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Report of the Audit Committee on the work of its sixteenth session

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Executive Summary

1. This report provides a summary of the findings and recommendations of the sixteenth session of the Audit Committee (“AC”) of the International Criminal Court, which was held in The Hague from 18 to 20 July 2022. The Committee focused during its sixteenth session on: (a) values and ethics; (b) governance; (c) oversight of internal audit matters; (d) oversight of external audit matters; (e) follow-up on previous recommendations; and (e) other relevant matters.
2. Under **values and ethics**, the AC noted the development of the Court-wide Ethics Charter that is currently ongoing and expected to be adopted by the Court’s Coordination Council in the fourth quarter of 2022. The AC looked forward to the final report on the Court-wide Ethics Charter to be submitted at its seventeenth session.
3. Under the topic of **governance of the Court**, the AC was briefed on the ongoing discussions concerning the recommendations of the Independent Expert Review (“IER”) 135, 366, 367, 368 and 370. The Budget Management Oversight facilitator provided an informal summary to the AC members on assessing progress in terms of the recommendations. The AC noted that IER recommendation 367 (reporting line of the Office of Internal Audit) was assessed positively, and therefore a discussion with the Registrar took place on the way forward. As regards IER recommendation 370, the AC supported the IER statement concerning the functional independence of the Executive Secretary and stressed the importance of maintaining the current set-up as any modification would affect the capacity to discharge AC responsibilities and the effective technical advice provided to the Court and States Parties.
4. As part of its **oversight of internal audit matters**, the AC noted an increase in the number of audit assignments implemented compared to 2021, but was still not satisfied with the rate of coverage. The AC raised various recommendations to enhance the work of the Office of Internal Audit involving different aspects that are detailed in the body of the report. The AC discussed with the Director of the Office of Internal Audit all the proposed audit assignments for 2023 and suggested various amendments to the internal audit plan.
5. On the topic of **oversight of external audit matters**, the AC appreciated the comprehensive in-session presentation delivered by the External Auditor, (the Bureau of Audit and Inspection (“BAI”) of the Republic of Korea) on the financial statements of the Court and the Trust Fund for Victims for the year ended 2021, and the performance audit on temporary personnel. The AC noted that based on the opinion of the External Auditor on the financial statements of the Court and the Trust Fund for Victims for the year ending 31 December 2021, 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 2021.
6. Furthermore, under **follow-up of previous recommendations**, the AC carefully reviewed the recommendations of the External Auditor, the Office of Internal Audit (“OIA”) and the AC. It was noted that the implementation rate for the recommendations made by the OIA was low.

I. Introduction

1. The Audit Committee (“AC”) of the International Criminal Court (“Court”) held its sixteenth session in The Hague from 18 to 20 July 2022.
2. This report summarizes the main outcomes and recommendations made by the AC at its sixteenth session. The documentation considered by the AC is listed in Annex I to this report.
3. The reports of the AC are shared with the management of the Court, the Office of Internal Audit (“OIA”), the External Auditor, and the Independent Oversight Mechanism, for the purposes of information and follow-up on recommendations. The reports of the AC are publicly available on the AC webpage via the following link: https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx

II. Procedural matters related to the sixteenth session

4. The AC held six meetings during its sixteenth session. The session was attended by the following members:
 - (a) Mr. Aiman Ibrahim Hija (Australia);
 - (b) Ms. Elena Sopková (Slovakia);
 - (c) Mr. Samir Abu Lughod (Jordan); and
 - (d) Ms. Clarissa Van Heerden (South Africa).
5. In accordance with articles 17 to 19 of the Charter of the Audit Committee, the Vice-Chairperson, Mr. Aiman Ibrahim Hija, acted as Chairperson of the AC at its sixteenth session.
6. The Executive Secretary to the Committee on Budget and Finance, Mr. Fakhri Dajani, acted as the Secretary to the Audit Committee and, together with his team, provided substantive and logistical servicing and support.

A. Adoption of the agenda

7. The AC adopted the following agenda for its sixteenth session:
 1. Opening of the session
 - (a) Adoption of the agenda and organization of work
 - (b) Participation of observers
 - (c) Welcoming remarks by the President of the Court
 2. Values and Ethics
 - (a) Update on the Court-wide Ethics Charter
 3. Governance
 - (a) Surface Transport Manual
 - (b) IER recommendations 135, 366, 367, 368 and 370
 - (c) Term of Office of the members of the Audit Committee
 4. Oversight of internal Audit matters
 - (a) Audit reports of the Office of Internal Audit
 - (b) Status of implementation of the 2022 Internal Audit Plan
 - (c) OIA draft work plan for 2023

- (d) External Assessment of the work of the Office of Internal Audit
- 5. Oversight of External audit matters
 - (a) Financial Statements of the Court for the year 2021
 - (b) Financial Statements of the Trust Fund for Victims for the year 2021
 - (c) Audit report of the External Auditor on Temporary Personnel
- 6. Follow-up on previous recommendations
 - (a) Follow-up on recommendations of the External Auditor
 - (b) Follow-up on recommendations of the Office of Internal Audit
 - (c) Follow-up on recommendations of the Audit Committee
- 7. Other matters
 - (a) Work plan of the seventeenth session of the Audit Committee
 - (b) Dates of the seventeenth and eighteenth sessions of the Audit Committee

B. Participation of observers

- 8. The President of the Court, Judge Piotr Hofmánski, delivered the welcoming remarks on behalf of the Court. The Registrar of the Court briefed the AC on a number of matters. The Director of the Office of Internal Audit summarized the main findings and recommendations of the internal audit reports.
- 9. The Budget Management Oversight focal point (“BMO”) from The Hague Working Group of the Bureau of the Assembly of States Parties (“Assembly”), Ambassador William Roelants de Stappers (Belgium), briefed the AC on the work of the BMO.
- 10. The representatives of the External Auditor, the Republic of Korea’s Bureau of Audit and Inspection (“BAI”), delivered a presentation on the the outcome of the Financial Statements of the Court and the Trust Fund for Victims (“TFV”) for the year 2021, and the performance audit on temporary personnel.
- 11. The Committee wished to thank all the observers for their presentations.

III. Consideration of issues on the agenda at the sixteenth session

A. Values and Ethics

1. Update on the Court-wide Ethics Charter

- 12. At its fourth session in 2017, in line with the “One-Court principle”, the AC emphasized the need to unite all staff working for the Court around the same values, while acknowledging at the same time that it was reasonable to maintain the existing codes of conduct for specific professions that will be in line with the Court-wide Ethics Charter.
- 13. The AC had before it the “Update to the Audit Committee on developments on Court-wide ethics and values”.¹

FINDINGS AND RECOMMENDATIONS

- 14. The AC noted that the project on the Court-wide Ethics Charter is expected to commence in July 2022 and run until September 2022 and this will be followed by a thorough analysis and a proposal to be

¹ AC/16/11.

submitted to the Court's Coordination Council (CoCo) in the fourth quarter of 2022 for validation and adoption in October 2022.

15. **The Audit Committee welcomed the update and looked forward to the final report on the Court-wide Ethics Charter to the Audit Committee at its seventeenth session.**

B. Governance of the Court

1. Surface Transport Manual

16. At its fourteenth session,² the AC recommended that the Court include in the Surface Transport document information about vehicle leasing as an option when purchasing vehicles, and report to the Audit Committee at its sixteenth session.

17. The AC analysed the "Report of the Court on its fleet management policy"³ addressing the AC's recommendations.

FINDINGS AND RECOMMENDATIONS

18. The AC noted that the new "Surface Transport Fleet Management Manual" has been drafted to include information on vehicle leasing and is currently under review, pending endorsement by the internal stakeholders and consultation with the Legal Office.

19. **The Audit Committee recommended that the Court consider lessons learnt from other international organisations before finalising the policy on vehicle leasing.**

2. Independent Expert Review recommendations 135, 366, 367, 368 and 370

20. The AC was briefed on the ongoing discussion on the recommendations of the Independent Expert Review ("IER") 135, 366, 367, 368 and 370. The BMO facilitator provided an informal summary for Committee members on the progress made with assessing the recommendations.

(a) IER recommendation 135: The CBF should make an inventory of the most important topics it considers should form its 'standing agenda', for ASP endorsement. This should result in more concise reports, issued as soon as possible after the CBF's session.

FINDINGS AND RECOMMENDATIONS

21. The AC noted that the BMO facilitator had extended the application of IER recommendation 135 to the AC.

22. The AC went through the agenda items for its sessions, which have been in line with its mandate established in its Charter. Furthermore, the AC emphasized that its Charter reflects best practice and is in accordance with the Guidelines of the Institute of Internal Auditors.

(b) IER recommendation 366: The Audit Committee and the CBF could be merged into one Organ of budgetary control and audit. The mandate of CBF – Audit Committee members should be extended to a five-six years, non-renewable term.

FINDINGS AND RECOMMENDATIONS

23. The AC noted that recommendation 366 was negatively assessed at the BMO facilitation. States Parties emphasized that the two Committees have different mandates and perform different functions. The recommendation will not be implemented.

² Report of the Audit Committee on the work of its fourteenth session (AC/14/5), paras. 25 and 26.

³ AC/16/6.

- (c) IER recommendation 367: As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work.*

24. Recommendation 367 was positively assessed at the BMO facilitation. In the view of States Parties [the](#) OIA is a management tool and, thus, the OIA should report internally to the heads of organs of the Court. The AC would ensure that the work of the OIA is performed smoothly, considering any issues on the infringement of its work. The AC would remain responsible for overseeing the adequacy of the framework set up for the Court's internal audit function and its independence. The respective roles of the AC and of the Court's CoCo should be further developed.

FINDINGS AND RECOMMENDATIONS

25. The AC still believes that the auditor should not report to and not be appraised by the auditee.

26. The AC discussed the way forward with the Registrar on the relationship with the OIA and the CoCo taking into consideration international best practice and the Charter of the AC.

27. **The Audit Committee recommended that the Assembly take into account the following procedures for the implementation of IER recommendation 367 with regards to the reporting line of the Office of Internal Audit:**

- a) **The Audit Committee shall remain responsible for overseeing the adequacy of the set up for the Court's internal audit function and its independence;**
- b) **Work plan of the Office of Internal Audit: The Registrar will lead the process on behalf of the Principals. The Office of Internal Audit will prepare the draft audit plan for consideration by the Registrar. The Registrar will discuss the draft with the other Principals and request input from the Audit Committee. The Registrar will submit the audit plan for final approval to the Principals;**
- c) **Internal audit reports: The Office of Internal Audit shall continue to submit its reports to the Audit Committee for its consideration;**
- d) **Performance appraisal of the Director of the Office of Internal Audit: The Registrar shall conduct the performance appraisal of the Director of the Office of Internal Audit taking into account input from the Audit Committee, the Principals of the Court and the External Auditor; and**
- e) **External assessment of the Office of Internal Audit: The Immediate Office of the Registrar shall be responsible for appointing an external assessor every five years to assess the performance of the Office of Internal Audit. The Audit Committee shall provide input to the terms of reference and for the selection of the external assessor.**

- (d) IER recommendation 368: The ASP is recommended to make use of the upcoming recommendations of the External Auditor, tasked with assessing the Court's oversight bodies, to find ways to streamline and render more efficient its oversight structures.*

28. The AC noted that recommendation 368 had been assessed positively at the BMO facilitation. This positive assessment is without prejudice to the position of States Parties regarding the specific recommendations of the former External Auditor as those recommendations were only submitted after the IER report was finalized.

- (e) IER recommendation 370: In line with the Experts' recommendation for the ASP Secretariat to be absorbed into the Registry, it is envisaged that the Executive Secretary of the CBF and Audit*

Committee position, currently located in the ASP Secretariat, also be transferred to the Registry, where it would maintain its functional independence.

FINDINGS AND RECOMMENDATIONS

29. The AC noted that recommendation 370 is linked to IER recommendation 369,⁴ the latter suggesting that the Secretariat of the Assembly be absorbed into the Registry. As recommendation 369 has been negatively assessed by the Review Mechanism, recommendation 370 becomes redundant.

30. **The Audit Committee supported the IER statement on recommendation 370 concerning the functional independence of the Executive Secretary and recommended that the Assembly maintain it.**

3. Report of the former External Auditor on oversight bodies

31. The AC took note of the discussions during the recent BMO meeting, where the recommendations of the former External Auditor were discussed, which involved five recommendations:

i) **Recommendation 1:** *“Given the ICC’s persistent liquidity shortage, and the high level of ICC’s governance oversight cost ratio compared to other International Organisations, the External Auditor recommends that no reform of the ICC Organisation as a whole, and of the governance oversight organs in particular, should lead to increased expenditure, unless equivalent decrease(s) are found and decided in other domains, and a priority should be given to reforms that can provide measurable economies.”*

32. States Parties agreed that any reform was not intended to produce any additional cost, therefore, this recommendation was assessed positively.

ii) **Recommendation 2:** *The External Auditor recommends to the Coordination Council (CoCo) to formally endorse, under the ex-post control of the AC, the annual internal audit program. The Audit Committee could ask for amendments, which would need in their turn to be approved and endorsed by the CoCo. The Office of Internal Audit (OIA) should report directly to the CoCo, and the CoCo with the advice of the AC, should be fully responsible for the evaluation of the Director of OIA.*

33. This recommendation was discussed in conjunction with IER recommendation 367 and was assessed positively, therefore Recommendation 2 was also assessed positively. For details on the future roles of the AC and the Principals in dealing with the internal audit matters, see paragraphs 25-27 above.

iii) **Recommendation 3:** *The External Auditor recommends the ASP to give through its Bureau a permanent access to the Audit Committee to a limited number of delegates as non-voting members. The role of these delegates would be to serve as “focal points” to provide information to their colleagues of other delegations on the current activity of the independent Audit Committee.*

FINDINGS AND RECOMMENDATIONS

34. In order to enhance the transparency between the AC and States Parties, the AC has invited the BMO facilitator to address it at its sessions, the AC has submitted its reports to States Parties, and the Chair of the Audit Committee has delivered a statement at the Assembly.

35. The AC will continue to engage with the BMO facilitator on all subjects of interest to States Parties.

⁴ IER Recommendation 369: An office and focal point should be appointed within the Registry to coordinate with the different services of the Court to provide all necessary support for the ASP. In the long-term, the functions of the Secretariat of the ASP should be taken over by the Registry, and the Secretariat of the ASP, in its current form, dismantled.

iv) **Recommendation 4:** *The External Auditor recommends:*

- *to suppress the CBF composed of independent experts and to transfer its competence in the preparation/negotiation of the detailed budget proposal with ICC's internal Budget Working Group to THWG or one of its sub-groups;*
- *to submit each year, before Summer, the initial budget proposal to THWG, which could immediately start preparing and negotiating, in direct contact with ICC's internal Budget Working Group, the ASP's final consensual decision on budget to be taken in December;*
- *as an option to ask the AC, who would be given an advisory role, to issue a synthetic initial technical opinion on the budget proposal;*
- *to suppress the Executive Secretariat, in order to restore the principle of subsidiarity of the governance oversight organs towards the Assembly.*

36. The AC noted that during the BMO session it was clarified by the Chair of the Committee on Budget and Finance ("CBF") that there is no "Executive Secretariat" as referred to by the former External Auditor in his report but rather a post of "Executive Secretary" with the post-holder being a staff member of the Secretariat of the Assembly who reports on substantive matters to the Chair of the Committee on Budget and Finance and to the Chair of the Audit Committee.

FINDINGS AND RECOMMENDATIONS

37. The AC emphasized that the function of the Executive Secretary is crucial to the work of the AC and to the relationship between the AC and the Court, as well as the States Parties.

38. **The Audit Committee recommended that the Assembly maintain the same set-up of resources provided to its sessions, in particular the independent function of the Executive Secretary.**

4. Term of Office of the members of the Audit Committee

39. In accordance with the Charter of the AC, the term of office for an AC member shall be three years. Independent members of the AC may not serve more than two terms.

40. The AC would like to extend its appreciation to its two members whose second term of office will end on 31 December 2022, Mr. Samir Abu Lughod and Ms. Elena Sopková, for their dedication and professional work on behalf of the AC.

FINDINGS AND RECOMMENDATIONS

41. The AC discussed the upcoming expiry of the terms of office of three AC members, two of whom will complete their second term at the end of 2022, and explored steps, timelines and formalities to be followed for the selection process (i.e., advertising the Expression of Interest, short-listing, Selection Panel, and appointment).

A. Oversight of internal audit matters

1. Audit reports of the Office of Internal Audit

42. The OIA submitted five internal audit reports:

- a. *Audit of the administrative and financial controls in the Office of the Prosecutor*⁵

43. According to the internal audit report, recruitment of staff was carried out in accordance with the Financial Regulations and Rules and no exceptions were identified. However, the representative of the Office of the Prosecutor ("OTP") informed the AC of one exception to the rule that had occurred during the reporting period that was not identified by the Internal Auditor as it was not included in the selected sample. In addition,

⁵ AC/16/2.

the External Auditor in his recent performance audit on “Temporary personnel” had identified several findings concerning the use of unapproved GTA.

FINDINGS AND RECOMMENDATIONS

44. The AC noted that two recommendations out of five were rejected by the Court. The Director of the Office of Internal Audit explained that the recommendations were rejected due to a lack of resources to implement them.

45. The AC noted that said report lacked information about the total value of “business class” travel costs and the difference in cost if travel took place in “economy class”, as well as a breakdown of the expenditure on goods and services (non-staff costs).

46. **The Audit Committee recommended that the Office of Internal Audit elaborate and include more financial details when auditing expenditure, in particular when extra costs are incurred, and include the total expenditure as well.**

47. The AC was concerned about the scope and depth of the internal audit procedures when conducting this audit assignment, where no issues were found in the area of staffing, while the audit assignment “Temporary personnel” conducted by the External Auditor resulted in several findings in the area of staffing, and identified a need for enhanced internal controls.

48. **The Audit Committee recommended that the Office of Internal Audit study the External Auditor’s report on “Temporary personnel” and consider focussing more, when conducting similar audit assignments in the future, on the scope and in greater depth on the internal controls in place and whether these are working effectively.**

b. Audit of the legal claims treatment strategy and process embedded by the Registry Legal Office⁶

49. The audit of “Legal claims treatment strategy and process embedded by the Registry Legal Office” concluded that the controls established within the legal claims process are effective. The main areas for improvement relate to the establishment of an informal dispute resolution mechanism that is fit for purpose, accessible by staff and sustainable. In addition, the OIA recommended formulating Key Performance Indicators aligned between the Registry and OTP in relation to appeals before the ILOAT. Finally, the OIA recommended that risk statements be reworded to include the cause and the impact of the risk. To that end, the OIA issued three medium risk audit recommendations that were addressed to the immediate offices of the Registrar and the Prosecutor, whose corrective actions will be followed up.

FINDINGS AND RECOMMENDATIONS

50. The AC noted that in section 2 “Operating structure” of the internal audit report it is stated that: “(t)o ensure the organisational structure in relation to the legal claim process is clear, effective and **efficient**”. In addition, the AC noted in page 17 under “Criteria: *The governing legal framework for the legal claim process should be clear to all key stakeholders involved, complete and **fit for purpose** to facilitate compliance.*”

51. The AC was not satisfied with the answer given by the Director of the Office of Internal Audit on how “efficiency” and “fit for purpose” were tested.

52. **The Audit Committee recommended that the Office of Internal Audit take extra care when using different terms related to control objectives such as “efficient” and “fit for purpose” to ensure that the auditors were able to test them and reflect the result in the report.**

⁶ AC/16/4.

c. *Audit of the management of funds of the protection program for victims and witnesses*⁷

53. The OIA issued a redacted report of the audit of the management of funds of the protection program for victims and witnesses.

FINDINGS AND RECOMMENDATIONS

54. The AC was informed by the Director of the Office of Internal Audit that the objective was to provide assurance that confidential payments were made pursuant to the rules. Expenditure was accounted for according to general principles. The OIA concluded that confidential payments were made in compliance with the established internal controls.

55. Due to the limited information provided in the internal audit report of the management of funds of the protection program for victims and witnesses, the AC was unable to provide any input or opinion.

d. *Audit of the Duty of Care Framework covering the initiatives implemented or coordinated by the Occupational Health Unit at the Headquarters and Country Offices,⁸ and the respective management comments⁹*

56. The report stated that the notion of duty of care, as a legal concept, exists only pursuant to the International Labour Organization-Administrative Tribunal (“ILOAT”) case-law. As such, “duty of care” has legal relevance exclusively in the context of the relationships between the Court and those with access to ILOAT, i.e. staff members and elected officials. The term “duty of care” should therefore only be used in respect of staff members and elected officials, and within the limits established by ILOAT case-law. In relation to other categories of personnel the Court engages with, the term “occupational health and safety” should be used instead.

FINDINGS AND RECOMMENDATIONS

57. The AC noted that although the internal audit report included information about performance indicators established by the Division of Management Services, where “*Number of security and safety incidents having a negative impact on the use of the Court’s premises or occasioning delays in judicial proceedings (annual trend)*” were listed and although page five of the report stated that “*The audit assessed the effectiveness and clarity of the established: Definition of the Court’s duty of care*”, the internal audit report did not mention any identified incidents during the audit, while the representative of the Court stated that there was one incident. The AC found it difficult to understand how it can be determined that a process is effective unless one has tested whether incidents that relate to health and safety occurred or not, and also found the report misleading in creating the impression that a comprehensive overview of the framework had been conducted without mentioning the coverage of any incidents.

58. The Audit Committee was concerned about the satisfactory conclusion made by the Office of Internal Audit regarding the effectiveness of the Duty of Care Framework without checking whether any incidents had occurred or not, and recommended that the Office of Internal Audit, in future similar audit assignments when one of the objectives is to assess the effectiveness of a framework or a system, take a sample and test whether the system is working effectively as intended.

e. Internal audit outstanding recommendations dashboard.¹⁰

59. At its fifteenth session,¹¹ the AC recommended that the OIA present outstanding recommendations in a dashboard, highlighting key control gaps and issues of non-compliance.

⁷ AC/16/14.

⁸ AC/16/15.

⁹ AC/16/15/Add.1.

¹⁰ AC/16/7.

¹¹ AC/15/5, para. 50.

60. The report covered a total of 30 recommendations: one recommendation from 2017; three recommendations from 2018; 15 recommendations from 2019; and 12 recommendations from 2020.

FINDINGS AND RECOMMENDATIONS

61. **The Audit Committee noted that two recommendations had been closed without any explanation being provided and recommended that the Director of the Office of Internal Audit include justification whenever any recommendation is closed.**

f. Judicial Workflow Platform

62. At its thirty-eighth resumed session,¹² the CBF requested that it receive the audit report on Judicial Workflow Platform (“JWP”) user requirements together with the AC’s comments at its thirty-ninth session in September 2022.

63. The OIA stated that the JWP audit had not yet been finalized but briefed the AC on the work done so far and the findings reached.

FINDINGS AND RECOMMENDATIONS

64. The AC recalled that in March 2022, the OIA submitted a paper stating that the JWP audit assignment, which was part of the 2021 Audit Plan, would be circulated at the end of April 2022.

65. The AC noted that the JWP audit fieldwork was still ongoing with a completion ratio of 80 per cent, as the audit was awaiting additional information from the Court for its conclusion.

66. The AC was informed that the delay in finalizing the audit assignment was due to the following:

- Absence of the project manager (OIA's focal point for this engagement) due to sick leave during the months of February, April and July 2022;
- Delays observed in obtaining the required information of up to two weeks, which appears to be the time needed for the project manager to gather the information from the various stakeholders involved. This is still the case at the moment for example when some of the key players are on vacation with returns expected by next week; and
- Absence of the auditor in charge due to sick leave in June 2022.

67. **The Audit Committee stressed that these causes of delay could have been foreseen and recommended that the Director of the Office of Internal Audit put in place a contingency plan to overcome such delays by applying an agile approach to audits.**

68. **In the meantime, the Audit Committee reiterated its previous recommendation and recommended that the Court make available all the information requested by the auditors on time and without delay.**

g. General observation on all the internal audit reports

FINDINGS AND RECOMMENDATIONS

69. **The Audit Committee noted that the paragraphs in the internal audit reports were not numbered, which made it difficult for the Audit Committee to refer to certain paragraphs, therefore, the Audit Committee recommended that all internal audit reports be formatted with paragraph numbering.**

¹² ICC-ASP/21/5/Add.1, para 110.

2. Status of implementation of the 2022 Internal Audit Plan

70. The AC considered the Status of Implementation of the 2022 Internal Audit Plan and the Annex Worksheet on planning criteria for the first¹³ and second quarter.¹⁴

71. The AC noted that as at 1 July 2022, the OIA had only been able to complete four audit assignments: three were carried forward from the 2021 approved audit plan and there was one new audit assignment from the 2022 approved audit plan.

FINDINGS AND RECOMMENDATIONS

72. The AC reiterated its concern about the low implementation levels of the Internal Audit Plan, which recurs every year. The AC further noted that the Q2 update showed a reduction of two out of ten audit assignments from the 2022 internal audit plan with no justification.

73. The AC noted that for assignments that started in the previous year and were completed in the following year, the report did not show the number of working days for the Auditor in each year.

74. In case the Office of Internal Audit was applying an agile approach and was still not able to complete the audit assignments due to management capacity and a delay in providing information, the Audit Committee recommended that the Director of the Office of Internal Audit issue the internal audit report explaining that there is limited scope in that area pointing out the capacity gaps.

75. The Audit Committee recommended that the Director of the Office of Internal Audit explain in the Internal Audit Plan the reason for cancelling audit assignments.

76. The Audit Committee recommended that the Office of Internal Audit show the number of working days for the Auditor for each year when the audit assignment starts in one year and is completed in the following year.

3. Office of Internal Audit draft work plan for 2023

77. The AC considered the “Office of Internal Audit: Draft Work Plan of Internal Audit for 2023”,¹⁵ which had been submitted by the OIA.

78. At its tenth session,¹⁶ the AC recommended that the selection of audit topics be based on a risk assessment and be in line with the “One-Court” Principle. The AC recommended that the OIA specify the overall risk level for each audit assessment and incorporate such information in the annual Draft Internal Audit Plan and further recommended that the elements¹⁷ raised by the AC and the related recommendations made by the CBF be taken into consideration.

79. The draft internal audit plan for 2023 included seven audit assignments and three advisory services. Furthermore, for the period 2024-2027, it included an additional 35 audit assignments and one advisory service.

FINDINGS AND RECOMMENDATIONS

80. The AC discussed with the Director of the Office of Internal Audit all the proposed audit assignments and suggested various amendments to the internal audit plan.

¹³ AC/16/3 and AC/16/3-Anx.1.

¹⁴ AC/16/13 and AC/16/13-Anx.1.

¹⁵ AC/16/9; AC/16/9-Anx.1 and AC/16/9-Anx.2.

¹⁶ AC/10/5, paras. 34 and 37.

¹⁷ AC/10/5, paragraph 37: “(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; and (iii) ensure effectiveness and efficiency in relation to the planned number of man-days per audit engagement”.

81. **The Audit Committee, based on its discussions, recommended that the Director of the Office of Internal Audit resubmit the Internal Audit Plan for 2023 after taking into consideration the observations made by the Audit Committee:**

- i.* **Reduce the number of planned days for the same audit assignment in the Victims and Witnesses Section repeated yearly; and**
- ii.* **Add new audit assignment(s) in the area of the Office of the Prosecutor and/or the Trust Fund for Victims.**

82. The AC raised a question with the Director of the Office of Internal Audit on the proposed audit assignment “Repatriation grant”, where the External Auditor had just completed his work on the financial statements of the Court and tackled the “Repatriation grant”. The Director of the Office of Internal Audit explained that she was not aware that the External Auditor had covered this topic.

83. **The Audit Committee recommended that the Director of the Office of Internal Audit take out from the Internal Audit Plan the proposed audit assignment “Repatriation grant management” as the External Auditor has already tackled it in his work this year.**

4. External Assessment of the work of the Office of Internal Audit

84. The “*International Standards for the Professional Practice of Internal Auditing*”¹⁸ requires that an outside team of independent assessors evaluate an internal audit activity performance at least every five years.

85. The AC discussed the procedure for selecting the external assessor, whose assessment shall be conducted during the first semester of 2023.

FINDINGS AND RECOMMENDATIONS

86. Reference is made to Section B. (Governance of the Court), in particular paragraphs 26 and 27 (e) above.

B. Oversight of external audit matters

1. Financial Statements of the Court for the year 2021

87. The AC considered the “Financial Statements of the International Criminal Court for the year ended 31 December 2021”.¹⁹

FINDINGS AND RECOMMENDATIONS

88. The AC noted that based on the opinion of the External Auditor, the financial statements present fairly, in all material respects, the financial position of the Court as at 31 December 2021, and the financial performance, the changes in net assets/equity, cash flow and the comparison of budget and actual amounts for the year end in accordance with the International Public Sector Accounting Standards (“IPSAS”).

89. **Therefore, the Audit Committee recommended that the Assembly approve the Financial Statements of the Court for the year ending 31 December 2021.**

90. The AC noted that the External Auditor had issued five recommendations. One recommendation was on over-payments made to three judges for a relocation grant or repatriation in the amount of €37 thousand. The AC was informed by the Court that letters had been sent to those judges requesting that they pay back the over-payments, and it was also informed that the Court is looking at measurements to enhance internal controls in the area of monitoring of salaries and allowances.

¹⁸ <https://www.theiia.org/en/standards/what-are-the-standards/>

¹⁹ ICC-ASP/21/12.

91. **The Audit Committee is concerned that the External Auditor had identified gaps in internal controls that were not identified by the Office of Internal Audit, and therefore recommended that the Office of Internal Audit in its future audit assignments focus more closely and thoroughly on the internal controls in place and whether they are working effectively.**

92. Another recommendation concerned the replacement of parts on some items of property, plant and equipment that can be recognized in the carrying amount when the cost is incurred if the recognition criteria are met, where the External Auditor recommended formalizing the procedure for the capitalization of components replaced as part of the capital replacement plan and the de-recognition of placed parts in line with IPSAS 17.

2. Financial Statements of the Trust Fund for Victims for the year 2021

93. The AC considered the “Financial Statements of the Trust Fund for Victims of the International Criminal Court for the year ended 31 December 2021”.²⁰

FINDINGS AND RECOMMENDATIONS

94. The AC noted that based on the opinion of the External Auditor, the financial statements present fairly, in all material aspects, the financial position of the TFV as at 31 December 2021, and the financial performance, the changes in net assets/equity, the cash flows and the comparison of budget and actual amounts for the year then ended in accordance with IPSAS.

95. **Therefore, the Audit Committee recommended that the Assembly approve the Financial Statements of the Trust Fund for Victims for the year ending 31 December 2021.**

96. The AC noted that the External Auditor had issued two recommendations. One recommendation involved the TFV strengthening its multi-layered control system on the implementing partners concerning the evaluation of their services and verification of supporting documents prepared by them to enhance the compliance and performance of their activities.

97. **The Audit Committee is concerned that the External Auditor had identified gaps in internal controls and recommended that the Office of Internal Audit in its future audit assignments focus more closely and thoroughly on the internal controls in place and whether they are working effectively.**

3. Audit report of the External Auditor on Temporary Personnel

98. The AC considered appreciatively the performance audit on “Temporary Personnel”²¹ submitted by the External Auditor.

FINDINGS AND RECOMMENDATIONS

99. The AC noted that the External Auditor had issued nine recommendations. The AC noticed that there seems to be a great challenge around broader human resources and talent management together with capacity planning, where the Court stated that it is working on the recommendations raised by the External Auditor.

100. **The Audit Committee recommended that the report on Temporary Personnel be considered by the Committee on Budget and Finance as it is related to human resources and budget areas.**

C. Follow up on previous recommendations

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

101. The External Auditor briefed the AC on the status of the previous audit recommendations.

²⁰ ICC-ASP/21/13.

²¹ AC/16/12.

FINDINGS AND RECOMMENDATIONS

102. The AC was informed that all previous recommendations had been partially implemented. The one on gender balance was partially implemented because there had been sustained action. The recommendation on approval of multi-year projects is partially implemented and reports have been submitted by the Court to the CBF. The recommendation on liquidity shortfall is partially implemented and there are related discussions in the context of the IER, which are ongoing with the Bureau and others. The recommendation on business partners is also partially implemented.

103. **The Audit Committee recommended that the External Auditor brief it on the status of implementation of the outstanding recommendations at its eighteenth session in July 2023.**

2. Follow-up on recommendations made by the Office of Internal Audit

104. The AC considered the “Report of the Office of Internal Audit implementation of Audit Recommendations: situation as at 31 May 2022”²² and received an update from the OIA on the status of internal audit recommendations.

105. The AC noted that the OIA report listed a total of 54 recommendations in progress that were issued between 2017 and May 2022. See Table 1 below:

Table 1: Recommendations by age with a status “In progress”

| 1-2 years | 2-3 years | 3-4 years | 4-5 years | Total recommendations |
|-----------|-----------|-----------|-----------|-----------------------|
| 33 | 8 | 11 | 2 | 54 |
| 61% | 15% | 20% | 4% | 100% |

FINDINGS AND RECOMMENDATIONS

106. **The Audit Committee noted with concern that a considerable number of recommendations issued by the Office of Internal Audit were being kept “In progress” for several years and recommended that the Court implement all recommendations.**

107. **The Audit Committee recommended that the Office of Internal Audit report on the status of the outstanding recommendations at its eighteenth session.**

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

108. At its fifteenth session,²³ the AC requested that the Executive Secretary report on the recommendations and their implementation once a year at its second session.

109. The AC noted that, out of the 209 recommendations made so far, two recommendations had been rejected by the Court, the latter accepting the underlying risk. Out of the 207 recommendations accepted, 146 recommendations (or 81.6 per cent) had been implemented; nine recommendations (or 5.0 per cent) had not been implemented or had only been partially implemented. In addition, 24 recommendations (or 13.4 per cent) were either pending implementation, as the deadline for their implementation had not yet expired, or were in progress, as the deadline had passed but efforts remained ongoing.

²² AC/16/8.

²³ AC/14/5, para. 73.

FINDINGS AND RECOMMENDATIONS

110. The Audit Committee was satisfied with the follow-up on the implementation of its recommendations made by the Executive Secretary and requested that he report on the recommendations and their implementation at its eighteenth session in July 2023.

D. Other matters**1. Work plan of the seventeenth session of the Audit Committee**

111. The AC decided to focus on the following matters during its seventeenth session: Update on amendments to the organizational manual, values and Ethics; oversight of internal audit matters; oversight of external audit matters, risk management; and follow-up on previous recommendations.

2. Dates of the seventeenth and eighteenth sessions of the Audit Committee

112. The AC decided to hold its seventeenth and eighteenth sessions from 6 to 8 March 2023 and from 24 to 26 July 2023 respectively.

Annex I: List of documents

| Title |
|---|
| Provisional agenda of the sixteenth session of the Audit Committee |
| Audit of the administrative and financial controls in the OTP |
| Status of implementation of the 2022 Audit Plan as at 31 st March 2022 |
| Annex - Status of implementation of the 2022 Audit Plan as at 31 st March 2022 |
| Audit of the legal claim treatment strategy and process embedded by the Registry Legal Office |
| Report of the Court on its fleet management policy |
| Internal audit outstanding recommendations dashboard as at 1 st June 2022 |
| Report on the implementation of audit recommendations situation as at 31 st May 2022 |
| Office of Internal Audit Work Plan for 2023 and list of topics for subsequent years |
| Office of Internal Audit Work Plan for 2023 and list of topics for subsequent years – Planning criteria |
| Office of Internal Audit integrated risk assessment and audit plan preparation |
| Audit on Logical Access Controls |
| Update to the Audit Committee on developments on Court-wide ethics and values |
| Status of implementation of the 2022 Audit Plan as at 1 st July 2022 |
| Annex - Status of implementation of the 2022 Audit Plan as at 1 st July 2022 |
| Audit of the management of funds of the protection program for victims and witnesses |
| Audit on the Duty of Care Framework covering the initiatives implemented or coordinated by the Occupational Health Unit (OHU) at the Headquarters and Country Offices |
| Management comments to the audit recommendations (Audit on the Duty of Care Framework) |
| Audit on Temporary Personnel |
| Financial Statements of the International Criminal Court for the year ended 31 December 2021 |
| Financial Statements of the Trust Fund for Victims for the year ended 31 December 2021 |
