentina made payments of € 2.4 million before the end of May 2022. During 2022, Peru and Nigeria settled all outstanding contributions that had been unpaid as at 31 December 2021.
19. In 2021, the Court revised the methodology of calculating doubtful debt provision for assessed contributions receivable. For the provision, one group of the States Parties which had at least one payment made to the Court during the past five years was calculated based on their own collection rate, while the other group of the States Parties which had no history of payment made to the Court during the past five years was calculated at 100 percent. This change in the accounting estimate would reflect the characteristic of the payment pattern of each State Party more appropriately.
20. Property, plant and equipment represent € 152.132 million, or 63.1 percent of the total assets. Depreciation for the permanent premises was calculated over a full year for € 7.412 million in 2021, which explains the decrease of the amount of this item. Intangible assets have increased by 23.1 percent, amounting to € 3.226 million, which is mainly caused by the development of Judicial Workflow Platform (JWP).
21. Reimbursement rights correspond to coverage provided by insurer (Allianz prior to 2020 and AXA from 2020 to March 2021) for the vested rights of the judges to the retirement and disability benefits to which the Court contributed to cover the after-service pensions of judges. As the new remuneration package for judges was initiated, this pension plan was discontinued as at 11 March 2021.
22. Liabilities are mainly debts to suppliers, employees, and the host State for the loan to finance the permanent premises.
23. Employee benefits liabilities are also split between current and non-current liabilities:
- Salaries and entitlements, annual leave, other long term and post-employment benefits due within one year are included in current liabilities (€ 11.216 million); and
 - The non-current portion corresponds to annual leave, the Court's long-term liabilities such as separation benefits, judges' pensions and After Service Health Insurance (ASHI) (€ 76.960 million).

24. The loan from the host State was received to finance the Permanent Premises Project. It amounts to € 65.047 million at the end of 2021, compared with € 66.978 million at the end of 2020.
25. Deferred revenue and accrued expenses, totaling € 23.785 million, are essentially composed of assessed contributions collected in advance (€ 18.276 million), voluntary contributions collected in advance (€ 0.431 million), invoices not yet received at the closing of the accounts for services related to the Court's operations (€ 3.425 million), as well as € 1.653 million in annual interest on the loan maturing on 1 February 2022.
26. Net assets, amounting to € 59.136 million (€ 49.740 million in 2020), constitute the Court's net equity, the various components of which are detailed in Statement III - "Statement of changes in net assets/equity" with the following breakdown:
 - (a) A positive balance of € 50.634 million (compared with € 64.951 million at the end of 2020) for the Other General Fund balances, component of the General Fund;
 - (b) A positive amount of € 5.242 million for the Contingency Fund reserve and a positive amount of € 11.540 million for the Working Capital Fund reserve remained the same as the 2020 amount;
 - (c) A negative equity of € 11.258 million for the remaining funds of the General Fund, which includes the positive equity of the Fund for employee benefits liabilities (€ 0.144 million), the cash deficit (- € 3.719 million), and the negative equity of remeasurement of post-employment related plans (- € 7.683 million); and
 - (d) The positive equity of the 13 Trust funds fueled through voluntary contributions to the Court (not to be confused with the Trust Fund for Victims, which is a distinct entity producing its own financial statements), with a total of € 2.978 million.

Financial performance

27. The Court's total revenues decreased by € 1.537 million from € 146.021 million in 2020 to € 144.484 million in 2021, mainly due to the slight decline of assessed contributions approved by the ASP.
28. Expenses in 2021 totaled € 154.136 million, representing a decrease of € 1.6 million from the total expenses of € 155.712 million in 2020. Source of expenses in 2021 are as follows:

Figure 1. Expenses by source, 2021

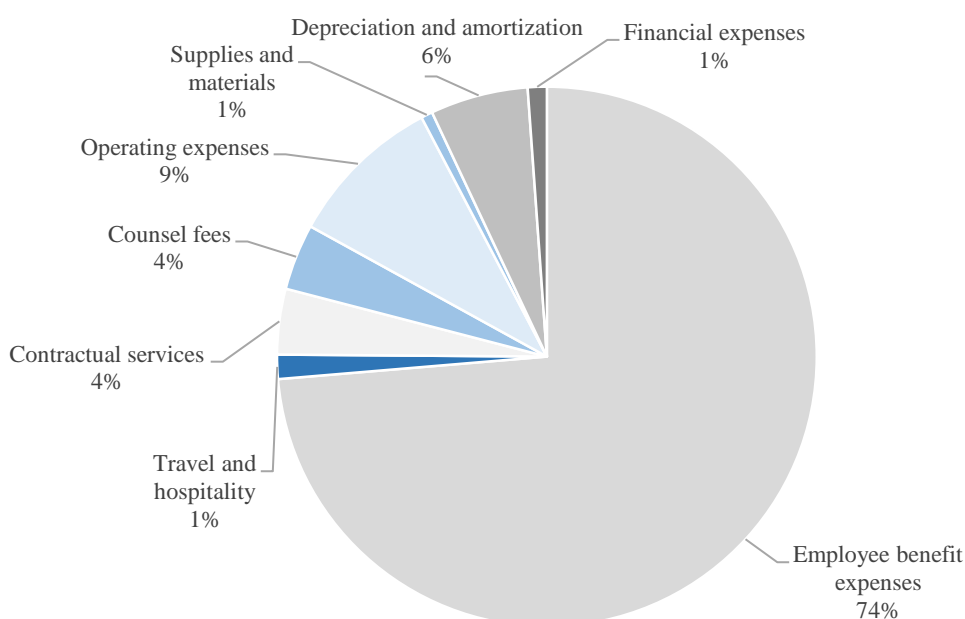
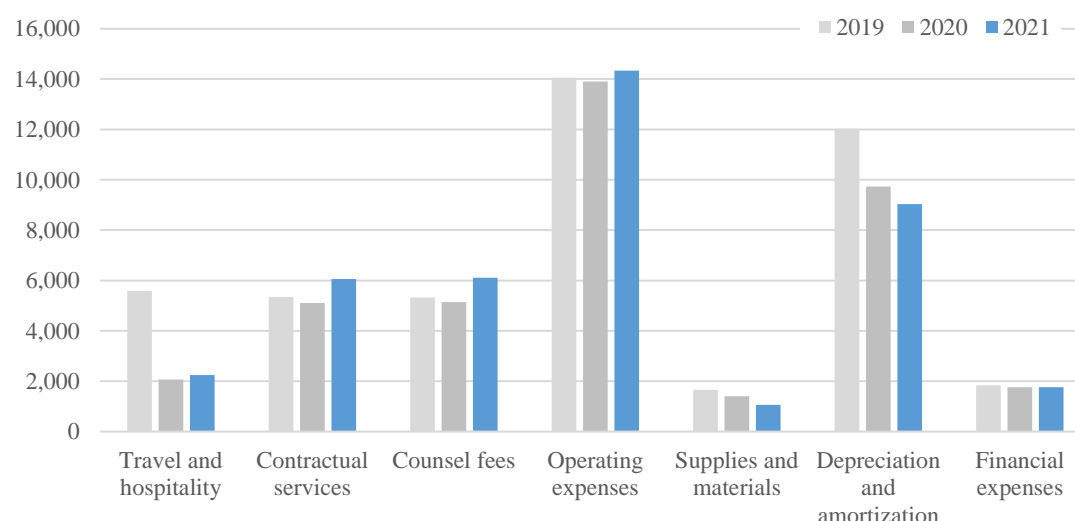


Table 3. Change in 2020-2021 employee benefit expenses (in thousands of euros)

	<i>FY2021</i>	<i>FY2020</i>	<i>Change</i>	<i>Change (%)</i>
Judges' salary	3,062	3,260	-198	-6.1
Judges' entitlements and allowances	1,554	1,692	-138	-8.2
Staff salaries	60,165	61,638	-1,473	-2.4
Staff entitlements and allowances	30,666	32,878	-2,212	-6.7
Temporary assistance	18,100	17,099	1,001	5.9
Total	113,547	116,567	-3,020	-2.6

Source: Financial statements of the Court for the year ended 31 December 2021

29. The Court's staff costs decreased slightly by 2.6 percent in 2021 from 2020, in contrast with the modest 1.4 percent increase from 2019 to 2020. The total amount of employee benefit expenses has dropped to € 113.547 million, stepping from € 116.567 million in 2020.
30. The decrease of the total payroll is explained as follows:
- During 2021, six judges were replaced by new judges who were appointed in December 2020. The start date of newly appointed judges serving on a full-time basis is normally later than the appointment date, which resulted in a decrease of the total salaries paid to judges compared to 2020;
 - Staff salaries and allowances have decreased by € 3.7 million, which can be explained mostly by the fact that the number of staff on established posts has reduced to 866 as at 31 December 2021, from 887 as at 31 December 2020. Non-temporary staff (established, excluding GTA and STA) cost takes up 80 percent (excluding judges) or 83 percent (including judges) out of the staff costs; and
 - Temporary assistance, which includes mostly GTA and STA, represents a minor part of staff costs, but this part has been consistently increasing since 2019, accounting for 15.9 percent of the total staff cost in 2021 (14.7 percent in 2020 compared with 14.3 percent in 2019).
31. The two most significant categories of expenses for the Court are employee benefit expenses (judges and staff) and operating expenses representing a combined 83 percent of total expenses. Figure 2 below provides a three-year comparison of the non-staff costs by category:

Figure 2. Expenses, three-year comparison (in thousands of euros)

Source: Financial statements of the Court from 2019 to 2021

32. We note that most of the non-staff costs remained generally stable, but contractual services, counsel fees and operating expenses have been increasing consistently compared to other expenses during the past three years.

33. Travel and hospitality decreased by € 3.520 million in 2020, which represents a significant drop of 63 percent compared to 2019 as a result of travel bans and restrictions due to COVID-19 pandemic. The expense increased slightly by € 0.166 million in 2021 as the Court's efforts were made to conduct planned and unforeseen activities despite travel restrictions.¹
34. Contractual services increased by € 0.945 million in 2021, mainly caused by the increase of € 0.641 million incurred on consultants and individual contractors. The increase this year was due to the need to strengthen the existing legal expertise, extend contract for consultants to the Office of Public Counsel for Victims, and make payments to experts involved in other Court-wide projects.²
35. Counsel fees increased by € 0.961 million in 2021 as counsel fees for defense increased by € 0.980 million despite a decrease of € 0.019 million from counsel fees for victims. The increase in counsel fees for defense was due to unforeseen developments in some cases, corresponding to the two additional defense teams needed.
36. Depreciation and amortization decreased by € 0.704 million in 2021, mainly from the "ICT data installation" being fully depreciated in 2020.

IV. Observations and recommendations

1. Payment of the relocation grant and danger pay

1.1. Relocation grant for judges

37. Employee benefit expenses amount to € 113.547 million, accounting for the largest share (74 percent) of the total expenses.
38. According to the "Conditions of service and compensation of full-time judges of the International Criminal Court" (Travel Regulations) approved by ASP in July 2020 as described in Table 4, judges who have rendered service at least five continuous years on a full-time basis are entitled to a relocation grant on separation, amounting to € 62.1 thousand, and judges who have taken up and maintained residence at the seat of the Court for nine continuous years shall receive € 82.8 thousand.
39. The information needed to calculate the relocation grant for judges includes the service period of the retired judges. The service year does not start from the appointment date but from the start date of the full-time mandate in accordance with the Travel Regulation above mentioned.

Table 4. Travel and subsistence regulations for judges of the International Criminal Court

I. Use of terms

1. "A judge" shall mean a judge of the Court within the meaning of article 35 of the Rome Statute who serves on a full-time basis.

Article IV. Relocation upon completion of service

A judge who has taken up and maintained residence at the seat of the Court for at least five (5) continuous years during service with the Court shall receive a lump sum equivalent to eighteen (18) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands. A judge who has taken up and maintained residence at the seat of the Court for nine (9) continuous years or more during service with the Court shall receive the equivalent of twenty-four (24) weeks of annual net base remuneration upon completion of appointment and relocation outside the Netherlands.

40. The External Auditor verified, on a test basis, as part of audit procedure on payroll, the eligibility of judges and the accuracy of the payment of relocation grants.

¹ CBF/38R/5

² *Ibid*

41. It was found out that a total of € 465,520.50 was paid to those six outgoing judges and that there are three reasons that cause variances between the actual payment and the recalculated amount: (a) the adoption of new interpretation on the Travel Regulations above-mentioned Table 4 by Registrar, (b) the existence of newly eligible judges due to the extended contract, and (c) miscalculation of service period.
42. In fact, the Court made payments to outgoing judges according to Rome Statue article 49 where the payment of the relocation grant for judge shall be decided by the Assembly of States Parties, and thus far the Court had followed the Resolution of the Assembly by not applying the proration rule to service period between five and nine years.
43. Then, in 2021, one of the judges argued for the necessity of the proration rule between five and nine years of full-time service period in relocation grant for judges, which is not included in the Resolution. In response, Registrar, after having sought the Registry Legal Office (RLO) advice on the Travel Regulations, made a new interpretation of Article IV of the Travel Regulations to apply the proration rule to service period between five and nine years, where the interpretation is only applied to this case as a new remuneration package was forthcoming.
44. Based on ICC-01/04-02/06-2653, service period of two judges was extended from 10 March 2021 to 30 March 2021 and 31 March 2021, respectively. Although the External Auditor understands that the extension of judge's term is at the President's discretion, we note that as a result of the extension for 21 days, one of the two judges became entitled to receive the relocation grant for five years while another judge became entitled to the amount equivalent for nine years.
45. Regarding the abovementioned (c), miscalculation occurred because relocation grant for most judges was based on the appointed date, not the start date of full-time mandate. For example, one of the judges received € 82,759.20 based on nine continuous years of service period. We noted he was appointed on 11 March 2012, but the start date of his/her full-time mandate was on 1 May 2013, thereby constituting less than nine years of service period. This miscalculation of €36.2 thousand was reflected in the financial statements as amounts receivable.
46. Detailed calculation of relocation grant for judges is shown as below.

Table 5. A list of payment of relocation grant for retired judge in 2021 (euro)

<i>Judges</i>	<i>Actual payment</i>	<i>Recalculated Amount</i>	<i>Difference</i>	<i>Comment</i>
A	82,759.20	62,069.40	20,689.80	(a) and (b) identified
B	82,759.20	62,069.40	20,689.80	(a) and (c) identified
C	82,759.20	-	82,759.20	(a), (b) and (c) identified
D	82,759.20	62,069.40	20,689.80	(a) and (c) identified
E	62,069.40	62,069.40	-	-
F	72,414.30	62,069.40	10,344.90	(a) and (c) identified
Total	465,520.50	310,347.00	155,173.50	

Source: Analysis by the External Auditor

47. The differences derived by factors are as below:

Table 6. The difference by factors (euro)

<i>Total payment</i>	<i>Difference (a+b+c)</i>	<i>Proration rule(a)</i>	<i>Extension(b)</i>	<i>Miscalculation(c)</i>
465,520.50	155,173.50	51,723.41	67,242.39	36,207.70

48. In addition, overpayment for the repatriation grants for one staff has been identified, as the period of Special Leave Without Pay (SLWOP) was not taken into account when manually calculating the number of payable weeks.

1.2. Danger pay

49. The danger pay is the one of the manually calculated allowances based on staff's attendance records. At the end of each month, staff entitled to danger pay must submit their attendance records approved by the supervisor to the HRS.
50. The External Auditor examined samples of 24 attendance records for April 2021 and confirmed that out of the 24 attendance records, seven did not have signatures by staff, six did not have signatures by supervisors,

and nine received signatures in advance in mid-April confirming the full attendance by the end of April.

51. Although it is noted that the HRS sends an e-mail to administrative assistants in duty stations in case where the confirmation of attendance records is missing or SAP travel module needs to be checked in case of travel, the above-mentioned instances raise doubts about the reliability of source documents provided by duty stations.
52. **Recommendation 1. The External Auditor recommends that the Court make appropriate action plans to recover the overpayments of the relocation(repatriation) grant. In addition, in order to avoid miscalculation (relocation grant) and unreliability of basic supporting documents (danger pay), and strengthen the internal controls regarding monitoring of salaries and allowances, more appropriate review process should be prepared and established.**

2. Useful lives of the building components and capital replacement plan

53. In 2019, the Court prepared capital replacement plan in order to avoid high maintenance and replacement costs in the long run and decrease in the asset value of the premises. According to ICC-ASP/19/8, the cost estimated by this plan is about € 10.8 million from 2020 to 2025 and under the long-term plan (2021-2040) it amounts approximately to € 83.3 million.
54. According to IPSAS 3 *Accounting Policies, Changes in Accounting Estimates and Errors* and IPSAS 17 *Property, Plant and, Equipment*, the useful life of an assets shall be reviewed at least at each annual reporting date and if estimations differ from previous estimates, the change shall be accounted for as a change in an accounting estimate. The useful life of an asset is defined in terms of the asset's expected utility to the entity. The asset management policy of an entity may involve the disposal of assets after specified time, or consumption of a specified proportion of the future economic benefits. Therefore, the useful life of an asset may be shorter than its economic life.³
55. The External Auditor found out the capital replacement plan prepared by Facility Management Unit (FMU) has an updated and detailed useful life of building components and the timing of replacement for certain assets.
56. Therefore, the External Auditor believes that this plan, if finally accepted and approved by ASP, has a direct impact on the management assessment of useful lives of assets in the building component category which should be performed on an annual basis. During our audit, we compared the remaining useful lives of the selected asset items in the building component category in the fixed asset register to the replacement period of the same asset items in the FMU's technical assessment. For example, electrical installation which has a remaining useful life of 20 years in the fixed asset register has a replacement period of 10 years.
57. The capital replacement plan is more detailed and accurate at the moment in representing the current situation of building components and the intention of the Court, which urges us to recommend two views be aligned.
58. In addition, the External Auditor has not observed detailed analysis on the nature of the expenditures listed in the Capital Replacement Plan. The Court may need to outline a more specific criteria to distinguish between what could be classified as capital expenditure and repairs and maintenance expenses.
59. **Recommendation 2. The External Auditor recommends to formalize procedure to align the useful life of the building components in the capital replacement plan with the useful life of the asset register, considering the financial impact caused by the capital replacement plan. This harmonization aims to ensure that both the process of reviewing the useful lives of building components in asset register for the financial reporting and the asset replacement periods in capital replacement plan are consistent with each other.**

3. Annual leave liability

60. The Court recognized annual leave liability amounting to € 9.47 million in the financial position at the end of 2021. According to Staff Rules and Regulations of the Court, unused annual leave days are accumulated, provided that not more than 60 days of such leave are carried forward beyond 1 January of subsequent year.

³ IPSAS 17. Paragraph 73

Upon separation, any outstanding accrued annual leave, up to a maximum of 60 days, is settled via a monetary payment paid to the staff members.

61. Based on ICC-ASP/13/9 Report of the Court on policy issues, annual leave accrual of the Court has been classified as a short-term employee benefit.
62. However, IPSAS 39 *Employee benefits* states short-term employee benefits are employee benefits (other than termination benefits) that are expected to be settled wholly before twelve months after the end of the annual reporting period in which the employees render the related service, which means annual leave of the Court does not satisfy the requirement of short-term employee benefit liability as long as the unused annual leaves are allowed to be accumulated.
63. In 2021, the Court has excluded annual leave liability from short-term employee benefit as it is not expected to be settled within a year after the year-end.

4. Supplementary Daily Subsistence Allowance and Special Post Allowance

4.1. Daily Subsistence Allowance (DSA)

64. Currently, the Court pays supplementary DSA of 15 percent to directors and 40 percent to judges/USG/ASG level for official travel. In the 2017-2021 period, the total number of senior-level members who received supplementary DSA was 86, including seven directors and 79 judges/USG/ASG. The total amount of supplementary DSA paid to them was € 320,993 over the period.
65. The DSA Circular published by the International Civil Service Committee (ICSC) as at 1 April 2022 states that the United Nations (UN) discontinued the practice of paying supplementary DSA to the middle- and senior-level employees in 2003 as per the Resolution A/RES/58/270. This discontinuation does not apply to specialized agencies and other organisations within the UN Common system.
66. However, the External Auditor observes that there is a general trend that most of the international organizations do not pay supplementary DSA. Out of 27 international organizations examined, 11 specialized agencies⁴ and nine other organisations⁵ stopped the practice.
67. The Court responded that some of its travel policies are more restrictive than those of the UN. The UN staff are allowed to travel in business class for long-haul trips. In comparison, the Court's staff are not allowed to travel in business class under any circumstance, but only officials at ASG level or above travel in business class. As there are some ups and downs in terms of general travel expenses compared to the UN, the Court considers that its overall travel policies are not unduly favorable.

4.2. Special Post Allowance

68. The Staff Rules of the Court states that a staff member who assumes the duties and responsibilities of higher-level posts for more than three months is granted special post allowance, but it remains silent on the start date of payment.
69. The Administrative Instruction of the former ICTY and UN state that employees are entitled to SPA from the beginning of the fourth month of service. The payment of SPA for the first three-month of service is restricted only to exceptional cases when a staff member is assigned to serve in a mission, or when a staff member in the General Service (GS) category is required to serve in the Professional category, or when a staff member is required to serve in a post which is classified more than one level above his or her level.
70. However, the Court is paying SPA including first three-month to all employees without any exception. In regard of this, the Court currently does not have an Administrative Instruction in place, and it has been the practice to pay SPA from day one since its inception for 20 years.
71. **Recommendation 3. The External Auditor recommends to develop an Administrative Instruction on**

⁴ UNEP, ILO, ITC, ITU, WHO, WMO, FAO, ICAO, IMO, UNDP, UNESCO

⁵ STL, UNOV, ITC, EBRD, WBG, NATO, OPCW, Eurojust, Europol

the special post allowance specifying the start date of payment, considering the UN system and other international organizations.

5. Reliability of Payroll Information on Judges entitlements

72. The External Auditor has received the following information from HRS in relation to payroll: “All Payroll Staff Costs - 2021” file in excel, “Consolidated HQ Payroll Register” file in excel. We found issues in the “All Payroll Staff Costs - 2021” file where the transitional allowance given to the judges was not recorded but the amount was paid from April to December. In addition, the relocation grant given to one of the retired judges is recorded as paid twice in March and August, respectively.
73. From the “Consolidated HQ Payroll Register” file, we also found that the net base salary and education grant for judges were paid. We observed that the net base salary amount was tied to the “All Payroll Staff Costs - 2021” file but the education grant was not recorded in this file.
74. There is evidence to suggest that information and explanations received from HRS appear to be incoherent and inconsistent which may undermine the reliability of data and information.
75. The Court explained that the case of an apparent incoherence and inconsistency was a matter of reporting. Following the changes in the compensation package for judges in March 2021, the transitional wage type was newly introduced and processed but it was not reflected in the payroll report. In conclusion, HRS and the SAP team developed a new report including all relevant information. Therefore, the External auditor made no recommendation on this issue.

6. Threshold for approving budget resource transfer

76. In accordance with the FRR of the Court, Registrar or Prosecutor can redeploy the budgeted resources within the same Programme and based on the Request of Transfer of Fund Form, any amount above € 200,000 will require the Registrar or Prosecutor approval and any amount below requires either the Program Manager or Certifying Officer approval.
77. Transfers between sections per Major programme 2005, 2018-2021 are presented as below.

Table 10. Transfer rate between sections by Major programme

Year	OTP	Registry	Other MPs	Total(k€)	Approved budget(M€)	Transfer / Budget (%)
2005	473	268.5	128	869.5	66.9	1.30
2018	965.8	5,235.3	275.9	6,477	147.4	4.39
2019	2,095.2	5,194.6	733.1	8,022.9	148.1	5.42
2020	4,657.7	5,493.9	924.4	11,076	149.2	7.42
2021	922.4	4,402.6	806.7	6,131.7	148.3	4.13

Source: Data submitted by the Court and Performance audit report for 2018

78. In 2021, the fund transfer rate by Major programme is seen as below. Registry shows approximately 6 percent transfer rate from approved budget.

Table 11. Transfer rate by Major programme in 2021 (in thousands of euros)

2021	OTP	Registry	Other MPs	Total
Approved budget	47,334.8	75,784	25,140.2	148,259
Transfer	922.4	4,402.6	806.7	11,076
Rate (%)	1.9%	5.8%	3.2%	

Source: Analysis by the External Auditor

79. The External Auditor noted ambiguousness of the amount of the threshold to need an approval by senior official makes the budget transfer between sections more easily. From the information provided by the Court, we have found an instance where the transfer of budgeted resources was made between “the OTP - General Temporary Assistance” and “the OTP – Posts, Staff Costs” on the same day on two separate occasions. The first amount was € 115,000 and the second amount was € 190,000. Although individually these amounts

fall below the threshold but in aggregate they are above the threshold. There is a risk of avoiding the Registrar or Prosecutor approval for any substantial transfer made on a disaggregated basis. We also noted that this transaction was not reported to the CBF.

80. **Recommendation 4. The External Auditor recommends that regarding fund transfer, the Court clearly establish the amounting criteria for approval of Registrar or Prosecutor.**

7. Assessment of Fraud risk factor

81. According to International Standards on Auditing (ISA) 240, the primary responsibility for the prevention and detection of fraud⁶ rests with the management. Instead, ISA requires External Auditor to consider the risk of fraud or presumptive fraud as part of our audit procedures.
82. The Director of Independent Oversight Mechanism (IOM) reported to ASP on activities undertaken by the IOM from 1 October 2020 to 30 September 2021. During the reporting period, the IOM processed 23 allegations of misconduct.
83. The External Auditor conducted the assessment on risk of misstatement due to fraud with the questionnaire on fraud policy. The Court has a strong ethical commitment as the publicly funded international organization, internal controls and rules such as IOM and Staff Rules to prevent and deal with those related to fraud.
84. Nevertheless, the increased activities requiring the Court to keep information of financial payments confidential for security reasons, may create a vulnerability of material misstatement in the financial statement of the Court due to fraud. In this regard, country offices where these activities primarily occur can be relatively at a higher risk of misconduct, compared to the Headquarters.

8. Information Technology (IT) General Controls

85. The External Auditor has inspected the Information Technology General Control (ITGC) considering that this was our initial audit engagement. Through the IT sensitive access user test, specific SAP authorization objects have been identified and their assignment to SAP user accounts have been reviewed. It showed that 22 out of 25 of the identified authorisation objects were assigned to a number of SAP user accounts ranging from 7 to 73.
86. Due consideration should be given to the concept of segregation of duties between developer and deployer in SAP team to mitigate the risk of unauthorized changes being deployed productively. It should be considered how to extend the current retention period of three months of data change history. Alternatively, archiving the data change history every three months mitigates the risk of losing audit trail and data change history after three months have passed.
87. **Recommendation 5. The External auditor recommends that the Court limit SAP elevated access to a small number of SAP operators and application administrators; find ways to mitigate the risk of unauthorised deployments of program and configuration change; implement a solution to ensure that a full SAP data change history is available. We also recommend the Court perform the SAP access review by annually or quarterly**

⁶ An international act by one or more individuals among management, those charged with governance, employees, or third parties, involving the use of deception to obtain an unjust or illegal advantage.

V. Audit adjustments and amendments

88. The final version of the financial statements reflects the following major adjustments made during the course of the audit and accepted by the External Auditor:
- (a) For States Parties in arrears with no payment in the past five years, provision for doubtful debt is calculated at 100 percent. For those that made at least one payment in the past five years, provision is calculated by reference to the collection rate of each State Party;
 - (b) The Court recognised accounts receivable due to overpayment of relocation grant while deducting the same amount from judge's entitlements and allowances;
 - (c) The judge's ASHI are not in place and thus ASHI for judges were excluded from the actuarial valuation of the employee benefit liability in the final version of financial statements of the Court;
 - (d) The employee benefits liabilities for the TFV staff are transferred from the ICC financial statements to the TFV financial statements;
 - (e) In addition, disclosures in several notes to the financial statements were improved as follows:
 - i. Note 2.33(a): Permanent premises pledged as a mortgage property for the host State Loan;

VI. Follow up on previous recommendation

1. Voting Rights of States in Arrears (Article 112 of Rome Statute)

89. The External auditor reviewed the implementation of the pending recommendations. Only one came from the audit report on the financial statements and the others were from the performance audit reports conducted by the predecessor auditor.
90. In order to strengthen the process of recovering payment in arrears, the previous auditor recommended the Court to allow States Parties in arrears for the preceding two full years to vote only once the payment schedule has been fulfilled in accordance with the conditions of Article 112 of the Rome Statute.
91. This recommendation was made in 2017 and is still in progress. Although the Assembly welcomed the guidelines for payment plans developed by the Court, it appears that the substance of the issue which is imposing the penalty of taking away the voting rights is not being implemented.

VII. Acknowledgments

92. The External Auditor would like to extend his sincere gratitude to the members of the Court and the Division of Management Services, in particular the Finance Section, Human Resources Section, Budget Section, General Services Section and SAP Team, for their cooperation and support during the audit.

End of audit observations

Appendices

Appendix 1: Follow-up of report on human resources management (July 2018)

<i>No.</i>	<i>Subject</i>	<i>Outstanding Recommendations</i>	<i>Implemented</i>	<i>Partially Implemented</i>	<i>Not Implemented</i>
HR-2018-1	Gender balance	In order to adequately address the issue of gender (im)balance at the ICC, the External Auditor recommends to the Court, based on a study to be prepared by the Human Resources Section, to introduce additional measures aimed at increasing the representation of female staff, particularly at more senior levels, such as through a mentoring programme and the establishment of a Focal Point for Women.		X	

1. Recommendation HR 2018-1 (Gender Balance) is partially implemented. The Court/Registry has decided to introduce five sets of actions, namely Mentoring Programme for Women, Training on unconscious bias, Focal Point for Women, Recruitment decision making framework and additional recruitment measures. The first three sets of actions are implemented, but the last two sets of actions are in progress. An Administrative Instruction on Recruitment will be promulgated by the third Quarter of 2022, which will include the recruitment decision-making framework and additional recruitment measures.

Appendix 2: Follow-up of report on budget process management (July 2019)

<i>No.</i>	<i>Subject</i>	<i>Outstanding Recommendations</i>	<i>Implemented</i>	<i>Partially Implemented</i>	<i>Not Implemented</i>
BS-2018-8	Approval of Multi-year projects	<p>To ensure a streamlined coherence between approval of multi-year investment projects and related annual budgetary decisions by the ASP, the External Auditor recommends the Court to submit to the ASP a proposal to extend its current IT strategy multi-year special account so that:</p> <p>(a) It could be used as a multi-year multi-purpose mechanism allowing a carryover of unspent regular budget resources for a list of other multi-year significant investment projects approved by the ASP; and</p> <p>(b) Adequate rules be designed, guaranteeing a robust separation of the appropriations dedicated to each approved project and a yearly reporting to the ASP.</p>		X	
BS-2018-9	Liquidity Shortfall	<p>So as to avoid adverse financial and reputational consequences in case of a liquidity shortfall, the External Auditor recommends the ASP to delegate some responsibility to the Bureau, in order: (a) To announce, in due time (i.e. leaving a reasonable period, such as two/three weeks – needing to be more precisely defined – before the forecasted available cash only represents less than one standard month of payments), that the Court will be exceptionally authorized to use the Contingency Fund, and/or, in case there is no sufficient cash 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 delay also needing to be very precisely defined in advance); and (c) To provide for an immediate reporting of the situation to the States Parties for both previous decisions.</p>		X	

1. Recommendation BS 2018-8 (Approval of Multi-year projects) is partially implemented. The Court/Registry will review the current multi-year fund for IT strategy and submit a report to the CBF for their review and recommendation as to whether this approach can be extended to other multi-year projects.
2. Recommendation BS-2018-9 (Liquidity Shortfall) is partially implemented. In its resolution ICC-ASP/20/Res.1, part C, the ASP noted with serious concern the state of arrears and the liquidity issues and urged all States Parties to pay their assessed contributions in full and on time. The Court provides monthly financial reports to the Bureau and all States Parties, informing about outstanding contributions and liquidity situations. The Court further continues to follow-up with States that are in arrears on a regular basis. Discussions on possible solutions for the liquidity issues, including recommendation from Independent Experts Report, are on-going with Bureau and other bodies.

Appendix 3: Follow-up of report on administrative management of OTP and Presidency (November 2021)

<i>No.</i>	<i>Subject</i>	<i>Outstanding Recommendations</i>	<i>Implemented</i>	<i>Partially Implemented</i>	<i>Not Implemented</i>
OTPP-2021-1	Business partners	The External Auditor recommends, (a) where warranted by the need for a sustainable interface with the Registry’s support services, designating Business Partners within Major Programmes I and II and, using Standard Operating Procedures (SOP) endorsed by all parties, and (b) defining for each partner the responsibilities and expected level of service.		X	

1. Recommendation OTPP 2021-1 (Business partners) is partially implemented. The Presidency and the OTP acknowledge the need to formally recognize the administrative cooperation with the Registry’s functions by including the Business Partnership reference in the relevant work surveys/vacancy announcements of the organs’ focal points. With respect to the Presidency, it is worth noting that meetings do take place on as needed basis with the Registry focal points that provide support functions, including in the areas of human resources, budget, travel, procurement, and security. In the OTP, recurring meetings are regularly scheduled between the focal points of the Procurement Unit (Registry) and the Financial Planning and Control Unit (OTP) for procurement, and the focal points of the Division of External Operations and the Integrated Services Administration Unit (OTP) for field support.