



Assembly of States Parties

Distr.: General
15 September 2022

Original: English

Twenty-first session

The Hague, 5-10 December 2022

Performance audit report on temporary personnel 2022



BAI
BOARD OF AUDIT AND INSPECTION
REPUBLIC OF KOREA

Table of contents

	<i>Page</i>
I. Executive summary	4
II. Objectives and scope of audit	6
III. List of recommendations	7
IV. Introduction	8
1. Overview of ICC's temporary personnel	8
2. Categories of temporary personnel	9
2.1. Funding source	9
2.2. Contractual arrangements	10
V. Preliminary data analysis	12
1. Sustainability of staff costs	12
1.1. Budget	12
1.2. Expenditure	13
2. Evolution of staff structure	15
2.1. Budgetary headcount	15
2.2. Actual headcount	16
VI. Observations and recommendations	19
1. Efficiency and transparency of budget process for temporary personnel	19
1.1. GTA	19
1.2. Individual contractors	24
2. Practice of using "unapproved" GTAs	26
2.1. Background	26
2.2. Trend of using unapproved GTA	27
2.3. Specific observations on the use of unapproved GTA	29
2.4. Financial implication of using unapproved GTA	32
3. Suspended GTA policy reform and management of STA	33
3.1. Principle vs. practice	33
3.2. Pending implementation of proposed reform of GTA policy	36
3.3. Monitoring and reporting of short-term appointments (STA)	38
4. Balance of geographical and gender representation	40
4.1. Audit background	40
4.2. Geographical representation in principle	42
4.3. Geographical representation in Professional staff	42
4.4. Geographical representation in recruitment	46
VII. Conclusion	56
VIII. Acknowledgements	57

Appendices	58
Appendix A: Opinion of the Court on the External Auditor’s recommendations.....	58
Appendix B: List of long-term vacant GTA positions in APB 2021	61
Appendix C: Geographical representation of Professional staff by organ at year end from 2019 to 2021	64
Appendix D: Geographical representation of higher level of Professional staff at year end from 2019 to 2021	65

I. Executive summary

This report presents the results of the Board of Audit and Inspection of the Republic of Korea (BAI)'s performance audit on "temporary personnel" in the International Criminal Court (ICC). The BAI was appointed to serve in the capacity of the External Auditor of the ICC for financial years 2021-2024, pursuant to the ASP decision dated 16 December 2020. The External Auditor's responsibility comprises conducting up to two performance audits each year, and the BAI selected temporary personnel as the topic of the performance audit to be undertaken in 2022. The objective of this audit was to assess the effectiveness, efficiency, and economy of the administrative processes regarding the use of temporary personnel in the ICC. Specifically, the External Auditor reviewed the budget process, the rules and policies, and geographical and gender balance of staff in non-established positions.

Efficiency and transparency of budget process for temporary personnel

The External Auditor observed that the ICC maintains a number of long-term vacant GTA positions in the budget. Among 212 approved GTA positions (186.71 in FTE) in 2021, 40 positions (27.17 in FTE) have been vacant for four consecutive budget years. This suggests that the level of funding for GTA is not substantiated with reasonable justifications for operational needs. It is also found that the ICC does not apply a standard vacancy rate, or a universal cut of a certain percentage of the budget, to the GTA positions, which can prevent over-budgeting.

Due to the two factors mentioned above, the underspend of approved GTA budget exceeds five million euros every year. This creates a considerable amount of budgetary slack which can be used to fund the categories of temporary personnel without approval from ASP: unapproved GTA, STA, and individual contractors.

It is noted that individual contractors in principle perform functions that are clearly different from those of regular staff and thus it is only natural that the budget for these two categories of staff is separated. This is, however, not the case in the ICC as individual contractors are proposed within GTA budget and the amount of budget allocated for individual contractors does not appear in the budget documents. That is why wide variance occurs between what was planned and actual amounts. Indeed, the implemented budget has been two to six times the initially formulated budget. In addition, this practice has allowed for lack of thorough examination and reporting of budget to the CBF and ASP.

Practice of using "unapproved" GTAs

Although the CBF has urged the ICC to refrain from using GTAs without approval from ASP, the number of unapproved GTAs has increased since 2017. The ICC considers that unapproved GTAs are needed to address the staffing needs that are either unexpected or unforeseen (Category B), or the staffing needs to temporarily fill vacant posts or replace staff on extended leave (Category C). However, the External Auditor observed that the unapproved GTAs perform regular and on-going functions in reality, as 60% of the unapproved GTAs have continued for more than two budget years.

In addition, practices by the ICC related to unapproved GTAs raise questions about whether relevant administrative controls are in place to ensure transparent management of unapproved GTAs. First, the ICC maintains GTA "Category C" positions to perform functions that are not relevant to the purposes that the positions are created for; temporarily filling vacant posts or replacing staff on extended leave. Second, the ICC creates or continues a number of GTA positions which had been previously considered and recommended to be disapproved by the CBF. Third, the ICC later added a number of continued GTA positions in the Approved Programme Budget which were originally not included in the Proposed Programme Budget, after the final budget resolution had already been adopted by ASP. Last but not least, the ICC changes the categories of a number of GTA positions from "Category B" to "Category C" which the ICC does not count as unapproved GTA, prior to the early CBF session in May without relevant justifications for the change, resulting in a smaller number of unapproved w

The staff costs on unapproved GTAs have increased by more than 140 percent over the last five years. As a result, the total costs incurred on unapproved GTAs over the last five years

exceed 10 million euros. The ICC has even redeployed non-staff resources to continue to use unapproved GTAs when there is not enough funding for staff costs.

Suspended GTA policy reform and management of STA

Although GTA positions were created to address temporary and fluctuating staffing needs, they perform regular and on-going functions in reality as established posts do. There is no significant difference between GTA positions and established posts in terms of the duration of the position, nature of the work requirements, and the type of appointments. As fixed-term appointments are offered to the staff in established posts as well as the staff in GTA positions, the benefits and entitlements they receive are the same.

In order to ensure that GTAs are used as intended, the Court proposed a reform of the GTA policy in 2015. At the same time, 121 GTA positions were converted to established posts from 2015 to 2017, as they were long-standing GTA positions covering regular and core functions of the ICC. In 2017, the ICC reported to the CBF that a new GTA policy would indicate that GTA-funded positions may not be used to cover positions of a long-term nature and that the new policy on the duration of contracts for GTA-funded positions would be promulgated before the twenty-ninth session of the CBF in 2017. However, the proposed reform of the GTA policy has neither been implemented nor discussed in the subsequent CBF sessions.

Meanwhile, the ICC does not report to the CBF the list of vacant positions covered by STA, which might undermine the transparency of the use of STA. In addition, a part of the justifications presented by the ICC for extending the STA contract beyond one year does not fall under the requirements set out in the Administrative Instruction on Short-term Appointments.

Balance of geographical and gender representation

The External Auditor reviewed the method used to determine the geographical distribution of the ICC. It is observed that the ICC calculates its desirable range by including Professional staff in established posts only. The current method, however, does not show the actual status of geographical representation of the ICC because the geographical distribution of the ICC becomes more imbalanced when Professional staff in GTA positions is included. In addition, considering that a large number of long-standing GTA positions perform regular and on-going functions, this group of staff should also be included to assess the geographical representation of the ICC.

In order to assess the progress towards more equitable geographical distribution stated in the Strategic Plan from 2019 to 2021, the External Auditor reviewed 42 recruitment processes for Professional staff in GTA positions from 2019 to 2021; it is found out that the ICC still recruits the most from over-represented States Parties and the least from non-represented States Parties. Even the vacancies formerly occupied by staff from non-States Parties have been filled by those from in balance or over-represented States Parties.

This issue was also found in the processes to create rosters for appointments in professional GTA. It is observed that due consideration of geographical representation is not effectively given in the respective process of recruitment; panel composition, shortlisting, and selection of final candidates for appointments. This might have to do with the practice where hiring managers have full discretion in selecting final candidates from rosters, while no mechanism is in place to limit the discretion to a certain extent so that they can be more mindful of geographical distribution.

In order to achieve more equitable geographical representation committed by the ICC, efforts that generate meaningful outcome are necessary. Establishment of rules to give priority to those from non- and under-represented States Parties can be one of the options since candidates, once they are listed on rosters, are agreed to be equally eligible for appointments.

II. Objectives and scope of audit

1. Pursuant to the ASP decision dated 16 December 2020, the Board of Audit and Inspection of the Republic of Korea (BAI) was appointed to serve in the capacity of the External Auditor of the International Criminal Court (ICC) for financial years 2021-2024. As set out in article 2.1.8. of the terms of reference of the External Audit Mandate¹, the External Auditor's responsibility comprises conducting up to two performance audits each year, as per the request of the Assembly of States Parties.

2. During the Budget Management Oversight (BMO) meeting on 8 November 2021, the External Auditor presented two possible performance audit topics for States Parties to consider for the year of 2022. States Parties concurred with the two performance audits proposals, namely legal aid and temporary personnel.

3. In consideration of the ICC's current financial circumstances, the External Auditor determined that the audit on temporary personnel is timely and thus selected it as the topic of the performance audit to be undertaken in the first half of 2022. The External Auditor notified the Court of the decision and sent a draft Terms of Reference for the performance audit engagement on 26 January 2022.

4. After the Terms of Reference was agreed, a notification letter was sent to the Registrar on 16 February 2022. Basic documentation was requested on the same date, followed by a questionnaire sent on 18 April. Subsequently, an on-site audit mission to the ICC was conducted from 4 to 25 May.

5. The objective of this audit was to assess the effectiveness, efficiency and economy of the administrative processes regarding the use of temporary personnel in all organs of the ICC, which includes staff in non-established positions, individual contractors, consultants, and interpreters.

6. The audit was carried out in accordance with the International Standards of Supreme Audit Institutions (ISSAI) on performance audits, and Regulation 12 of the Financial Regulations and Rules (FRR), including additional terms of reference governing the audit of the ICC, disclosed in annex 6(c) to the FRR. These standards require the External Auditor to comply with relevant ethical rules, to exercise professional judgement and to take a systematic approach throughout the audit by identifying problems, seeking solutions, and providing recommendations for improvements.

7. The audit covered the assessment of the following detailed objectives, among other things:

- (a) whether non-established positions perform the functions that they were created for;
- (b) whether the budget for temporary personnel is being prepared, executed, and monitored in an efficient and transparent manner;
- (c) whether rules, regulations and policies governing the use of temporary personnel are complete and relevant;
- (d) whether recruitment and employment contracts of temporary personnel is managed in a fair and transparent manner, in compliance with the existing regulatory framework; and
- (e) whether geographical and gender representation is achieved.

8. The audit was based on:

- (a) analysis and review of relevant official documents, including rules and regulations, OIA and CBF recommendations, budget and financial documents;
- (b) review of the basic documentation specifically requested to the ICC;
- (c) analysis of SAP data (HR and payroll module); and

¹ *Agreement for External Audit Services and Related Deliverables Regarding the International Criminal Court Between ICC and Board of Audit and Inspection of Korea.*

(d) interviews with those in charge and relevant stakeholders.

9. All observations and recommendations were discussed with relevant staff in the Human Resources section and the Budget section. In order to facilitate the discussion, the observation and preliminary audit findings were summarized and communicated to them during the field audit mission.

10. Meetings were held twice on 20 and 24 May with the Director of Division of Management Service (Mr. Ivan Alippi), Chief of Human Resources Section (Mr. Etienne Gouws), and the Chief of Budget Section (Mr. Osvaldo Zavala Giler) to exchange opinions on the preliminary findings. The audit findings and recommendations have been incorporated in this report after duly considering the management's opinions and plans for implementation of the recommendations.

11. The following five External Auditors of the BAI participated in this performance audit mission, namely Mr. Young You (Director of International Audit Division), Ms. Jung A Chae (Head of Team), Mr. Jinho Oak (Senior Auditor), Ms. Yunyoung Ko (Auditor), and Ms. Hyeyoun Choi (Auditor).

III. List of recommendations

Recommendation 1: The External Auditor recommends the Court to conduct a study to improve the relevancy and transparency of the GTA budget, which would include reviewing the necessity of long-term vacant GTA positions, without limiting the Court's ability to address fluctuating staffing needs.

Recommendation 2: The External Auditor recommends the Court to determine whether it is necessary to apply standard vacancy rates to GTA positions that have been extended beyond the calendar year, as the CBF recommended in 2014, to ensure that the level of funding for GTA reflects the staffing demands accurately.

Recommendation 3: The External Auditor recommends the Court to create a separate budget-line for individual contractors.

Recommendation 4: The External Auditor recommends the Court to:

- (a) establish a plan either to include the existing GTA category "B" and "C" positions in the Proposed Programme Budget or to discontinue them after reviewing their operational needs and submit the plan to the CBF and ASP for approval, while providing the CBF and ASP with progress reports every year; and
- (b) refrain from the practice of creating or continuing "unapproved" GTA positions (category "B" and "C" positions) in the future and use STAs instead to address staffing needs of less than a calendar year that are unexpected or unforeseen when the budget is proposed.

Recommendation 5: The External Auditor recommends the Court to conduct a holistic review of the existing GTA positions to determine the positions that need to be converted into established posts, which should gradually replace the established posts that are no longer needed and should be abolished.

Recommendation 6: The External Auditor recommends the Court to implement the reform of the GTA policy proposed in 2015 and 2017, and promulgate an Administrative Instruction on duration and extension of fixed-term appointments funded against GTA.

Recommendation 7: The External Auditor recommends the Court to:

- (a) report annually the list of vacant positions covered by STA to the CBF, in order to ensure that the STA positions are not maintained longer than the duration needed to fill vacant positions or replace the staff on extended leave;
- (b) report to the CBF the list of STAs that were exceptionally extended beyond one year; and
- (c) refrain from the practice of extending short-term appointments beyond one year without justifiable reasons for extension set out in the Administrative Instruction on Short-term Appointments.

Recommendation 8: The External Auditor recommends the Court to include Professional staff in approved GTA positions when setting targets for geographical representation and report to ASP the progress to be made in geographical representation based on the comparison to the targets if GTA positions are operated for the multi-year service period as they are today.

Recommendation 9: The External Auditor recommends the Court to:

- (a) compose panel striving for diversity of regions, where possible; and
- (b) strive to achieve meaningful outcomes toward the equitable geographical representation by employing various methods such as establishment of rules to prioritise candidates from non- and under-represented States Parties in the recommendation process by hiring managers in response to requests for candidates to be appointed from rosters.

IV. Introduction

1. Overview of ICC's temporary personnel

12. In line with the core philosophy elaborated in the budget for the first financial period, the post structure which was foreseen would support a nucleus of longer-term, highly skilled staff, complemented by staff recruited as and when necessary, in light of the Court's need to be flexible and scalable.² Accordingly, the Court has an approved number of established posts intended to be used for its regular, long-term needs and a number of General Temporary Assistance (GTA) positions created to cover temporary and fluctuating staffing needs.

13. It seems that the ICC pursues the principle that the GTAs are used to address temporary staffing needs of a limited duration. In 2015, the Court reported to the CBF that following the establishment of the correct staffing level, the Court must exercise discipline in ensuring that GTAs will not be used to fund regular and on-going functions³. In 2017, the Court reported that the new GTA policy will indicate that GTA-funded positions may not be used to cover positions of a long-term nature.⁴

14. In order to cover urgent and temporary staffing needs that are unforeseen, the Court recruits Short-term Appointment (STA) staff, and this type of contract can be issued for a single or cumulative maximum period of one year to respond to an unexpected and/or short-term work requirement or to temporarily fill vacant positions pending the finalization of recruitment or to temporarily replace staff on special leave, sick leave, or maternity/paternity leave as prescribed in the Administrative Instruction on Short-Term Appointments (ICC/AI/2016/001).

15. In addition, the Court engages freelance interpreters, witness assistants and text processors on Temporary Assistance for Meetings (TAM) contracts for the purpose of supporting and facilitating the meeting requirements of a particular mandate on a short-term basis.

16. The Court uses non-staff personnel such as individual contractors and consultants temporarily when the need for the required services cannot be met through current staff resources due to a lack of specialized knowledge, expertise, or capacity⁵. However, engaging individual contractors and consultants to perform staff functions is not allowed, even if it is a temporary measure to fill posts vacated by staff members, or to fill regular and continuing functions in office.

17. Apart from the categories of temporary personnel mentioned above, the Court also has interns, Junior Professional Officers (JPO) and visiting professionals. However, they are not budgeted for and mainly funded by the voluntary contributions of States Parties. Thus, the financial implication of engaging them can be limited.

² CBF Policy and Procedure Manual, para. 327.

³ Report of the Court on Human Resources Management, 2015, para. 148 (ICC/ASP/14/7).

⁴ Report of the Court on Human Resources Management, 2017, para. 39 (CBF/28/18).

⁵ Administrative Instruction on Consultants and Individual Contractors (ICC/AI/2016/002).

18. According to the HR standard statistics as at 31 March 2022⁶, there are 1,398 personnel working at the Court, which consists of 837 staff in established posts, 22 elected officials including judges, and 539 employees who can be categorized as “temporary personnel”.

Table 1: The Court’s actual headcount as at 31 March 2022

Category	Headcount
Elected officials / Judges	22
Staff in established posts	837
Temporary personnel	539
Approved GTA ⁷	172
STA	37
Consultants	17
Individual contractors	178
JPO	7
Interns	92
Visiting professionals	36
Total⁸	1,398

2. Categories of temporary personnel

2.1. Funding source

19. In the budget structure of the Court, established posts are approved in addition to GTA positions. All GTA positions, summarized in a staffing table, as is the case with established posts, are listed in the yearly budget proposal.

Figure 1: Approved staffing table in 2021

ICC	USG	ASG	D-2	D-1	P-5	P-4	P-3	P-2	P-1	Total P-Staff and Above	GS-PL	GS-OL	Total GS-Staff	Total Staff
Established Posts														
Approved 2020	1	2	-	9	45	90	185	183	30	545	19	409	428	973
New	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Redeployed	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reclassified	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Returned	-	-	-	-	-	-	(1)	-	-	(1)	-	-	-	(1)
Approved 2021	1	2	-	9	45	90	184	183	30	544	19	409	428	972
GTA Positions (FTE)														
Approved 2020	-	-	-	-	0.47	8.34	44.63	52.92	13.50	119.86	10.97	58.18	69.15	189.01
Continued	-	-	-	-	0.13	9.08	47.67	54.50	11.00	122.38	4.00	56.92	60.92	183.29
New	-	-	-	-	-	-	1.25	0.50	1.67	3.42	3.38	0.92	4.30	7.72
Redeployed	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reclassified	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Converted	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Approved 2021	-	-	-	-	0.13	9.08	48.92	55.00	12.67	125.79	7.38	57.83	65.22	191.01

20. Thus, the Court’s staff costs consist of four budget lines, namely “Professional staff” and “General Service staff” for staff in established posts, “General Temporary Assistance”

⁶ CBF 38R/30P01.

⁷ The staff headcount of GTA excludes unapproved GTAs.

⁸ Personnel engaged under Temporary Assistance for Meetings (TAM) contracts are not included in the actual headcount. However, as TAM mainly consists of freelance interpreters engaged for a very short duration (mostly less than ten days), the headcount of TAM as at 31 March 2022 will not provide a clear picture of the staffing situation of TAM and thus can be considered insignificant.

for staff in GTA positions, and the “Temporary Assistance for Meetings”, for personnel employed on a very short- term basis, as mentioned above.

21. In addition, STAs are not budgeted for, because they are considered to represent unexpected or unforeseen staffing needs. Instead, they are funded from the underspend of established posts, GTAs, or non-staff budget.

22. On the other hand, individual contractors and consultants are all budgeted for. While the Court has separate budget lines for consultants, individual contractors are proposed within the GTA budget line, and the amount of approved budget for individual contractors are not disclosed in the tables in the Approved Programme Budget. Although neither individual contractors nor consultants are staff of the ICC, individual contractors are included in staff costs under GTA budget line, and consultants are included in non-staff costs.

Figure 2: Approved Budget for 2021

	ICC	Approved 2021 Budget
	<i>Judges</i>	4,711.1
Established Posts →	Professional staff	64,587.2
	General Service staff	25,005.5
	<i>Subtotal staff</i>	89,592.7
GTA (including Individual Contractors) →	General temporary assistance	18,648.3
TAM →	Temporary assistance for meetings	511.8
	Overtime	237.2
	<i>Subtotal other staff</i>	19,397.3
	Travel	4,096.9
	Hospitality	28.0
	Contractual services	4,056.0
	Training	624.8
Consultants →	Consultants	627.2
	Counsel for defence	3,943.7
	Counsel for victims	1,727.1
	General operating expenses	14,026.5
	Supplies and materials	1,111.0
	Furniture and equipment	731.6
	<i>Subtotal non-staff</i>	30,972.8
	Total	144,673.9
	<i>Host State Loan</i>	3,585.1
	Total Including Host State Loan	148,259.0

2.2. Contractual arrangements

23. The International Civil Service Commission (ICSC) framework for contractual arrangements prescribes three types of appointments that can be granted to the staff of UN common system organizations, namely continuing appointment, fixed-term appointment, and temporary (short-term) appointment.

Table 2: ICSC framework for contractual arrangements⁹

	Continuing appointment	Fixed-term appointment	Temporary (short-term) appointment
Purpose	Designed to assist the organizations in maintaining programme continuity.	Designed to cover the employment of staff engaged for defined periods of time to perform functions that are part of the organization's regular and continuing activities	Designed to accommodate defined, short-term needs of the organization for less than one year
Coverage	Inclusion in this category is subject to the continuing needs of the organizations and extends to staff who perform functions that are core to the mandate of each organization	Inclusion in this category may extend to staff performing functions of medium-term duration, which could continue for years	
Duration of contracts	Open-ended	The contract duration ranges from one to five years, and the contract may be terminated or renewed on the basis of criteria such as organizational interests, fully meeting performance expectations	Less than one year

24. In the past, the contractual modalities of the ICC were not in line with the ICSC framework for contractual arrangements. Only appointments with a duration of less than one-month were short-term, and all other staff held fixed-term appointments even when the appointment is temporary in nature, for example a maternity leave replacement¹⁰.

25. To ensure that short-term staffing needs are addressed in a timely manner and align the contractual modalities with operational needs, the Court put in place the Short-term Appointment (STA) contractual modality and promulgated the Administrative Instruction on Short-term Appointments (ICC/AI/2016/001) in early 2016¹¹.

26. When the STA contractual modality was introduced, it was envisaged that a proportion of appointments funded by GTA that were previously under the “fixed-term” modality would be more appropriately handled under the “short-term” modality¹².

27. However, the Court still provides all of the staff in established posts as well as GTA positions with renewable fixed-term contracts. The staff employed under short-term appointments (STA) do not occupy specific established posts or GTA positions, but holds “STA positions” that are managed separately¹³ and do not appear in the budget documents.

28. This is different from the United Nations, where the contractual modality of GTA funded appointments is determined based on the expected duration of the needs for the services. When the expected duration of the needs is less than one year, the staff may only be offered a temporary (short-term) appointment. When the expected duration exceeds one year, the staff is offered a fixed-term appointment.

29. In addition, the Court developed an Administrative Instruction on Consultants and Individual Contractors in 2016, which established procedures to ensure consistency in the issuance of non-staff contracts. However, there is no policy governing the use of Temporary Assistance for Meetings (TAM) contracts, which mainly consist of engagements for short-term language personnel for less than one month.

⁹ *Report of the International Civil Service Commission for 2010* (A/65/30), Annex V.

¹⁰ *Report of the Court on Human Resources Management*, 2015 (ICC/ASP/14/7), para. 53.

¹¹ *Report of the Court on Human Resources Management*, 2016 (CBF/26/5), para. 39.

¹² *Report of the Court on Human Resources Management*, 2015 (ICC/ASP/13/18), paras. 55-56.

¹³ The Court creates post numbers for STA positions starting with A (A-xxxx), while the post numbers of established posts start with E (S-xxxx) or S (S-xxxx) and the GTA post numbers start with T (T-xxxx).

30. The categorization of the ICC's temporary personnel, according to funding source and contractual arrangement, is summarized in the table below.

**Table 3: Categorization of temporary personnel:
funding source and contractual arrangement**

Category	Funding source	Contractual arrangement
Established post	Established post	Fixed-term appointment
GTA	GTA	
STA	Not budgeted for (funded by underspend)	Short-term (temporary) appointment
TAM	TAM	Temporary assistance for meetings contract
Individual contractor	Individual contractor within GTA budget line	Non-staff contract
Consultant	Consultants	

V. Preliminary data analysis

1. Sustainability of staff costs

1.1. Budget

31. The External Auditor conducted a preliminary analysis of the evolution of the ICC's budget and expenditure prior to the audit mission. The result showed that the ICC's overall Approved Programme Budget was 121.7 million euros in FY 2014 and increased to 154.9 million euros in FY 2022. The overall budget increased by 3.1% annually, which is slightly above the average annual inflation rate in the host State¹⁴.

32. This suggests that the Court has been under pressure to limit the budget increase, due to the near Zero Real Growth budgetary envelop placed by States Parties.

33. From FY 2014 to FY 2022, the staff budget increased more rapidly than the overall budget, increasing by 4.1% annually. As a result, the Court had to freeze the non-staff budget. As the non-staff budget increased from 35.7 million euros to 36.0 million euros from FY 2014 to FY 2022, the average annual rate of increase was 0.1%.

¹⁴ From FY 2014 to FY 2021, the Consumer Price Index (CPI) increased by 1.5% annually.

Table 4: Approved Programme Budget (FY2014-2022)

(in millions of euros)

Financial Year	2014	2015	2016	2017	2018	2019	2020	2021	2022	Average annual rate of increase
Overall budget	121.7	130.7	139.6	144.6	147.4	148.1	149.2	148.3	154.9	+3.1%
Staff budget	85.9	94.7	101.1	107.1	109.7	110.2	110.9	113.7	118.8	+4.1%
Non-staff budget	35.7	35.9	38.5	37.5	37.7	38	38.4	34.6	36	+0.1%

Source: Approved Programme Budget of the ICC (2014-2022).

1.2. Expenditure

34. A similar trend is observed from the analysis of the evolution of the total actual expenditure including contingency fund (CF) notifications from FY 2014 to FY 2021. The total expenditure, including the CF notifications, was 119.8 million euros in FY 2014 and increased to 146.7 million euros in FY 2021. From FY 2014 to FY 2021, the total expenditure increased by 22.5%, and the annualized rate of increase was 2.9%.

35. Staff expenditure increased more rapidly than the total expenditure. The staff expenditure was 84.5 million euros in FY 2014 and increased to 113.1 million euros in FY 2021. The staff costs increased by 33.8%, which corresponds to an average annual increase rate of 4.3%.

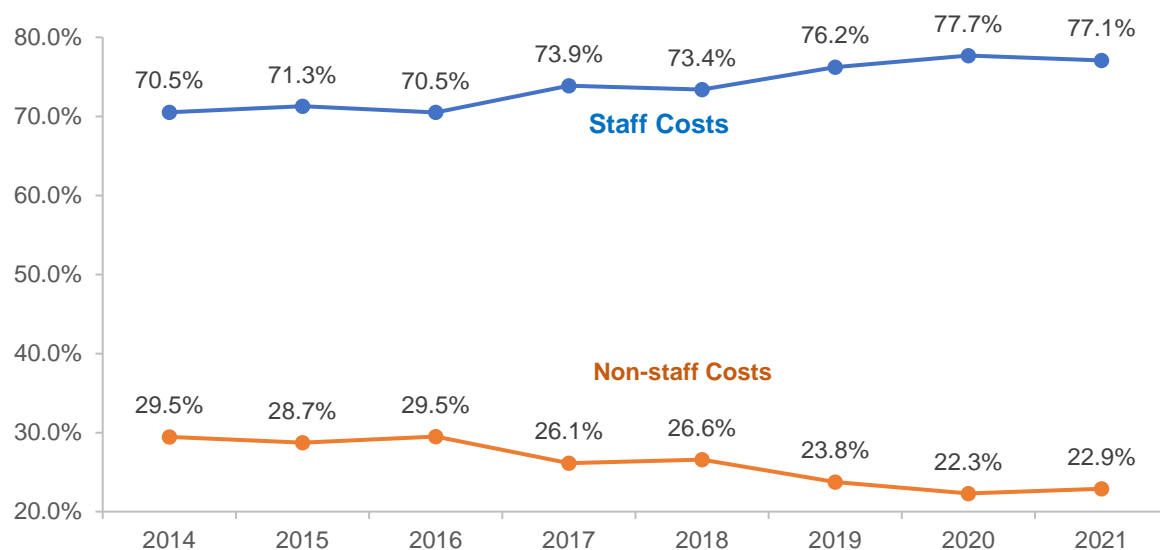
Table 5: Staff and Non-staff Expenditure (FY2014-2022)

(in millions of euros)

Financial year	2014	2015	2016	2017	2018	2019	2020	2021	Average annual rate of increase
Total expenditure	119.8	132.2	136.8	145.5	145.1	147.6	144.7	146.7	+2.9%
Staff expenditure (YoY increase %)	84.5	94.2 +11.5	96.5 +2.4	107.5 +11.4	106.5 -0.9	112.5 +5.7	112.4 -0.1	113.1 +0.6	+4.3%
Non-staff expenditure (YoY increase %)	35.3	38.0 +7.6	40.4 +6.4	38.0 -5.8	38.6 +1.6	35.1 -9.1	32.3 -8.0	33.6 +4.0	-0.7%

Source: Report on activities and programme performance of the ICC (2014-2021).

36. As a result, the staff expenditure takes up 77.1% of the total expenditure in FY 2021, which is a dramatic increase compared to 70.5% in FY 2014. As discussed earlier, since the budget increase has been limited to a near Zero Real Growth level, the Court had to reduce the non-staff expenditure. Indeed, the non-staff expenditure decreased to 33.6 million euros in FY 2021, from 35.3 million euros in FY 2014.

Figure 3: Ratio of staff/non-staff costs to total expenditure

37. It is also observed that the recent staff cost increase from FY 2017 to FY 2021 was mainly attributed to the increase in the expenditure under the GTA budget line. The GTA expenditure (combined with individual contractors), was 11.6 million euros in 2017 and increased to 19.1 million euros in 2021.

38. During the same period, the expenditure under established posts remained constant, decreasing from 88.9 million euros to 88.7 million euros. As a result, the expenditure under the GTA budget line was 16.9% of the total staff costs in 2021, which increased from 10.8% in 2017. It should be noted that the expenditure under the GTA budget line also includes the cost incurred on individual contractors and a part of the staff cost incurred on STAs.

Table 6: Expenditures on established posts and GTA (FY2017-2021)

(in millions of euros)

Year	2017	2018	2019	2020	2021
Established posts	88.9 (82.7%)	87.2 (81.9%)	88.8 (78.9%)	89.0 (79.1%)	88.7 (78.4%)
GTA	11.6 (10.8%)	13.1 (12.3%)	17.3 (15.4%)	17.4 (15.5%)	19.1 (16.9%)
Others	7.0	6.2	6.4	6.0	5.3
Total staff costs	107.5	106.5	112.5	112.4	113.1

Source: Report on activities and programme performance of the ICC (2017-2021).

39. The Court could identify savings and efficiency gains in the non-staff costs and absorb the increase in the staff costs. However, the rule of diminishing returns also applies to the savings and efficiency gains and it might become difficult for the Court to identify additional savings in the non-staff costs in the future.

40. Moreover, although the Court could identify significant savings in the travel budget caused by the Covid-19 travel restrictions in FY 2020 and FY 2021 and redeploy them to the staff costs, it is not guaranteed that the Court will be able to do so after the travel restrictions are lifted.¹⁵

¹⁵ In 2020, the CBF also noted that the majority of the cost reductions related to either postponed recruitment or anticipated travel restrictions and that these were considered one-time in nature, and not a result of structural enhancements in the efficiency of the work of the Court (see ICC-ASP/19/15, para. 15). The CBF was of the view that the Court should identify ways to manage its human resources more flexibly and efficiently, including through more cost-effective staff mobilization and the use of contractual modalities (see ICC-ASP/19/15, para. 17).

41. More importantly, the staff costs are inherently rigid as most of the staff benefits and entitlements are directly linked to ICSC Standards for salaries and benefits¹⁶, and the staff cost per employee is set to increase automatically year after year. Therefore, the high proportion of the staff costs to the budget and the expenditure might pose a risk to the financial sustainability of the Court.

42. Moreover, most of the ICC's staff are employed under the fixed-term appointment, and non-renewals of the contract have been challenged at the International Labor Organization Administrative Tribunal (ILOAT) in the past, and therefore it is difficult not to extend their contracts.

43. In order not to extend fixed-term contracts, the Court should justify the non-renewal by showing that processes have been followed. The Court would have to show that the Court has first looked to find the costs for the posts through non-staff costs, and has put in place alternative measures such as not filling new posts or providing the employees with other employment opportunities.

44. This suggests that it might be difficult to adjust the size of the workforce according to the fluctuating workload or changing financial situations through separation, due to the nature of the fixed-term contract provided to the staff in established posts as well as GTA positions.

45. The demographic change of the ICC might also aggravate the financial situation. As the Court is a relatively young organization with 20 years of history, only a small number of employees have retired so far. The average age of the staff and the beneficiaries of the group health insurance scheme is expected to increase in the future. This might cause salary step increases and increases in medical costs, which will drive further increase in the staff costs.

Finding: While the budget increase has been limited to the near Zero Real Growth budgetary envelope, both the staff budget and the expenditure have increased more rapidly than the Court's overall budget and expenditure. In 2021, the staff expenditure took up 77% of the total expenditure. This might pose a risk to the financial sustainability of the Court, due to the rigid nature of the staff costs which is set to increase automatically in the long-term.

The recent staff expenditure increase was mainly attributed to the increase in the expenditure under the GTA budget line, which includes the expenditure on GTAs, individual contractors, and a part of the expenditure on STAs. This suggests that it might be worthwhile to review whether sufficient administrative control is in place to ensure efficient use of temporary personnel.

2. Evolution of staff structure

2.1. Budgetary headcount

46. Looking at the evolution of the budgetary headcount of the ICC's staff from 2014 to 2021, it is noted that there has not been a major change in the budgetary headcount of the established posts, except for the increase due to the conversion of GTA positions from 2015 to 2017.

47. In 2015, 18 GTA positions were converted to established posts. Subsequently, 25 GTA positions were converted to established posts in 2016 and 78 positions in 2017.

48. The CBF has frozen the number of established posts until 2014 and is still very reluctant to increase the number of established posts. In the past, the CBF requested the Court to conduct a holistic review of the staffing structure or a thorough analysis of the adequate size of the workforce based on the operational needs and resource requirements (such as the OTP's basic size model¹⁷), as a prerequisite for ending the freeze of the established posts. In 2021, The CBF recommended that new requests for established posts or request to convert

¹⁶ The ICSC advises the UN system organizations with respect to cost of living, salaries and benefits of international staff, providing a reference on international standards.

¹⁷ The CBF noted that the basic size model could be a useful conceptual tool for budget formation, but resource requirements should be assessed more accurately based on actual needs, rather than inflating the budget by applying the normative basic size model (ICC/ASP/15/15, para. 50).

a post from GTA into an established post should only be made when one or more established posts are abolished at the same time.¹⁸

49. Compared to the established posts, the budgetary headcount of GTA positions has not been strictly controlled. Of course, the budgetary headcount of the GTA positions in full-time equivalents (FTE) increased from 200 in FY 2014 to 224 FY 2022- a limited increase. To get a clearer picture of the increase in the number of GTAs, however, the number of conversions from GTAs to established posts needs to be reflected. In fact, from 2015 to 2017, 121 GTAs were converted to established posts. If there had been no conversions, the increase would have been 145 (121+24).

Table 7: Budgetary headcount of established and GTA posts (FY2014-2022)

Year	2014	2015	2016	2017	2018	2019	2020	2021	2022
Established posts	768	790	900	970	972	973	973	972	976
GTA (FTE)	200	244	210	170	166	194	189	191	224
Increase/decrease of GTA (FTE)		+44	-34	-40	-4	+28	-5	+2	+33
Conversion (GTA → Established)		18	25	78					
Increase/decrease of GTA (FTE) excluding the effect of conversion		+62	-9 ¹⁹	+38	-4	+28	-5	+2	+33

Source: Approved Programme Budget of the ICC (2017-2022) and the data submitted by the Budget Section.

2.2. Actual Headcount

50. The External Auditor analyzed the evolution of the actual headcount of the staff from 2014 to 2021. In order to ensure that the actual headcount reflects all of the staff contracted to work during a specific year, the External Auditor used a different methodology from that of the Court, which counts the headcount at a specific date: The contract days of each employee were calculated and added to compute the aggregate contract days of each staff category (established posts, GTA²⁰, and STA), which was divided by 365 or 366 to figure out the actual headcounts of the three categories in Full-time Equivalents (FTE).

51. The result is as shown in Table 8 below, and the External Auditor believed that these numbers reflect the staffing situation of a specific year more appropriately and is more relevant to the fluctuation of staff costs.

Table 8: Actual staff headcount of ICC (FY2014-2021)

Year	2014	2015	2016	2017	2018	2019	2020	2021
Established posts	674	667	709	838	865	879	867	838
GTA (FTE)	201	240	208	123	136	163	172	163
STA (FTE)			48	76	78	56	34	46
Total²¹	875	906	965	1,037	1,079	1,098	1,073	1,047

Source: CBF reports and HR master data in SAP.

¹⁸ Report of the CBF on its thirty-seventh session (ICC/ASP/20/15), para. 67.

¹⁹ As a result of the Registry Revision Project in 2015, 65.4 GTAs in Registry was discontinued and replaced by 55 new established posts.

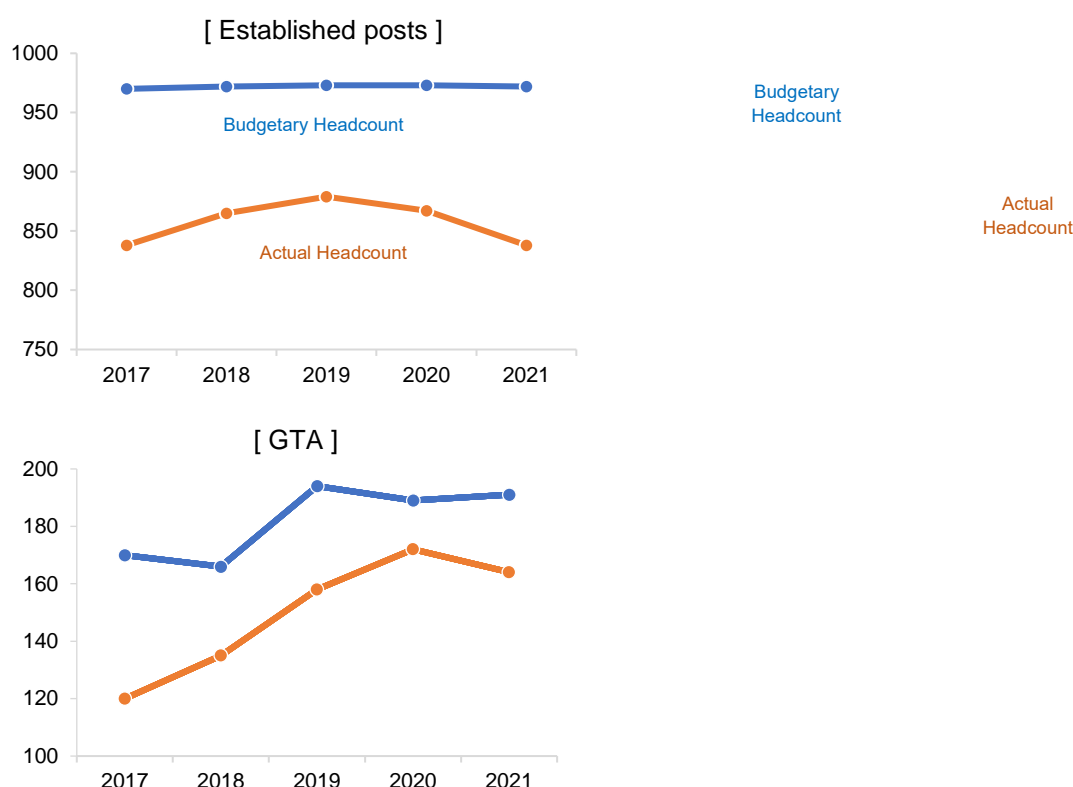
²⁰ This includes a number of individual contractors included in the GTA budget.

²¹ Although the costs incurred on TAM and Judges Salaries are also classified as staff costs, they are excluded from the scope of this audit. The judges are elected officials and do not fall into the categories of temporary personnel. The External Auditor also considered that TAM, which mainly consists of engagements of language personnel for the duration of less than one month, is less significant than other categories of temporary personnel.

52. As indicated above, the actual staff headcount has increased consistently until 2019 and has decreased since 2020. In fact, in 2020 and 2021, the Court was forced to reduce the size of the workforce due to the financial constraints imposed by the Covid-19 pandemic, and the effects of the United Nations Common System of Salaries (UNCS) salary scale update. What should be noted here is that the Court chose to postpone recruitments²² instead of not extending the GTA-funded contracts. As a result, there were only five separations in 2020 and one in 2021.

53. In order to understand the headcount of the Court better, comparing the budgetary and the actual headcount of established posts and GTA each year seems necessary. Since 2017, the actual headcount has been significantly lower than the budgetary headcount. This difference might be caused because of the delayed recruitment but requires an analysis of the budget preparation process at the same time.

Figure 4: Budgetary and actual staff headcount of ICC (FY2017-2021)



Source: CBF reports and HR master data in SAP.

54. In fact, as shown in Figure 4 above, both the budgetary and the actual headcount of GTAs have consistently increased, and this suggests that the budget for temporary personnel is not that relevant in controlling the budget increase and ensuring the efficient use of temporary personnel.

55. If the budget exceeds the implementation consistently, it would be recommended to check whether the budget is aligned with the realistic demands or whether there is an inaccuracy in budget forecasting. It will be discussed in the following chapters whether the variance was due to the delay of recruitments or whether there is need for improvement in the budget process for temporary personnel.

56. It is also observed that the actual headcount of staff on STA was 76 (FTE) in 2017, but dropped sharply to 46 (FTE) in 2021. On the other hand, the actual headcount of staff in GTA positions increased from 123 (FTE) to 163 (FTE) during the same period. This is contrary to the previous expectation that a proportion of appointments funded by GTA

²² The number of externally recruited staff in established posts decreased from 19 in 2019 to 5 in 2020.

positions as well as short-term cover of established posts, previously put under fixed-term modality, would be more appropriately handled under short-term modality²³, when the STA modality was introduced in 2016.

57. The STA modality has certain benefits compared to the fixed-term modality. Since the short-term modality limits the total duration of service to one year, the contract duration will be better aligned with the defined short-term staffing needs of one year or less. Other benefits of the STA modality include shorter recruitment time-frame and lower costs.²⁴

58. The External Auditor analyzed the evolution of the number of individual contractors contracted to work for the Court at year-ends because the introduction of the STA in 2016 might have significant impacts on individual contractors. In fact, the short-term Service Agreements (SSA) previously provided to individual contractors performing staff function were partly replaced by the STA appointment to grant them staff status and align the contractual modalities with other UN system organizations.

59. Indeed, the analysis shows that the number of individual contractors, of which costs incurred are classified as staff costs under the GTA budget line, dropped sharply in 2016 and 2017 but rebounded and has increased consistently as shown in Table 9 below. From 2014 to 2021, the number of individual contractors increased by almost 40%.

Table 9: Number of individual contractors at year-ends (2014-2021)

Year	2014	2015	2016	2017	2018	2019	2020	2021
Individual contractor	204	251	180	138	189	252	262	280

Source: Data submitted by HR Section.

Finding: The following observations were made from the analysis of the evolution of the ICC's staff structure from 2014 to 2021:

- (a) A consistent increase in the number of GTA positions and significant variance between the budgetary and the actual headcounts of GTAs raise questions whether the GTA budget reflects the staffing demands accurately and is sufficiently relevant to control the staff cost increase.
- (b) The sharp drop of the headcount of staff on STA and the increase in the headcount of GTA since 2017 might suggest that the Court prefers to use the fixed-term modality to cover the defined short-term needs instead of the STA modality.
- (c) The recent increase in the number of individual contractors by almost 40% suggests that it might be worthwhile to review the efficiency of budget preparation and the effectiveness of budget monitoring for individual contractors.

²³ *Report of the Court on Human Resources Management, 2015* (ICC/ASP/14/7), para. 55.

²⁴ Staff rules apply to all of the staff holding fixed-term appointments, but do not apply to staff holding STA. As such, certain staff entitlements such as travel-related entitlements do not apply to staff on STAs.

VI. Observations and recommendations

1. Efficiency and transparency of budget process for temporary personnel

1.1. GTA

The budget process

60. The budget process for GTA begins when each section enters the headcount proposals for GTA positions in the BPC²⁵ software and explanations justifying the changes or the renewal of the proposed staff budget by early May. The proposals and narratives are challenged or modified by the Directors and by the Principals of each organ before being submitted to the Coordination Council (CoCo) and the Budget Working Group (BWG) for review by the end of June.²⁶

61. Upon approval of the final data by CoCo, the budget section proposes the final edition by making the approved corrections and changes before submitting the final consolidated budget proposal to the CBF by mid-July, or 45 days prior to the CBF summer session in August or September.

62. The CBF reviews the justifications for each GTA position by analyzing the budget assumptions and parameters, previous trends of GTA headcounts, and workload indicators such as number of trials, hearing days, appeals, etc. To determine the appropriate number of the GTA headcount by each organ, the CBF compares the proposed GTA headcount with the approved GTA headcount of the year when there is a similarity in workload indicators and uses this information as reference. Subsequently, the CBF issues recommendations for adjustments of GTA positions, if necessary.

63. The Proposed Programme Budget is then submitted to the Hague Working Group for the budget facilitation process, which mainly discusses political issues.

Long-term Vacant GTA Positions

64. The External Auditor compared the list of approved GTA positions in Approved Programme Budget with the list of contracts funded by approved GTA positions in CBF reports from FY 2018 to FY 2021. The External Auditor observed that there were 70 vacant positions (44.88 in FTE) that have never been occupied in 2021. It is observed that 40 positions (27.17 in FTE) have been vacant for four consecutive years and that 56 (38.9 in FTE) have been vacant for two consecutive budget years or longer. **(See appendix B for details of the aforementioned 56 long-term vacant GTA positions.)**

Table 10: Vacant GTA positions in 2021

Vacant Since	2018	2019	2020	2021	Total
Number of Vacant Positions	40	12	4	14	70
Full-time Equivalents (FTE)	27.17	9.13	2.58	6.00	44.88

Source: CBF reports and data submitted by the Court.

65. GTA positions, which were created to cover temporary and fluctuating staffing needs caused by peaks in workloads, should be adjusted every year to reflect the staffing demands accurately. Although the high number of long-term vacant GTA positions suggests that there might be no immediate staffing needs for a significant portion of GTA positions, there has been no follow-up action from the Court to review them and determine whether there is a continuing need for them, and discontinue the positions that are no longer needed.²⁷

²⁵ Business Planning and Consolidation software.

²⁶ *Final Audit Report on the Budget Process of ICC*, 2018, para. 101 (ICC/ASP/18/2).

²⁷ Concerning the established posts, the CBF also recommended the Court to fill the significant number of posts that have been vacant for a few years immediately, and had requested a further update for its twenty-eighth session to determine the continuing needs for those posts. (ICC/ASP/15/15, para. 104).

This means that the level of funding for GTA is not substantiated with reasonable justifications for operational needs.

66. In addition, it seems that the vacant GTA positions are not related with the temporary delay in recruitments. In 2021, the Court reported²⁸ that there were 60²⁹ vacant GTA positions as at 31 March 2021, and 30 of them had not been advertised.

Finding: A significant number of long-term vacant GTA positions suggest that the budgetary headcount of GTA positions might not reflect the actual staffing needs, creating a considerable amount of budgetary slack to be used for other purposes than the purposes approved by ASP.

Recommendation 1: The External Auditor recommends the Court to conduct a study to improve the relevancy and transparency of the GTA budget, which would include reviewing the necessity of long-term vacant GTA positions, without limiting the Court's ability to address fluctuating staffing needs.

Budgetary Implication of Vacant GTA Positions

67. The External Auditor measured the budgetary implication of vacant GTA positions by comparing the amount of approved budget with that of the costs incurred on approved GTA positions from FY 2017 to FY 2021. It is observed that there is a considerable amount of underspend of GTA budget deriving from the vacant GTA positions, ranging from 5.0 million euros to 5.9 million euros. Most of the underspend may be structural, considering that a significant number of long-term vacant GTA positions are not sufficiently justified.

68. It should be noted that the term 'underspend' in this chapter refers to the under-implementation of the budget allocated for approved GTA positions, which does not exclude the amount of fund redeployed and used for the purposes that are not approved by ASP.

Table 11: Redeployment of GTA budget with respect to approved GTA positions (FY2018-2021)

(in millions of euros)

Financial year	2017	2018	2019	2020	2021
Approved GTA budget (staff + individual contractor) (A)	15.07	15.50	17.13	17.34	18.65
Approved individual contractor budget (B)	0.14	0.30	0.20	0.21	0.22
Approved 'staff' GTA budget (C=A-B)	14.93	15.20	16.93	17.13	18.43
Staff costs incurred on staff in approved GTA positions (D)	9.89	10.24	11.78	11.31	12.54
Underspend of GTA budget caused by the vacant GTA positions (E=C-D)	5.04	4.96	5.14	5.82	5.89

Source: Data submitted by the Court.

69. Then, the implementation rate of the GTA budget has consistently increased and exceeded 100% since FY 2019. Considering the fact that the underspend of the GTA budget deriving from the vacant GTA positions has amounted to approximately five million euros, such a high implementation rate of the GTA budget seems counterintuitive.

²⁸ CBF36/29P01.

²⁹ The number of vacant positions in the CBF report (60), which is based on a master file from the Budget Section (Recruitment plan 2021) differs from the number that the External Auditor figured out by comparing the list of GTA positions in the Approved Programme Budget with the list of GTA funded contracts in the reports submitted to the CBF. However, the reason for the variance has not been clarified.

Table 12: Implementation Rate of GTA Budget (FY2017-2021)

(in thousands of euros)

Financial year	2017	2018	2019	2020	2021
Approved budget	15,074.4	15,498.1	17,126.6	17,341.4	18,648.3
Actual expenditure	11,579.9	13,114.9	17,280.5	17,393.2	19,121.5
Implementation rate	76.82%	84.62%	100.90%	100.30%	102.54%

Source: Report on activities and programme performance of the Court (FY 2017-2021).

70. The Court redeploys resources released by the long-term vacant GTA positions to fund certain categories of temporary personnel that are not approved by ASP. In fact, the Court uses GTAs on fixed-term appointments without obtaining approval from ASP (unapproved GTA³⁰), which the Court justifies as a temporary measure to ensure business continuity.

71. As mentioned earlier, STAs are not budgeted for either as they represent unforeseen or unexpected staffing needs, or the staffing needs to temporarily fill vacant established posts. The costs on STA is funded by the underspend of the established post, GTA, or non-staff budget.

72. In addition, as the use of individual contractors has been two to six times the approved individual contractor budget included in the GTA budget, the Court uses the structural underspend of GTA to fund the overspending of the individual contractor budget.

73. The total staff costs on unapproved GTA, STA, and the over-implementation of individual contractors from FY 2018 to FY 2021 are as follows:

Table 13: Total staff costs on unapproved GTA, STA, and individual contractors

(In thousands of euros)

Financial year	2018	2019	2020	2021
Unapproved GTA	1,522.9	2,284.4	2,881.9	2,724.0
STA ³¹	5,245.7	3,525.0	2,482.0	4,085.7
Over-implementation of individual contractors	648.3	1,087.7	332.8	1,107.1
Total	7,416.9	6,897.1	5,696.7	7,916.8

Source: Data submitted by the ICC.

Finding: Resources of the budgeted GTA positions that remain unfilled amount to approximately five million euros every year. This might mean that the GTA budget is significantly inflated, considering that there is a large number of long-term vacant GTA positions that are not fully justified. The Court uses the overly allocated amount to fund the use of temporary personnel for the purposes other than that approved by ASP, such as the use of unapproved GTA, STA, and individual contractors. This might pose a risk to the financial transparency of the Court as it would be difficult to compare the budget with its implementation of each category of temporary personnel.

³⁰ Unapproved GTA includes GTA categories B and C (see paragraph 97 for details).

³¹ A part of staff costs incurred on STAs are also funded by the established post budget or non-staff budget. However, the Court did not provide the expenditures on STAs funded by the established post and non-staff budget.

Application of standard vacancy rate to GTA positions

74. The ICC calculates the established post and GTA budget by applying a standard cost used in United Nations Common System of Salaries (UNCS). The UNCS standard salary cost, which varies by each post level, is applied to each established post and GTA position.

75. A standard United Nations budgeting tool is applied to established posts to prevent over-budgeting. As it can be expected that a certain percentage of established posts are vacant due to delayed recruitments or resignations of incumbents, a delayed recruitment factor, or a universal cut of a certain percentage of the budget, is considered when budgeting. For example, the delayed recruitment factor (vacancy rate), was applied when preparing budget for FY 2021, which varies by each Major Programme: 5% in the Judiciary, 8% in the OTP, 12% in the Registry, and 10% in the Secretariat of TFV. This is not the case for the budget for Major Programmes which have a relatively small number of established posts.

Figure 5: Standard salary cost and delayed recruitment factor in 2021

<i>Post level</i>	<i>Net salary</i>	<i>Common staff costs</i>	<i>Representation allowance</i>	<i>Total</i>
	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(1)+(2)+(3)=(4)</i>
USG	187.7	78.5	4	270.2
ASG	172.2	72.0	3	247.2
D-1	152.4	63.7		216.1
P-5	130.6	54.6		185.2
P-4	111.4	46.6		158.0
P-3	94.1	39.9		133.5
P-2	75.8	31.7		107.5
P-1	75.8	31.7		107.5
GS-PL	67.0	28.0		95.0
GS-OL	53.4	22.3		75.7

Delayed recruitment factors:

- (a) Existing Professional and General Service posts in MP I: 5 per cent;
- (b) Existing Professional and General Service posts in MP II: 8 per cent;
- (c) Existing Professional and General Service posts in MP VI: 10 per cent;
- (d) Existing Professional and General Service posts in MP III: 12 per cent;
- (e) Existing Professional and General Service posts in MPs IV, VII-5 and VII-6: 0 per cent.

<i>Delayed recruitment factors</i>					
<i>Post level</i>	<i>(0%)</i>	<i>(5%)</i>	<i>(8%)</i>	<i>(10%)</i>	<i>(12%)</i>
USG	270.2	256.7	248.6	243.2	237.8
ASG	247.2	234.8	227.4	222.5	217.5
D-1	216.1	205.3	198.8	194.5	190.2
P-5	185.2	175.9	170.4	166.7	163.0
P-4	158.0	150.1	145.4	142.2	139.0
P-3	133.5	126.8	122.8	120.2	117.5
P-2	107.5	102.1	98.9	96.8	94.6
P-1	107.5	102.1	98.9	96.8	94.6
GS-PL	95.0	90.3	87.4	85.5	83.6
GS-OL	75.7	71.9	69.6	68.1	66.6

Source: Proposed Programme Budget for FY 2021.

76. However, the Court does not apply the standard vacancy rate to GTA positions, which might contribute to avoiding over-budgeting.

77. In 2013, the CBF recommended the Court to propose a draft modality for a category of “recurrent temporary position” (multiple-year GTA), to approve GTA positions for the duration that might extend beyond the calendar year. At the same time, the CBF recommended the Court to include the possible application of vacancy rates to fixed-term contracts for GTA beyond the calendar year in its draft modality.³²

78. In response to these recommendations, the Court reported to the CBF in 2014 that a vacancy rate should be based on historical records and would normally be applied for a larger population of posts than the multiple-year GTAs. The Court further reported that it would monitor the vacancy rate statistics for multiple year GTAs over a period of time in order to analyze and assess the applicability of a vacancy rate.³³

79. However, the Court has not implemented the aforementioned recommendation of the CBF to analyze and assess the applicability of a standard vacancy rate to GTA. During the visit to the Court in August 2021, the External Auditor asked the Court the reasons for not applying the standard vacancy rate, and the Court responded that the number of GTA positions is lower than that of established posts and that many of the GTA positions are requested for less than 12 months.

80. The External Auditor found that there is a considerable number of GTA positions, as the budgetary headcount of GTA positions in FY 2022 is almost one quarter of that of the established posts (please see table 7). Also, most of the GTA positions are full-time positions. The data shows that out of 212 GTA positions (186.71 in FTE³⁴) included in Approved Programme Budget (APB) 2021, 176 GTA positions were requested for 12 months, where all had been continued from the previous year.

81. The External Auditor compared the approved budgetary headcount of staff in GTA positions with the actual headcount³⁵ of staff in approved GTA positions based on the list of GTA contracts in CBF reports, from FY 2018 to FY 2021. It should be noted that a number of individual contractors proposed within the GTA budget was excluded from the budgetary headcount of GTAs, which is why the figure differs from the budgetary headcount in Table 7. The data shows that the vacancy rate has been high, ranging from 25 to 33%.

Table 14: Actual vacancy rate of GTA positions (FY2018-2021)

Financial year	2018	2019	2020	2021
Budgetary headcount (FTE)	161.6	190.7	184.5	186.7
Actual headcount (FTE) of approved GTA positions	112.7	127.9	137.9	131.0
Number of vacant GTA positions (FTE)	48.9	62.8	46.6	55.7
Vacancy rate	30.3%	32.9%	25.3%	29.8%

Source: Approved Programme Budget and CBF reports.

82. If the aforementioned 56 long-term GTA positions (38.9 in FTE) are excluded from the budget, there would still be a considerable number of vacant GTA positions from FY 2018 to FY 2021. In this case, the vacancy rate for GTAs would range from 4.2% to 12.5%, which is expressed in the following table as “Additional Vacancy Rate”.

³² *The Report of the CBF on its twentieth session*, para. 72 (ICC/ASP/12/5).

³³ *Report of the Court on Human Resources Management*, para. 64 (ICC/ASP/13/18).

³⁴ This excludes a number of individual contractors (4.29 in FTE) included in the APB 2021 as GTA positions.

³⁵ The actual headcount excludes the number of GTA positions for which approval had not been obtained from ASP (unapproved GTA). This is why the headcount differs from the figure in table 8.

Table 15: Additional vacancy rate (FY2018-2021)

Financial year	2018	2019	2020	2021
Budgetary headcount (FTE) (A)	161.59	190.69	184.54	186.70
Actual headcount (FTE) (B)	112.68	127.89	137.87	131.02
Variance (FTE) (C=A-B)	48.91	62.80	46.67	55.68
Long-term vacant position (D)	38.88	38.88	38.88	38.88
Additional vacant position (FTE) (E=C-D)	10.03	23.92	7.79	16.80
Additional vacancy rate	6.2%	12.5%	4.2%	9.0%

83. While the long-term vacant GTA positions represent the positions that are not substantiated sufficiently with the justifications for operational needs, those additional vacant positions imply the need to apply a standard vacancy rate to GTA positions and reflect unavoidable vacancies caused by delays in recruitments or sudden resignations of incumbents, in order to avoid over-budgeting.

Finding: A standard vacancy rate is applied to established posts to avoid overbudgeting, not to GTA positions, even when the actual vacancy rate of GTA positions ranges from 4.2 to 12.5% when long-term vacant positions are excluded.

Recommendation 2: The External Auditor recommends the Court to determine whether it is necessary to apply standard vacancy rates to GTA positions that have been extended beyond the calendar year, as the CBF recommended in 2014, to ensure that the level of funding for GTA reflects the staffing demands accurately.

1.2. Individual contractors

Need for a separate budget line for individual contractors

84. Pursuant to articles 3.1 and 3.2. of the Administrative Instruction on Consultants and Individual Contractors (ICC/AI/2016/002), individual contractors may be engaged only when the required services cannot be met from within the current staff resources due to a lack of specialized knowledge, and/or expertise, and capacity. However, they should not be engaged to perform staff function or jobs for which posts are currently vacant, or even as a means to reinstate a staff member to perform the same functions they were performing in their previous position that has been abolished. The United Nations Joint Inspection Unit (UNJIU) also recommended the UN system organizations to refrain from using non-staff personnel under a *de facto* employment relationship, which violates internationally accepted labor principles and values that are inherent in the foundation of the United Nations system organizations.³⁶

85. Since individual contractors in principle perform functions that are clearly different from those of regular staff, it would be valuable to hire individual contractors appropriately. To that end, budget allocated to this pool of human resources needs to be examined, which might require the creation of a separate budget for this group. The amount of budget should be determined by assessing the Court's needs to supplement the knowledge, expertise, and capacity that cannot be met from within the staff resources. To enhance the transparency of the use of individual contractors, the implementation should also be compared with the budget and the underlying reasons should be analyzed when the amount of expenditure exceeds that of the approved budget significantly.

86. However, this is not the case in reality. Individual contractors are proposed within the GTA budget and the budget allocated for individual contractors does not appear in the tables of the budget document. That is why reasons for spending above the budget for

³⁶ *Use of Non-staff Personnel and Related Contractual Modalities in the United Nations System Organizations, UNJIU, 2014, para. 20.*

individual contractors, above what was originally designed, have not been examined thoroughly nor been reported to the CBF and ASP. In fact, this over-implementation of budget has been in place for the past four consecutive years, ever since 2018. As seen in Table 16 below, the Court has implemented the budget two to six times the budget initially formulated for individual contractors.

Table 16: Implementation rate of individual contractors (FY2018-2021)

(in thousands of euros)				
Financial year	2018	2019	2020	2021
Budget	297	198	213	215
Actual expenditure	945	1,286	546	1,322
Implementation rate (%)	318	650	256	614

Source: Data submitted by the ICC.

87. The External Auditor also requested the exhaustive list of individual contractors contracted to work for the Court in FY 2021, in order to compare this with individual contractors that were budgeted for. Only field interpreters of the Language Service Section and the drivers in country offices of the Registry were included in the Approved Programme Budget for FY 2021, while no individual contractors in other organs, such as the OTP and the Judiciary, were budgeted for. However, when comparing the expenditures on individual contractors by organs, the expenditure in the OTP was the largest, amounting to 979 thousand euros.

Table 17: Break-down of expenditure on individual contractors by organs

(in thousands of euros)				
Organ	OTP	Registry	Others	Total
Budget	-	215.3	-	215.3
Actual expenditure	978.5	329.9	13.3	1,321.7

Source: Data submitted by the ICC.

88. An analysis of the use of individual contractors in the OTP revealed that the most of the individual contractors were hired to support and assist investigatory activities, such as assisting the evidence review process or to participate in evidence analysis and review of documents for disclosure. However, it is questionable whether the use of individual contractors in the OTP meets the conditions that the individual contractors may be engaged only when required services cannot be met from within the current staff resources due to a lack of specialized knowledge, and/or expertise, and capacity, pursuant to articles 3.1 and 3.2. of the Administrative Instruction on Consultants and Individual Contractors (ICC/AI/2016/002).

Table 18: Use of individual contractors in the OTP

(in thousands of euros)				
Type	Assisting investigations	Language related	Others	Total
Number of contracts	94	99	23	216
Expenditure	578.2	330.2	70.1	978.5

Source: Data submitted by the ICC.

Finding: Due to the absence of separate budget line for individual contractors, it is difficult to effectively monitor the use of individual contractors by comparing the budget with the expenditure and analyzing the reasons for the variance.

Recommendation 3: The External Auditor recommends the Court to create a separate budget-line for individual contractors.

2. Practice of using “unapproved” GTAs

2.1. Background

89. Although GTA positions are in principle temporary positions created to address temporary and fluctuating functional needs, most of the GTA positions cover the regular and long-term functions in reality as established posts do. Looking at the Approved Programme Budget from FY 2018 to FY 2022, it is observed that more than 90% of the GTA positions each year continued from the previous year. As more GTA positions have been created than those discontinued, the budgetary headcount of GTA positions have continuously increased and is almost 25% of that of the established posts.

Table 19: Continued/discontinued GTA positions (FY 2018-2022)

Number of positions	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GTA Positions in the previous years	170	166	194	189	191
Positions discontinued	(17)	(4)	(15)	(6)	(8)
Positions continued ³⁷	153	162	179	183	183
Positions newly created	16	32	10	8	41
Total	166³⁸	194	189	191	224

90. Staff in GTA positions and established posts are both granted fixed-term appointments and thus the benefits and entitlements they receive are the same. Therefore, an increase in the number of staff on GTA positions has the same financial effect as an increase in the number of staff in established posts. As a result, a continued increase in the number of GTA positions might become a burden on the financial sustainability of the Court in the long run.

91. The predecessor auditor, *Cour des Comptes*, also recommended in 2014 that the Court summarise in a table all long-term GTA positions (LTA)³⁹ as it has done for the established posts, thereby allowing States Parties to be able to approve a core “establishment” of staff members, made-up of established posts and long-term GTA positions.⁴⁰ The predecessor auditor also noted that the budget narratives did not disclose the total period over which the position had been opened, which would enable the decision makers to identify positions that became long-term.

92. In response to the recommendation of the predecessor auditor, the Court started listing all of the GTA positions in the budget narratives since FY 2017, summarizing them in a staffing table as is done for the established posts, to seek approval from ASP (see **Figure 1**). It can be interpreted that the use of GTAs should be limited to serve the purposes

³⁷ Includes redeployed GTA positions.

³⁸ This excludes 3 GTA positions that were converted to established Posts.

³⁹ Since the Short-term Appointment (STA) contractual modality was introduced in 2016, Short-term GTA posts do not appear in the Proposed Programme Budget. This means that most of the current GTA positions subject to approval from ASP have a long-term, recurrent nature.

⁴⁰ *Audit Report on the ICC financial statements for year ended 31 December 2013*, para. 41.

approved by the Assembly, and STAs or the Contingency Fund should be used to address the unexpected staffing needs that are not foreseen at the time when the budget is proposed.

93. However, the Court has kept using GTAs without obtaining approval from ASP, which the Court justifies as a temporary measure to ensure business continuity⁴¹. In response to a request from the CBF to submit justifications for unapproved GTAs in 2020, the Court responded that the Court's workforce must be agile and flexible to support the dynamic nature of the Court's work. The Court further responded that it has contract modalities in place which provide such flexibility, including STAs as well as unapproved GTAs for operational needs exceeding 12 months. According to the Court, the use of unapproved GTA allows the Court to flexibly address resource needs without entering into long-term commitment of fixed-term established posts.

94. Despite the Court's response, the CBF has repeatedly expressed a concern over the continuous use of unapproved GTAs. In 2020, the CBF noted that the use of unapproved GTAs would raise questions about financial transparency and discipline in the budget process and about prudent management of human resources, while pointing out that the approval of GTA positions is in the purview of the Assembly, and the resource requirements for limited duration can also be met through utilizing STA.⁴² In 2021, the CBF stressed that, where the need for the GTA exceeds one-year budget cycle, this should be reflected in the budget proposal for the consideration of the Committee and that the use of unapproved GTA for longer than the budget year undermines budget discipline and purview of the Assembly.⁴³

95. The External Auditor examined the opinions of the Court and the CBF on the use of unapproved GTAs such as whether the use of unapproved GTA could be justified for a transitional measure to ensure business continuity and adapt to the dynamic nature of the Court's work. As mentioned earlier in paragraph 42, a continued use of unapproved GTA is related to a continued practice where once recruited, they are less likely to be separated due to the nature of fixed-term appointments. Therefore, the STA contractual modality should be used instead to address unexpected or unforeseen staffing needs, as the use of fixed-term appointments might rather aggravate the financial situation of the Court and limit the flexible use of human resources.

96. During the audit mission, the External Auditor reviewed the use of unapproved GTA, in order to assess whether it was unavoidable for addressing unexpected or unforeseen staffing needs, and whether the unapproved GTAs are managed transparently and reported accurately to the CBF. The External Auditor concluded that the use of unapproved GTAs could not be considered unavoidable, and observed a few weaknesses in internal controls regarding the creation, extension, and reporting of the unapproved GTAs, which will be discussed in the following paragraphs.

2.2. Trend of using unapproved GTA

97. The Court classifies GTA into four categories: categories A, B, C, and D. GTA category A includes GTA positions whose functions are approved by ASP; GTA category D includes GTA positions which are funded by extra-budgetary funds such as contingency and trust funds; and GTA categories B and C include GTA positions whose functions are not approved by ASP. While GTA category B is for new, unexpected functions that are not budgeted for, GTA category C is for replacing vacant positions or staff who are on unpaid, extended leave such as Special Leave Without Pay.

98. However, the Court does not count GTA category C as unapproved GTA because the Court views that GTA category C does not require additional funding, as they are used to fill vacant established or GTA posts or they are used to replace staff on unpaid leave such as Special Leave Without Pay (SLWOP).

99. The External Auditor analyzed the trend of using unapproved GTA from FY 2017 to FY 2021. It is observed that the number as well as the full-time equivalent of unapproved GTA has almost doubled in the recent five years.

⁴¹ CBF35/14S01.

⁴² *Report of the Committee of the CBF on its thirty-fifth session*, para. 32 (ICC/ASP/19/15).

⁴³ *Report of the Committee of the CBF on its thirty-seventh session*, para. 240 (ICC/ASP/19/15).

Table 20: Trend of the use of unapproved GTA (FY 2017-2021)**GTA Categories B and C combined**

Year	Judiciary		OTP		Registry		Others		Total	
	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE
2017	5	3.57	13	8.04	11	4.06	1	0.41	30	16.08
2018	4	3.52	13	6.71	22	12.73	2	0.17	41	23.13
2019	8	5.86	23	15.00	18	13.80	0	0	49	34.67
2020	8	6.34	17	16.04	13	11.20	0	0	38	33.57
2021	22 ⁴⁴	7.63	19	15.68	11	7.46	0	0	52	30.78

Category B

Year	Judiciary		OTP		Registry		Others		Total	
	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE
2017			8	4.15	3	1.13			11	5.28
2018			7	3.21	7	2.72	2	0.17	16	6.10
2019	4	1.86	17	10.20	6	4.32			27	16.38
2020	4	3.30	13	13	5	4.84			22	21.13
2021	11	3.17	15	12.29	6	3.74			32	19.19

Category C

Year	Judiciary		OTP		Registry		Others		Total	
	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE	No. posts	FTE
2017	5	3.57	5	3.88	8	2.94	1	0.41	19	10.81
2018	4	3.52	6	3.50	15	10.01			25	17.03
2019	4	4.00	6	4.81	12	9.48			22	18.28
2020	4	3.04	4	3.04	8	6.36			16	12.44
2021	11	4.46	4	3.40	5	3.72			20	11.58

Source: Reports submitted to the CBF (FY2017-FY2021).

100. Also, it is observed that 60% of the positions under GTA categories B and C have been continued for more than two budget years, 31 out of 52 posts were created before FY 2019. This implies that many of the positions under GTA categories B and C are not used to address unforeseen or unavoidable and temporary staffing needs (in the case of GTA category B), or to fill the vacancies in established or GTA posts or to replace the staff on extended leave such as Special Leave without Pay⁴⁵ (in the case of GTA category C). In reality, they seem to perform regular and on-going functions as established posts do.

⁴⁴ In Judiciary, the categories of 9 GTA Category B positions were changed to Category C during the year 2021. As such, the 9 positions were counted twice in the number of posts.

⁴⁵ Pursuant to Article 105.3. of Staff Rules of the ICC, Special Leave Without Pay may be granted for a continuous period of up to two years.

Table 21: Duration of GTA positions under Categories B and C in FY 2021

Year of creation	Category B		Category C		Total number of positions	Total FTE
	Number	FTE	Number	FTE		
2015	1	1.00	1	1.00	2	2.00
2016	1	0.41	1	0.83	2	1.25
2017	2	1.25	3	2.50	5	3.75
2018	6	4.20	3	2.47	9	6.67
2019	11	8.65	2	1.01	13	9.66
2020	2	1.50	1	0.50	3	2.00
2021	9	2.19	9	3.26	18	5.45
Total	32	19.19	20	11.58	52	30.78

Source: GTA report submitted to the CBF in 2022.

101. During the on-site mission, the External Auditor also reviewed how the Court manages the increase of unapproved GTA positions and observed four specific weaknesses. First, most of the GTA category “C” positions could not be justified by the operational needs to temporarily fill vacant positions. Second, the Court created or continued a number of GTA positions which had been previously considered by the CBF and recommended to be disapproved during the budget deliberation process. Third, the Court excluded a number of GTA positions from the Proposed Programme Budget and later added them in the Approved Programme Budget after the final budget resolution had already been adopted by ASP. Last but not least, the Court changed categories of a number of GTA positions from “category B” to “category C” prior to the early CBF session in May without relevant justifications for the change. The four observations mentioned above are as follow:

2.3. Specific observations on the use of unapproved GTA

Using GTA category “C” positions to perform functions that are not relevant to filling vacant posts or replacing staff on extended leave

102. During the on-site mission, the External Auditor requested the Human Resources Section to submit Recruitment Requesting Forms (HRS-RRF) for 16 GTA category C positions in FY 2020 to assess whether they were maintained only for the duration needed to fill vacant posts or replace staff on extended leave.

103. However, the External Auditor could not obtain clear evidence which supports the statement that the GTA category C positions are used to only fill vacant positions or replace incumbents on extended leave. Instead, it is observed that the GTA category C positions are more like GTA category B positions as they represent new or additional functions that were not budgeted for.

104. In some cases, vacant posts (or incumbents on leave) replaced by GTA category C positions were not specified in the HRS-RRF form, and in other cases, the GTA category C positions had been continued past the period needed to fill vacant posts of the same function or replace the incumbent on leave. There was only one case in which the duration did not exceed the period of need. However, as mentioned in paragraph 98, the Court does not count the GTA category “C” positions as “unapproved GTA”. The External Auditor’s finding is summarised in the Table 22 below.

Table 22: Summary of the result of the detailed testing of Recruitment Requesting Forms

Organs	Number of positions			
	Judiciary	OTP	Registry	Total
Duration not exceeding the period needed for replacements			1	1
Duration exceeding the period needed for replacements			4	4
Not relevant to a vacant post or staff on extended leave	3	3	2	8
Requesting Form (HRS-RRF) not found	1	1	1	3
Total	4	4	8	16

Source: Selected sample of Recruitment Requesting Forms (HRS-RRF) for GTA Category C positions.

Creating or continuing GTA positions that had been disapproved during the budget deliberation process

105. The External Auditor also compared the list of GTA positions that were included in the Proposed Programme Budget with the list of GTA category B from FY 2018 to FY 2020. It is observed that the CBF recommended ASP not to approve 12 GTA positions (8.17 in FTE) included in the Proposed Programme Budget for FY 2019 and three positions (3.00 in FTE) in the Proposed Programme Budget for FY 2020, after reviewing whether they are justified by operational needs. However, the Court created or continued all of the positions mentioned above as GTA category B positions.

106. Among the 15 GTA positions mentioned above, eight positions were in the OTP, including a P-4 level Trial Lawyer position in the Prosecution division, while four positions in the Judiciary were all P-2 level Associate Legal Officer positions in the Chambers. In addition, there were three positions in the Registry, including a P-5 Senior Advisor position in the External Office.

Adding GTA positions in the Approved Programme Budget after the final budget resolution is adopted

107. During the annual ASP session at the end of November or beginning of December, the final resolution on budget is approved by the plenary ASP by consensus. However, the document included in the annual session report is the Proposed Programme Budget published in mid-July. The Approved Programme Budget document, containing the adjustments reflecting the final figures approved by ASP, is never reviewed again by the CBF or the Hague Working Group and published by the end of January of the following year.

108. Prior to the on-site mission, the External Auditor compared the budgetary headcount of GTA positions in the Proposed Programme Budget (PPB) for 2019 with that of the Approved Programme Budget (APB) for the same year. The External Auditor noticed that the budgetary headcount of continued⁴⁶ GTA positions in APB 2019 was 162.3 (FTE), which was greater than 157.05 (FTE) in PPB 2019. The External Auditor inquired the Court of the reasons for the variance prior to the on-site audit, but did not receive any response.

109. Subsequently, the External Auditor reconciled the list of continued GTA positions in APB 2019 with the continued GTA positions in PPB 2019. The External Auditor observed that 9.68 positions (FTE)⁴⁷ originally not proposed were added to the list of GTA positions in APB 2019.

⁴⁶ Including redeployed positions.

⁴⁷ Although 9.68 GTA positions (FTE) were added, the budgetary headcount in APB 2019 differs from the budgetary headcount in PPB 2019 by 5.25. It is not clear whether a number of GTA positions in PPB 2019 (4.43 in FTE) was not included in APB 2019 following the recommendation of the CBF, or the Court simply excluded a number of GTA positions when preparing the APB 2019 document.

Table 23: Reconciliation of GTA positions (PPB 2019 with APB 2019)

Organ	Functional title	Grade	Headcount in PPB 2019 (FTE) (A)	Headcount in APB 2019 (FTE) (B)	Variance (C=B-A)
OTP	Transcript Reviewer	GSOL	1.50	2.85	1.35
OTP	Translator	P-3	5.96	7.00	1.04
OTP	Field Operations Coordinator	G-6	1.00	2.00	1.00
OTP	Investigator	P-3	4.70	5.70	1.00
OTP	Assistant Trial Lawyer	P-1	0.00	3.00	3.00
OTP	Personal Assistant to Deputy Prosecutor	GSPL	0.00	0.58	0.58
Registry	Field Security Officer	P-3	0.00	1.00	1.00
Secretariat of TFV	Associate Field Programme Officer	P-2	6.25	6.96	0.71
Total			19.41	29.09	9.68

Source: Approved and Proposed Programme Budget of ICC.

110. During the on-site mission, the External Auditor requested the Court to provide an explanation. The Court explained that the overall budget envelope for GTAs did not change, as the Court excluded a number of GTA positions from the list of GTAs in APB 2019, in exchange for the positions to be added to the list of GTA positions in APB 2019.

111. The External Auditor compared the GTA budget envelope in PPB 2019, after reflecting the CBF recommendations for reductions, with the GTA budget envelope in APB 2019. It was noted that the proposed GTA budget amounted to 16,639.9 thousand euros after reflecting the CBF recommendations, but the approved GTA budget amounted to 17,126.6 thousand euros, 486.7 thousand euros greater than the proposed GTA budget after reflecting the CBF recommendations.

112. On the other hand, the overall staff budget envelope did not change, as the approved established post budget was reduced by the exactly the same amount. The proposed established post budget for FY 2019, after reflecting CBF recommendations, amounted to 86,595.5 thousand euros, while the approved established post budget for FY 2019 amounted to 86,108.8 thousand euros. However, there seems to be no reason why the approved established post budget differs from that of the proposed established post budget, considering that there was no change in the budgetary headcount and that the budgeted cost is fixed to the UNCS standard salary cost.

113. The External Auditor inquired the Court of the reasons for the variance, and the Court responded that the GTA positions were added after discussion with the Hague Working Group during the budget facilitation. The External Auditor requested relevant notes and summaries of the meetings from the budget facilitation in 2018 and reviewed them, but has not found any clear evidence that supports the Court's explanation.

Changing the Category of GTA from “B” to “C” prior to the early CBF session in May

114. The Court reports to the CBF the list of contracts funded by all categories of GTA twice a year. To prepare the CBF reports, the HR Section extracts the list of GTA contracts from SAP and shares the list with the sections that the GTAs belong to, requesting them to review the list to ensure all the information is accurate.

115. Prior to the CBF on its thirty-eighth session in May 2022, the HR Section changed the categories of nine GTA positions for P-2 level Associate Legal Officer from category B to category C, upon request from the Judiciary. The External Auditor asked the Court for the justifications for such a category change and why the change was made in the middle of the year, but has not received any response. However, the fact that the justification for the

category change is not documented implies weaknesses in internal controls regarding the management and reporting of the unapproved GTA.

116. As mentioned earlier, the Court only includes GTA category “B” in the headcount of unapproved GTAs that it reports to the CBF. Due to the category change, a reduced headcount of unapproved GTAs in the Judiciary was reported to the CBF. This might require attention, because the Independent Experts Review also has pointed out the unapproved legal officer positions in the Judiciary. According to the IER report, a substantial number of P-2 posts are not in the budget structure of Chambers, yet they form part of its essential mainstay.⁴⁸

2.4. Financial implication of using unapproved GTA

117. Due to the increase in the headcount of unapproved GTAs, the staff costs on unapproved GTAs have also increased by more than 140% over the last five years, as seen in Table 24 below. As a result, the total costs incurred on unapproved GTAs over the last five years exceed 10 million euros. If this trend continues, the financial burden on States Parties is expected to increase significantly in the future, considering that the demographic change of the Court will also drive the staff cost increase, as mentioned earlier in paragraph 45.

Table 24: Total staff cost incurred on unapproved GTA (2017-2021)

(amount in euros)

Year	2017	2018	2019	2020	2021	Total
Category B	364,373	439,737	1,248,927	1,884,341	1,737,343	5,674,721
Category C	749,873	1,083,154	1,035,442	997,576	986,669	4,852,715
TOTAL	1,114,246	1,522,891	2,284,369	2,881,917	2,724,013	10,527,436

Source: Data submitted by the ICC.

118. It should be noted that the Court continued to use unapproved GTAs during the period when there was not enough funding for staff costs. While the staff expenditure exceeded the staff budget by 2,359.4 thousand euros in FY 2019 and 1,596.9 thousand euros in FY 2020, the staff costs incurred on unapproved GTA in 2019 and 2020 were greater, amounting to 2,284.4 thousand euros and 2,881.9 thousand euros, respectively. This means that the Court would have been able to manage its staff expenditure within the staff budget envelope in 2020 and 2021 if the Court had not used unapproved GTAs.

Table 25: Comparison of staff budget with expenditure (FY 2017-2021)

(in thousands of euros)

Year	2017	2018	2019	2020	2021
Staff budget (A)	107,063	109,725	110,176	110,851	113,701
Staff expenditure (B)	107,453	106,506	112,535	112,448	113,069
Over-implementation (C=B-A)	390	-3,219	2,359	1,597	-632

Source: Approved Programme Budget and budget performance reports of ICC.

Finding: Following observations were made during the audit:

- (a) Although the Court considers that the unapproved GTA is a temporary measure to ensure business continuity, many of the unapproved GTAs in reality perform regular and on-going functions, which cannot be characterised as unforeseen or unavoidable.

⁴⁸ *Independent Expert Review of the International Criminal Court and the Rome Statute System*, para. 82.

- (b) Fixed-term appointments are offered to the unapproved GTAs instead of short-term appointments, which might limit the flexible use of GTAs.
- (c) It is questionable whether relevant administrative controls are in place to ensure transparent management of GTAs, as the Court:
 - (i) maintains GTA category “C” positions to perform functions that are not relevant to filling vacant posts or replacing staff on extended leave;
 - (ii) creates or continues GTA positions that were previously considered by the CBF during the budget deliberation process and recommended to be disapproved;
 - (iii) adds a number of GTA positions in the Approved Programme Budget after the budget resolution is adopted; and
 - (iv) changes categories of a number of GTA positions from category “B” to category “C” prior to the early CBF session in May, resulting in a smaller number of unapproved GTAs reported to the CBF.
- (d) The Court continues to use unapproved GTAs during the period when there is not enough funding for staff costs, posing a risk to the financial sustainability of the Court.

Recommendation 4: The External Auditor recommends the Court to:

- (a) Establish a plan either to include the existing GTA category “B” and “C” positions in the Proposed Programme Budget or to discontinue them after reviewing their operational needs and submit the plan to the CBF and ASP for approval, while providing the CBF and ASP with progress reports every year; and
- (b) Refrain from the practice of creating or continuing “unapproved” GTA positions (category “B” and “C” positions) in the future and use STAs instead to address staffing needs of less than a calendar year that are unexpected or unforeseen when the budget is proposed.

3. Suspended GTA policy reform and management of STA

3.1. Principle vs. practice

In principle

119. In principle, established posts cover the Court’s core and long-term needs, whereas GTA positions are requested for needs caused by work fluctuations and are limited in duration.⁴⁹ The extension of GTA positions should only be granted for the duration of the needs for services, and GTA positions should not be used to cover regular and on-going staffing needs. The Advisory Committee on Administrative and Budgetary Questions (UNACABQ) of the United Nations also stressed that the use of GTA should be limited to requirements for periods of peak workload and/or for maternity and sick leave, and GTAs should not be used to compensate for reductions in established posts⁵⁰.

In practice

120. During the on-site mission, the External Auditor reviewed whether the GTA funded positions are used in accordance with the above principle but found out that many of the GTA positions have become *de facto* established posts, performing regular and on-going functions. The External Auditor’s observations will be discussed in the following paragraphs.

121. The External Auditor analysed the list of GTA positions in the Approved Programme Budget, and observed that most of the approved GTA positions in FY 2018 have been continued for five consecutive budget years and were included in the Approved

⁴⁹ *Report of the Court on Human Resources Management*, para. 34. (CBF/28/18).

⁵⁰ Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 7 (A/54/7).

Programme Budget for FY 2022. Among the 161.58 GTA positions (FTE)⁵¹ in the Approved Programme Budget for FY 2018, only 29.61 (FTE) positions (18.3%) were discontinued and 131.67 (FTE) positions (81.2%) have been maintained until FY 2022. The high number of long-standing GTA positions suggests that the Court might need to convert them into established posts, gradually replacing them with the existing established posts that need to be abolished, as the CBF recommended in 2021⁵².

122. In order to align the durations of GTA positions with that of the temporary staffing needs, especially when the temporary need is expected to persist for longer than one year, the Court's budget guideline requires that the expected durations of GTA positions should be indicated in the budget proposal. However, the External Auditor observed that this was not generally followed. The OTP included 128 GTA positions in the Proposed Programme Budget for FY 2022, but did not indicate expected durations of 97 GTA positions (76%), indicated '999 months' for 30 positions (23%), and 12 months for one position.

123. It is also observed that many GTA positions were extended beyond the expected durations indicated in the budget proposal. Among the 111 GTA positions in the Proposed Programme Budget for FY 2019 whose expected durations were either '12 months' or '24 months', 96 positions (87%) have been continued for more than two years and included in the Proposed Programme Budget for FY 2021.

124. Although the CBF reviews justifications for new GTA positions as well as continuing GTA positions, it seems that the budget deliberation by the CBF mainly focuses on the new GTA positions. From FY 2019 to FY 2022, the CBF recommended ASP not to approve 41% of the new GTA positions included in the budget proposal, but recommended them to approve 99.9% of the continuing GTA positions. This means that the CBF approves almost all of the GTA positions that the Court requests for.

Table 26: The headcount of GTA positions in Proposed and Approved Budgets (FY 2019-2022)

	FY 2019		FY 2020		FY 2021		FY 2022		Total	
	New	Continued	New	Continued	New	Continued	New	Continued	New	Continued
Proposed (FTE)	69.43	157.05 ⁵³	12.31	180.07	8.72	183.29	63.98	187.42	154.44	707.83
Approved (FTE)	31.91	162.30	10.38	178.62	7.72	183.29	41.28	183.13	91.29	707.34
Ratio (%)	45.96	103.34 ⁵⁴	84.32	99.19	88.53	100.00	64.52	97.71	59.11	99.93

Source: Approved and Proposed Programme Budgets of ICC.

125. The External Auditor also conducted a detailed testing of justifications for the extension of GTA funded fixed-term appointments. Ten samples were selected from the list of GTAs contracted to work for the Court in 2020, and the written justifications stored in SAP were reviewed. Hiring managers are required to clearly express whether there is a continuing need for the position, including the operational needs, specific tasks and responsibilities, and consequences if the extensions are not approved.

126. The External Auditor concluded that most of the written justifications are not sufficient to determine whether the operational needs for extensions were fully substantiated. It is difficult to identify specific temporary work requirements that employees are expected

⁵¹ Excluding 4.11 (FTE) individual contractors included in the GTA positions of APB 2018.

⁵² *Report of the CBF on its thirty-seventh session (ICC/ASP/20/15)*, para. 67.

⁵³ Includes 13 positions proposed to be converted to established posts.

⁵⁴ As mentioned earlier in paragraph 109, the Court added 9.68 (FTE) continued GTA positions in the Approved Programme Budget, which were originally not proposed. This is why the figure exceeds 100%.

to meet, the expected advantages from the extending of the contracts, and the risks of non-extensions of the contract.

127. For example, one hiring manager only indicated that there was a “continuous need for the position due to the operational needs,” but did not indicate the specific tasks and responsibilities that the staff is supposed to undertake and the risks or consequences of not extending the contract. In other cases, hiring managers only indicated that the post was approved by ASP or that the workload remained high.

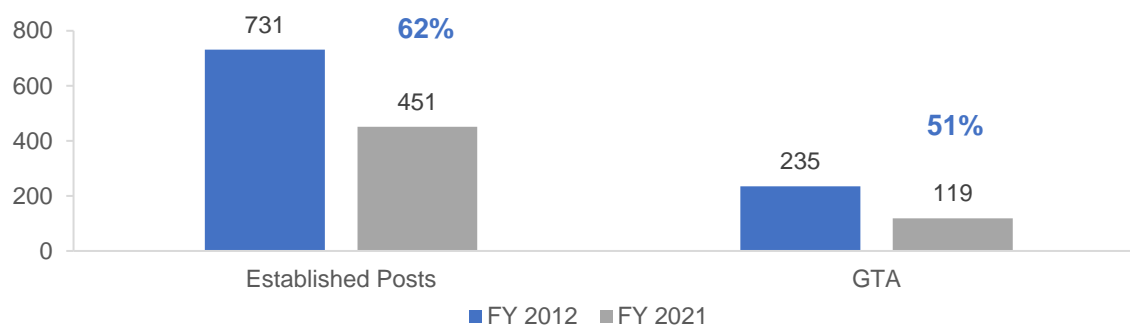
Figure 6: A sample of justification for extension of GTA contract in SAP

Staff member	
Staff member:	(
Section/Unit:	(
Position title:	f
Grade:	(
Contract details	
Current contract:	FIXED-TERM APPOINTMENT
Startdate of current contr...:	24.04.2019
Enddate of current contract:	31.12.2019
Manager	
Are there any performance matters, which may not justify a contract extension? <input type="radio"/> Yes <input checked="" type="radio"/> No	
Justification for the continuing need for the position: (operational needs, specific tasks and responsibilities, consequences if not approved, is the resource available in other areas)	
Continuous need for the position due to the operational needs.	

128. In addition, the External Auditor conducted a detailed testing of 10 samples of vacancy notices and letters of appointment for staff engaged under GTA-funded fixed-term appointments, in order to assess whether the GTA positions perform temporary functions of a limited duration. However, it was not clear whether the GTA positions perform temporary functions because the job specifications expressed in the vacancy notices and the letters of appointment did not contain the information that makes it possible to link each GTA position to specific work requirements of a limited duration, such as certain situations, cases, or projects.

129. For example, the duties and responsibilities indicated in the vacancy announcement of a Senior Investigator position of a P-4 level in the OTP included assisting the team leader in the preparation, reviewing and updating comprehensive investigative plans, leading and managing investigation sub-teams, and providing guidance and training to investigators, reviewing their work and providing feedback and further directions. However, they did not seem to be temporary work requirements of a limited duration but regular and core functions that established posts perform.

130. The retention rate of staff in GTA positions from FY 2012 to FY 2021 was 51%, as 119 out of 235 employees engaged under GTA funded fixed-term contracts in FY 2012 were still working for the Court in FY 2021. The retention rate of staff holding established posts during the same period was 62% (451 staff in FY 2021 compared to 731 staff in FY 2012), slightly higher than that of the staff in GTA positions.

Figure 7: Retention rate of staff in established posts and GTA positions

Finding: The following observations were made during the audit:

- (a) Although the GTA positions were created to address temporary and fluctuating staffing needs, they perform regular and on-going functions in reality as established posts do. There is no significant difference between GTA positions and established posts in terms of the duration of the position, nature of the work requirements, and the type of appointments.
- (b) The Court's budget guideline requires that the expected durations of GTA positions should be indicated in the budget proposal, but the OTP did not indicate expected durations or indicated '999 months' for 99% of GTA positions in the budget proposals. Furthermore, 87% of GTA positions requested for 12 or 24 months were extended beyond the expected durations indicated in the budget proposals.
- (c) Considering that there is a large number of long-term vacant GTA positions in the approved budget and that 99.9% of GTA positions that the Court requested to be continued from FY 2019 to FY 2022 have been approved from ASP, it is suggested that the extensions of existing GTA positions might have not been effectively monitored.
- (d) It is not clear whether extensions of GTA funded fixed-term appointments are managed transparently, as the written justifications for extensions did not allow the decision makers to determine whether there are continuing operational needs.
- (e) The retention rate of staff in GTA from 2012 to 2021 was 51%, while the retention rate of the holders of established posts during the same period was 62%.

Recommendation 5: The External Auditor recommends the Court to conduct a holistic review of the existing GTA positions to determine the positions that need to be converted into established posts, which should gradually replace the established posts that are no longer needed and should be abolished.

3.2. Pending implementation of proposed reform of GTA policy

131. During its twenty-second session in 2014, the CBF noted the Court's approach on possible multiple-year GTA and conversion of long-standing GTA-funded positions to established posts and recommended that the Court makes concrete proposals for the Committee's consideration at its twenty-third session, in conformity with the recruitment principles and conditions laid down by the Committee and the Assembly.⁵⁵

132. In 2015, the Court reported to the CBF that due to the freeze on the creation of established posts, the Court had a large number of GTA funded positions which cover regular

⁵⁵ Report of the CBF on its 22th session, para. 57 (ICC/ASP/13/5).

and on-going functions and have become *de facto* established posts.⁵⁶ To address this, the Court proposed an overhaul of the GTA policy, including:

- (a) indicating the expected duration of all new and existing GTA positions when preparing the budget;
- (b) gaining approval of GTA positions for a period corresponding more closely to expected durations of temporary needs which might exceed one year (Multiple-year GTA), and aligning the contract duration with the approved post duration;
- (c) clearly expressing post duration (in the vacancy announcement and the offer of appointment) to ensure that the expectations for the durations of service are correctly managed;
- (d) reflecting whether expected duration of assignments exceeds one year when determining type of appointment (fixed-term or short-term) in line with UN common system policies; and
- (e) strictly managing posts within their purposes and ensuring that ongoing, regular needs are addressed by using established posts.

133. In 2015, the Court also reported that an appropriate staffing table of established posts should be approved, with a sufficient number of posts which can undertake the Court's regular and on-going workload. The Court further reported that following the establishment of the correct staffing level, the Court must exercise discipline in ensuring that GTA is not used to fund regular and on-going functions. Following the request of the Court, 121 GTA positions were converted to established posts from 2015 to 2017, as they were long-standing GTA positions covering regular and core functions of the Court.

134. In 2016, the Court introduced three contractual modalities for temporary personnel, namely Short-term Appointment (STA), Consultant, and Individual Contractor⁵⁷. Noting that the proposed reform of the GTA policy was not implemented, the CBF at its twenty-seventh session reiterated its previous recommendation that the Court submit a policy proposal on the duration of the contracts for GTA positions as part of its annual Human Resources Management Report⁵⁸.

135. In response to the recommendation of the CBF, the Court reported that the new policy would indicate that GTA-funded positions may not be used to cover positions of a long-term nature and that the new policy on the duration of contracts for GTA-funded positions would be promulgated before the Committee's twenty-ninth session in 2017. The Court stressed that the GTA-funded positions would continue to be used to cover expected temporary staffing needs only and that the duration may be extended for as long as the specific need remains.

136. The Court also reported that following the Committee's request, the Court would revisit its Administrative Instruction on Duration and Extension of Fixed-term Appointments and include a section on the administration of contract extensions of GTA-funded positions.⁵⁹ The Court further explained that the draft policy was developed and would be subject to internal consultation process.

137. During the on-site mission, the External Auditor observed that the Court has not implemented the proposed reform of the GTA policy mentioned above and that there was still no administrative instruction governing the durations and the extensions of fixed-term appointments funded against GTA. Noting that the absence of the rules or policies mentioned above has made it difficult to manage the duration and extensions of GTA positions, the External Auditor inquired the Court of the reason why the proposed GTA policy has not been formalized yet. However, the Court has not responded to date.

138. Subsequently, the External Auditor also inquired the CBF of the question mentioned above. The CBF explained that as three different policies were put forward by the

⁵⁶ *Report of the Court on Human Resources Management (CBF/24/17)*, para. 144.

⁵⁷ Prior to the introduction of individual contractor and consultant modalities in 2016, the Court used to engage individual contractors and consultants under Short-term Service Agreements (SSA).

⁵⁸ *Report of the CBF on its 27th session*, para. 181 (ICC/ASP/15/15).

⁵⁹ *Report of the Court on Human Resources Management*, para. 37 (CBF/28/18).

Court in 2016 regarding the short-term modalities, namely STAs, Individual Contractors and Consultants, the number of GTAs was considerably reduced; the Committee considered that these were sufficient to address the issue and thus has not discussed the matter since 2017. However, the response of the CBF does not seem reasonable, considering that the CBF requested the Court to submit a policy proposal on the duration and extension of fixed-term appointments funded against GTA during its twenty-seventh session in 2016, even after the aforementioned three short-term modalities had been introduced, as mentioned earlier in paragraph 134.

139. It is observed that while the number of STAs has decreased considerably, the number of GTAs has increased significantly since 2017, as mentioned earlier in paragraph 56. Contrary to the response of the CBF, the aforementioned three short-term modalities were not sufficient to address the issue that GTA positions are still used to cover regular and long-term staffing needs as established posts do.

Finding: The following observations were made during the audit:

- (a) In 2015, the Court proposed a reform of the GTA policy to address the situation that GTA positions cover the regular and on-going functions as established posts do, while requesting to convert long-standing GTA positions. Following the Court's request, 121 GTA positions were converted to established posts, and the Court reported that a new GTA policy would be promulgated before the twenty-ninth session of the CBF in 2017. However, the implementation of the proposed GTA policy reform is suspended.
- (b) Due to the absence of rules and policies on the duration and extension of fixed-term appointments funded against GTA, it is difficult to ensure that GTA positions are only used for the duration of temporary work requirements. As a result, many of the GTA positions are still used to cover regular and long-term staffing needs, becoming *de facto* established posts.

Recommendation 6: The External Auditor recommends the Court to implement the reform of the GTA policy proposed in 2015 and 2017, and promulgate an Administrative Instruction on duration and extension of fixed-term appointments funded against GTA.

3.3. Monitoring and reporting of short-term appointments (STA)

140. The Court reports to the CBF annually the list of staff engaged under STA during the year. The management report includes various information such as major programme and subprogramme, contract duration, functional title, duty station, etc. However, the CBF management reports do not provide the list of vacant established posts or GTA positions that are covered by staff on STA.

141. If one staff member on STA is recruited to fill a vacant post, the Court would have to manage two posts at the same time, the vacant established or GTA post and the newly created STA post. In order to ensure that the STA post is maintained only for the duration needed to fill the vacant post, the Court would have to manage the posts in such a way that it tags each STA post to the vacant established or GTA post.

142. Prior to the on-site mission, the External Auditor requested the Court specifically for the list of staff recruited under STA to temporarily fill vacant positions, indicating the specific established post or GTA position that each staff on STA covers. However, the Court has not submitted the data to date.

143. In order to ensure that the use of STA is limited to address short-term staffing needs of one year or less, the Administrative Instruction on Short-term Appointments (ICC/AI/2016/001) prescribes that a single or cumulative duration of short-term appointments for a position with same or similar duties should not exceed the maximum period of one year. The Administrative Instruction also provides for an exception that STAs can be extended up to two years in case a temporary emergency or a sudden workload increase unexpectedly continues for more than one year. In order for Registrar or Prosecutor to consider the need to extend the duration of an STA contract and to make a decision thereon, detailed base data or grounds need to be attached.

144. Looking at the list of STAs in 2021, it is observed that a significant number of staff under STA have been working for the Court for more than one year. The durations of consecutive service of staff under STA performing the same or similar functions are as follows.

Table 27: Duration of service of STAs in 2021

Total	One year or less	Longer than 1 year but shorter than 2 years
79	61	18

145. Considering that 18 out of 79 staff under STA (23%) have been engaged for more than one year, it is suggested that the justifications for extensions need to be reviewed, as to whether there was a temporary emergency or a sudden workload increase that unexpectedly continued for more than one year. As a procedure for extension of STA duration, a request shall be sent by the head of division, section or unit to the Human Resources Section. It shall be accompanied by a written justification. The Registrar or Prosecutor, as appropriate, shall decide whether or not the recommendation will be approved.⁶⁰

146. The External Auditor reviewed the written justifications for 18 STA contracts that were extended beyond one year and it is found that one justification is not submitted and that six justifications contain detailed information necessary to support the extensions of STA contracts⁶¹ but that 11 justifications are not relevant to the requirements described in the Administrative Instruction or do not have detailed information necessary for Registrar or Prosecutor to determine the extension.

147. Out of the above 11 justifications submitted, two explained that the unit is short-handed at the moment or drastically under-resourced; however, no detailed information or reasons that support the need to extend the contract such as sudden increase in workload or unexpected emergency was found. Also, three of them explained that there was no one to take over the positions and those incumbent STAs were irreplaceable, but these do not seem to fall under the justifiable grounds for contract extension. In addition, one of those 11 justifications simply provided job description and no reason whatsoever; the other five justifications explained that the extensions were needed for business continuity but it did not correspond with what is required in the Administrative Instruction.

Finding: The Court does not report to the CBF the list of vacant positions covered by STA, which might undermine the transparency of the use of STA. In addition, a part of the justifications presented by the Court for extending the STA contract beyond one year does not fall under the requirements set out in the Administrative Instruction on Short-term Appointments (ICC/AI/2016/001).

Recommendation 7: The External Auditor recommends the Court to:

- (a) report annually the list of vacant positions covered by STA to the CBF, in order to ensure that the STA positions are not maintained longer than the duration needed to fill vacant positions or replace the staff on extended leave;
- (b) report to the CBF the list of STAs that were exceptionally extended beyond one year; and
- (c) refrain from the practice of extending short-term appointments beyond one year without justifiable reasons for extension set out in the Administrative Instruction on Short-term Appointments.

⁶⁰ Administrative Instruction on Short-term Appointments (ICC/AI/2016/001), para. 13.3.

⁶¹ For example, it is deemed by the External Auditor that a sudden resignation of an employee who took special leave without pay is an unexpected situation.

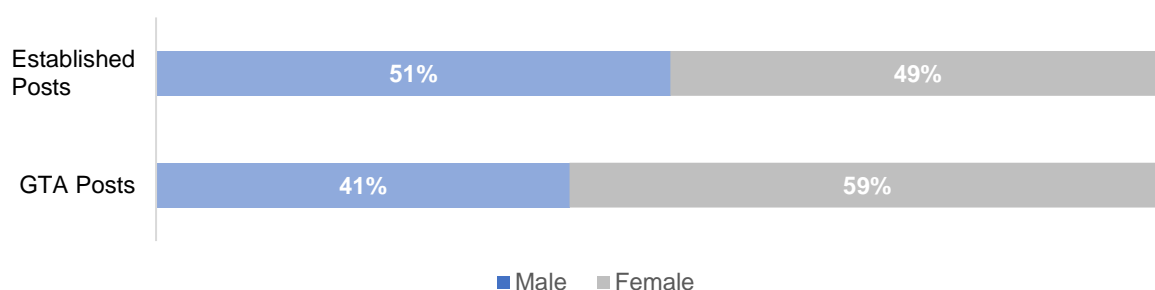
4. Balance of geographical and gender representation

4.1. Audit background

148. In the Budget Management Oversight (BMO) meeting on 8 November 2021, the External Auditor presented a topic for the performance audit, ‘temporary personnel,’ and one of the States Parties requested to include ‘geographical representation’ as part of the upcoming performance audit. In response to the request of the State Party, in addition to gender balance of the Court, the External Auditor intended to examine geographical representation of the Court considering the Court’s system in which only Professional staff excluding elected officials and language staff is reflected in geographical representation.⁶²

149. The External Auditor first assessed the overall gender balance of the Court and found out that women account for 51% and men 49% out of the Professional staff in established posts as at December 2021, excluding elected officials. This suggests that female staff are equally represented in the Professional category of established posts of the Court and even outnumber male Professional staff in GTA positions by 18% in 2021 as shown in Figure 8 below.

Figure 8: Overall gender breakdown of Professional staff as at 31 December 2021



Source: Data submitted by HR Section.

150. A more detailed analysis by grade shows that female staff are under-represented in the higher professional levels in established posts, such as D-1, P-5, and P-4. In the case of D-1, 88.9% are male while 11.1% are female. As seen in Figure 9, the share of female staff decreases as the level increases. On the contrary, GTA positions as seen in Figure 10 are equally distributed between men and women as a whole, except for P5, which is occupied by one female staff in GTA position.

Figure 9: Gender breakdown 2021 - Professional staff in established posts (%)

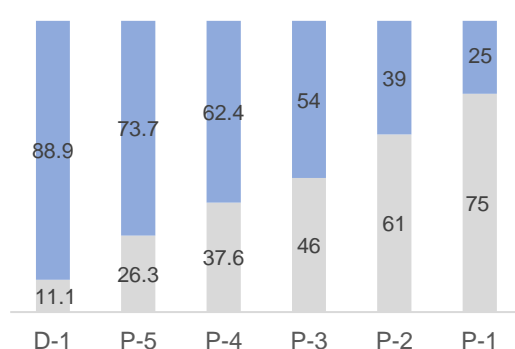
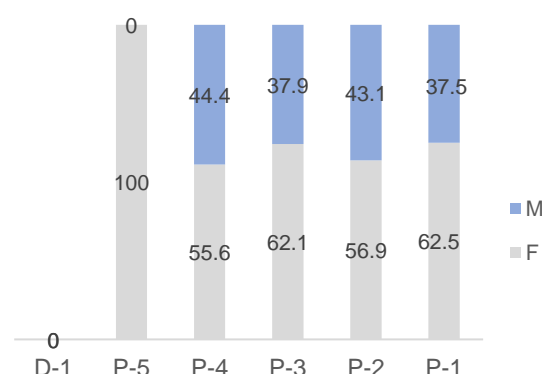


Figure 10: Gender breakdown 2021 - Professional staff in GTA positions (%)

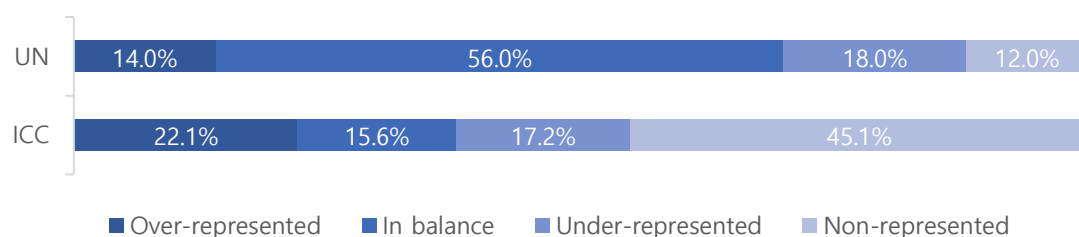


Source: Data submitted by HR Section.

⁶² At the 14th meeting of the Hague Working Group, on 10 September 2007, a representative of the Court clarified that the General Service staff were not taken into consideration in geographical representation, since they are usually nationals of the host State and fall under a different salary structure from Professional staff (ICC-ASP/6/22).

151. Meanwhile, the External Auditor found out that the geographical representation of the Court is more imbalanced than that of the UN. As seen in Figure 11 below, geographical distribution of the Court is not as balanced as the UN. The UN has achieved a more equitable geographical representation overall as more than half of the states are classified as in balance in 2019⁶³. The Court, however, has only 15.6% of in balance States Parties in the same year.

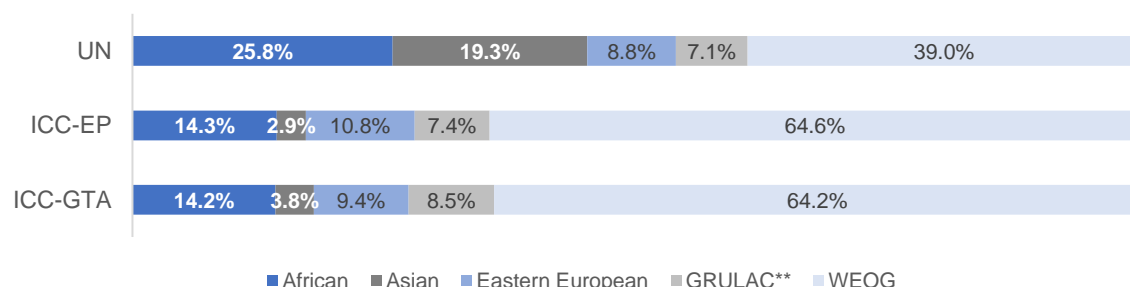
Figure 11: Comparison of geographical representation between UN and ICC as at 31 October 2019



Source: Data submitted by HR Section and the UN OHR report.

152. The difference between the UN and the Court is observed in the comparison by region. As seen in Figure 12 below, while Western Europeans and other states (“WEOG”) accounts for 39% of Professional staff in established posts in the UN, this group is overly represented in the Court by accounting for more than 60% of Professional staff both in established and GTA positions. On the other hand, the Asian group is under-represented, taking up 2.9% and 3.8% of the Professional staff of the Court in established and GTA positions, respectively, when compared to its share of 19.3% in the UN.

Figure 12: Comparison between UN and ICC* by region as at 31 October 2019



*This figure excludes the number of staff from non-States Parties.

** Latin America and Caribbean Countries (“GRULAC”).

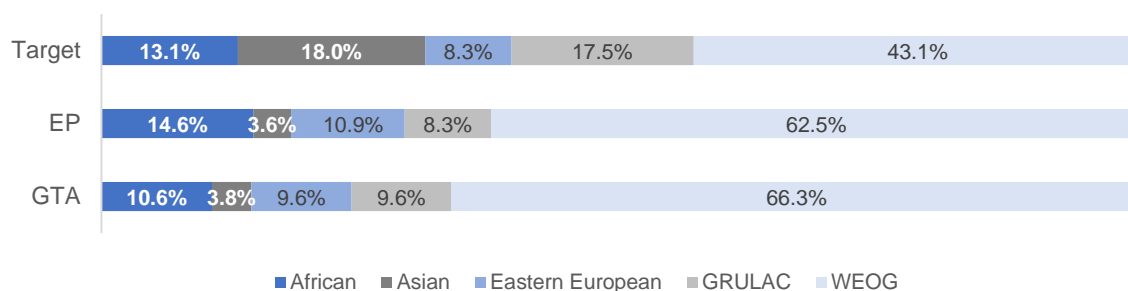
Source: Data submitted by HR Section and the UN OHR report.

153. Moreover, equitable geographical distribution of the Court is not achieved when compared to its target⁶⁴ set by the Court in 2021. As illustrated in Figure 13, the Court sets the target for WEOG at 43%, but this group exceeds the target by nearly 20% and 23% in Professional staff in established posts (EP) and GTA positions excluding elected officials and language staff, respectively. On the other hand, the GRULAC and ASIAN groups are far below the target in Professional staff both in established and GTA positions.

⁶³ The External Auditor referred to OHR Report issued by the United Nations in January 2020 and the most recent data is from 31 October 2019.

⁶⁴ The target in this paragraph refers to the sum of the target values for individual States Parties by grouping them by region.

Figure 13: Comparison between target and geographical representation* of ICC as at 31 December 2021



*This figure excludes the number of staff from non-States Parties.

Source: Data submitted by HR Section.

154. In consideration of these findings and the scope of the performance audit being limited to temporary personnel, the External Auditor concluded that geographical representation is more urgent issue in the Court and accordingly decided to examine geographical representation in terms of Professional staff in GTA positions.

4.2. Geographical representation in principle

155. Pursuant to the Rome Statute, the Prosecutor and the Registrar shall have regard to equitable geographical representation for positions in the Professional category.⁶⁵

156. The eighth Goal of the strategic plan from 2019 to 2021 of the Court is to achieve more equitable geographical representation, particularly at higher level posts.⁶⁶ The Registrar stressed the importance allocated to this, as demonstrated in the inclusion of this issue as one of the three priorities of the Registry Strategic Plan 2019-2021.⁶⁷

157. During this period, the Court reported to ASP that it continued its efforts to improve geographical representation. For example, vacancies have been continuously advertised on various social media and international job vacancy platforms; geographical diversity has been ensured on all recruitment panels; geographical representation has been considered both at the shortlisting stage and the final selection of suitable candidates; and geographical representation has been considered for all types of appointment.⁶⁸ These efforts seem to contribute to a slight improvement observed in 2021 as seen in Figure 14 below, but geographical distribution is still imbalanced overall.

158. It seems that the understanding of importance and the benefits of maintaining equitable geographical representation are shared among State Parties and the Court as indicated in ASP resolutions requesting equitable geographical distribution of the Court.⁶⁹ Therefore, it is a matter of organizational legitimacy to accomplish equitable geographical representation.

4.3. Geographical representation in Professional staff

Geographical distribution of Professional staff in established and GTA positions

159. The Court examines geographical representation with Professional staff only in established posts when it reports to ASP. However, the External Auditor noted the difference of characteristics of GTA between the UN and the Court and assessed the geographical representation as at 31 December from 2019 to 2021 with the inclusion of Professional staff in GTA positions. As shown in Figure 14 below, the outcome produced by the External Auditor is different from that of the Court. For example, while the share of in balance States Parties decreased to 13.8% from 20.3% in 2021 when Professional staff in GTA positions

⁶⁵ Rome Statute, article 44, para. 2., article 36, para. 8.

⁶⁶ International Criminal Court Strategic Plan 2019-2021, p.12.

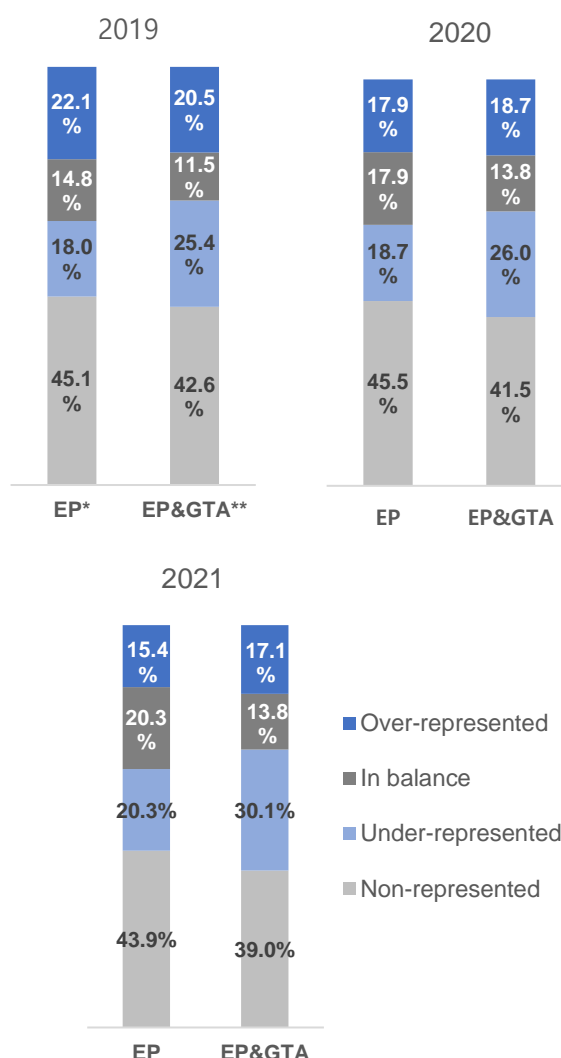
⁶⁷ International Criminal Court Registry Strategic Plan 2019-2021, para. 7.

⁶⁸ *Report of the Court on Human Resources Management*, ICC-ASP/20/3, para. 25.(h), ICC-ASP/19/4, para. 70.(h).

⁶⁹ ICC-ASP-20-Res.5., para. 105., ICC-ASP-19-Res.6., para. 102.

are included, the share of over- and under-represented States Parties increased from 15.4% to 17% and from 20.3% to 30.1%, respectively. This is also the case with in balance States Parties in 2019 and 2020 as Professional staff in GTA positions are included.

Figure 14: Comparison of geographical distribution depending on inclusion of Professional staff in GTA positions as at 31 December from 2019 to 2021



* EP: Professional staff in established posts

** GTA: Professional staff in GTA positions

Source: Data submitted by HR Section.

160. As at 31 December 2021, there were 57 Professional staff in established posts from non-States Parties and if the number of Professional staff in GTA positions is added, the number becomes 65. These eight Professional staff in GTA positions from non-States Parties can be hidden if GTA positions are not included in assessing geographical representation.

Table 28: Number of staff from non-States Parties as at 31 December from 2019 to 2021

Non-States Parties		2019	2020	2021
Professional staff	Established post	60	58	57
	GTA	14	12	8
Total		74	70	65

Source: Data submitted by HR Section.

Finding: If the number of Professional staff in GTA positions is included in addition to the number of staff in established posts, geographical distribution of the Court appears more imbalanced compared to the outcome based only on the number of Professional staff in established posts.

Review of the method to calculate desirable range

161. In the Resolution ICC-ASP/1/Res.10, ASP decided the general principle with regard to geographical representation, which is for established (i.e., budgeted) posts, and in the case of appointments of at least 12 months' duration, the selection of staff in the Professional category shall be guided in principle by a system of desirable ranges based on that of the United Nations.⁷⁰

162. In order to allow for the necessary degree of flexibility in the system, the desirable range is calculated from the number of posts attributed to each State Party, the so-called quota, setting upper and lower limits of 15% above and below, respectively.⁷¹ This desirable range is used to assess whether States Parties achieve equitable geographical distribution; it is “in balance” when the number of its nationals appointed to such posts is within the upper and lower limits of the desirable range; it is “over-represented” when the number of its nationals appointed to such posts exceeds the upper limit of the desirable range; and it is “under-represented” when the number of its nationals appointed to such posts is below the lower limit of the desirable range.⁷²

163. The UN Secretariat uses three factors in the calculation of the geographical quotas: The membership factor, set at 40% of the base figure, the contribution factor, set at 55% of the base figure, and a population factor, set at 5% of the base figure as follows.⁷³ The base figure in setting the geographical quotas represents the total number of posts subject to geographical distribution in an organization.

⁷⁰ Resolution ICC-ASP/1/Res.10, annex to the resolution para. 1., 4.

⁷¹ General Assembly A/C.5/41/6, para. 25.

⁷² A/56/512, para. 14.

⁷³ A/56/512 and General Assembly resolution 55/258 population, ICC-ASP/6/22, para. 15.

Figure 15: Formula for calculation of quotas

$$\begin{aligned}
 \text{Quota} &= \frac{Bf \times Mb}{N} + \frac{C_n \times Bf \times Cf}{100} + \frac{Pop_n \times Bf \times Pf}{Total\ Pop} \\
 &= Bf \times \left(\frac{40\%}{N} + \frac{C_n \times 55\%}{100} + \frac{Pop_n \times 5\%}{Total\ Pop} \right)
 \end{aligned}$$

Bf = base figure

Mb = share for membership factor (40%)

N = number of Member States

Cf = share for contribution factor (55%)

Pop_n = population of a State 'n'

Pf = share for population factor (5%)

C_n = contribution of a State 'n' to the regular budget

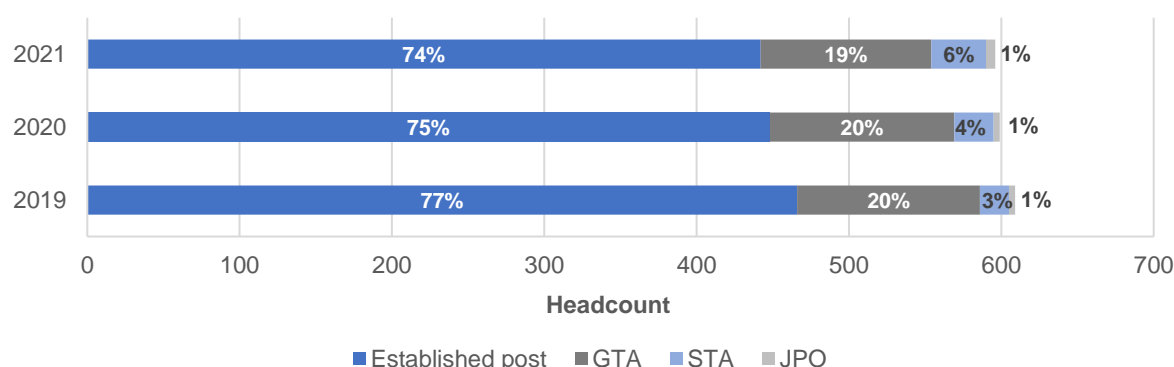
Source: JIU/REP/96/7.

164. Currently, the Court calculates its desirable range only for Professional staff in established posts (excluding language staff and elected officials) and does not include Professional staff in GTA positions. The Court explained that it follows the UN system, which excludes staff in GTA positions. However, as explained below, there are reasonable grounds for the Court to include GTA when calculating its desirable range for States Parties.

165. Firstly, the nature of GTA positions needs to be considered. At the Court, all GTAs are budgeted for and granted renewable fixed-term appointments as is the case with established posts. In 2020, 199 staff in GTA positions were all granted fixed-term appointments, and in 2021, 183, or 92% of those GTA positions, were renewed; six of them became established posts; and ten of them were terminated. On the other hand, in the UN, staff in GTA positions have either temporary or fixed-term appointments depending on the duration of the needs for services. Considering that GTA positions are operated differently, it does not seem reasonable to apply the calculation method excluding the GTA for geographical distribution used in the UN directly to the Court.

166. Secondly, the proportion of Professional staff in GTA positions should also be considered. Figure 16 below shows the proportion of GTA out of all staff in the ICC as at 31 December of each year from 2019 to 2021. The headcount of Professional staff in GTA positions takes up about 19% to 20% of all Professional staff (excluding elected officials and language staff) during the same period. Therefore, it can be understood that the inclusion of Professional staff in GTA positions in calculating a desirable range of the Court will contribute to providing a more accurate status of the Court in geographical representation.

Figure 16: Distribution of Professional staff by employment type from 2019 to 2021



Source: Data submitted by HR Section.

167. Lastly, conversions of GTA positions to established posts or staff movements from GTA positions to established posts need to be considered. As shown in Table 29 below, out of 867 staff in the total established posts as at 31 December 2021, 36% joined the Court to occupy GTA positions in the beginning. Also, 35% of those in the Professional category of established posts started working at the Court as GTA. It means that staff in GTA positions are likely to move to established posts, which in turn can significantly affect geographical representation of established posts in the future.

Table 29: Initial agreement type of staff in established posts in 2021

(No. of staff)

Established posts in 2021		Initial agreement type at the time of employment to ICC			
		Established post*	GTA*	STA*	Others
General Service	365	203 (56%)	136 (37%)	26 (7%)	0
Professional	502	310 (62%)	175 (35%)	16 (3%)	1
Total	867	513 (59%)	311 (36%)	42 (5%)	1

* Established and GTA positions are the classification depending on funding source while STA is a type of contractual arrangement.

Source: Data submitted by HR Section.

168. In consideration of the circumstances explained above, Professional staff in approved GTA positions fall under the subject listed in geographical representation set out in the ASP resolution (ICC-ASP/1/Res.10) and a more appropriate target for geographical distribution will come out if Professional staff in approved GTA positions are included. By doing so, the Court will determine the reality more accurately and further achieve the goal of equitable geographical distribution.

Finding: Considering the multi-year service period of GTA, the high proportion of GTA out of all Professional staff, and high rate of conversion and staff movement from GTA to established posts, it is reasonable to include the number of approved GTA positions as well as established posts when determining geographical representation, and by doing so, actual status of geographical distribution of the Court will be better reflected, and it is in accordance with the ASP resolution regarding geographical representation (ICC-ASP/1/Res.10).

Recommendation 8: The External Auditor recommends the Court to include Professional staff in approved GTA positions when setting targets for geographical representation and report to ASP the progress to be made in geographical representation based on the comparison to the targets if GTA positions are operated for the multi-year service period as they are today.

4.4. Geographical representation in recruitment

Continued imbalance found in newly recruited Professional staff from 2019 to 2021

169. Since the issuance of the 2019-2021 strategic plan of the Court, there have been 42 recruitments during the same period for selecting Professional staff in GTA positions excluding elected officials and language staff. Twenty-five appointments for GTA positions were made from 11 rosters⁷⁴ while 17 staff were employed through competitive recruitment process for each post.⁷⁵

⁷⁴ ICC Recruitment Guidelines for Established Posts, para. 11.2(a), (b): For positions with similar duties and requiring similar competencies or qualifications, suitable candidates may be placed on a roster for subsequent appointments either in the same division or in another division of the organ.

⁷⁵ A type of recruitment for appointment where a vacancy is advertised and a candidate is selected from

170. The External Auditor reviewed the nationalities of final candidates of these 42 recruitments from 2019 to 2021 and found out that the Court employed 17 from over-represented States Parties, eight from in balance States Parties, 11 from under-represented, and two from non-represented States Parties. Also, four staff from non-States Parties were employed during this period. In terms of regional diversity, the majority group was WEOG with 63.2% while Asia was the minority with 2.6%. The three-year trend below shows that the share of new employees from over-represented States Parties or WEOG has decreased, which might indicate an improvement in geographical representation. However, those from non-States Parties have been continuously recruited and those from Asia have not been equitably represented compared to its target, 18.1%.

Table 30: Geographical representation of newly recruited Professional staff in GTA Positions

(No. of staff)

Category*	2019	2020	2021	Total	Region	2019	2020	2021	Target ('21)	Total
Over-represented	8	3	6	40.5%	African	1	0	2	13.1%	7.9%
In balance	4	0	4	19.0%	Asian	0	0	1	18.0%	2.6%
Under-represented	5	4	2	26.2%	Eastern European	2	2	0	8.3%	10.5%
Non-represented	0	1	1	4.8%	GRULAC	3	1	2	17.5%	15.8%
Non-States Parties	2	0	2	9.5%	WEOG	11	5	8	43.1%	63.2%
Total	19	8	15	100%	Total**	17	8	13	100%	100%

* The category is calculated by the original method which the Court has used so far.

** Four staff were employed from non-States Parties and excluded from this total number.

Source: Data submitted by HR Section.

Continued recruitment from non-States Parties against CBF recommendation

171. Pursuant to the ASP's resolution, nationals from States Parties and from those States having engaged in the process of ratification of or accession to the Statue should have adequate representation on the staff of the Court. While ASP is of the view that applications from nationals from non-States Parties may also be considered,⁷⁶ the CBF recommended that the Court look into the possibility of freezing the hiring from this category in its 33rd session in 2019 when the Court reported that the total number of its Professional staff⁷⁷ (excluding elected officials and 42 language staff) was 470, of which 60 (12.8%) came from non-States Parties as at 31 July 2019.⁷⁸ Still, the Court in the 35th session of the Committee in 2020 reported that the number of Professional staff⁷⁹ who belong to non-States Parties was 59 as at 31 July 2020, and the Committee recommended that whenever any of those 59 posts from non-States Parties became vacant the Court should try to fill it by recruiting candidates from non- and under-represented States.⁸⁰

172. Despite this recommendation, staff from non-State Parties have been recruited continuously. From 2019 to 2021, the ICC selected four Professional staff in GTA positions from non-State Parties.

173. As at 31 July 2020, there were 59 Professional staff in established posts and 10 Professional staff in GTA positions from non-States Parties. However, when five posts out

a pool of applicants following a merit-based competitive selection process.

⁷⁶ Annex to Resolution ICC-ASP/1/Res.10, para. 4.

⁷⁷ It refers to Professional staff in established post.

⁷⁸ *Report of the Committee on Budget and Finance on the work of its 33rd session (ICC-ASP/18/15)*, para. 220.

⁷⁹ It refers to Professional staff in established post.

⁸⁰ *Report of the Committee on Budget and Finance on the work of its 35th session (ICC-ASP/19/15)*, para. 210.

of these became vacant, they were filled by those from in balance or over-represented States Parties instead of non- and under-represented States Parties despite the CBF recommendation.

Table 31: Nationalities of newly recruited staff that filled vacant posts of non-States Parties

Professional staff from non-State Parties in 2020				Professional staff recruited in 2021 or 2022		
Post Number	Nationality	Region		Nationality	Region	Status
E-9994	Jamaica	GRULAC	➡	Ecuador ('22)	GRULAC	In balance
E-2753	China	Asian		Netherlands ('21)	WEOG	Over-represented
S-9016	Mauritania	African		France ('22)	WEOG	Over-represented
T-2177	United States	WEOG		Slovenia ('21)	Eastern European	Over-represented
T-2091	United States	WEOG		Australia ('21)	WEOG	In balance

Source: Data submitted by HR Section.

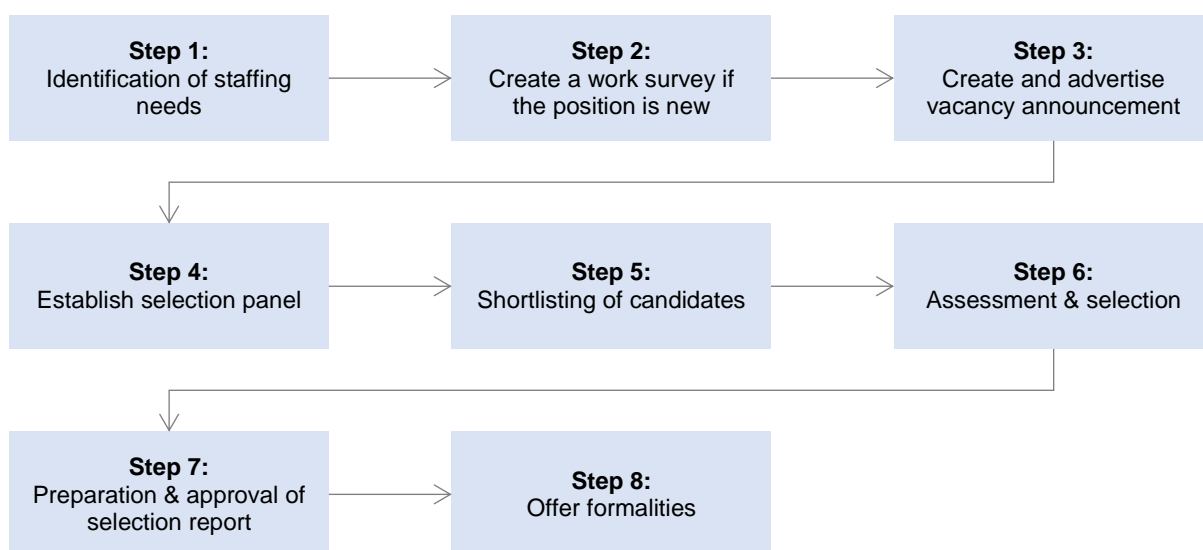
Finding: Following observations were made during the audit:

- (a) Even after the announcement of its commitment to more equitable geographical distribution included in its Strategic Plan from 2019 to 2021, the Court still recruits the most from over-represented States Parties and the least from non-represented States Parties when hiring Professional staff in GTA positions.
- (b) Even when the posts occupied by staff from non-States Parties become vacant, they are filled by those from in balance or over-represented States Parties instead of non- or under-represented States Parties despite the CBF recommendation.

General principle of recruitment of the Court

174. The External Auditor examined the Court's recruitment procedures in order to find out reasons behind the continued imbalance in geographical representation and relevant practices such as constant recruitment of staff from over-represented and non-States Parties in the Court.

175. There are two options available for the Court to select staff: roster or competitive process. The recruitment process for these two is as illustrated in Figure 17 below.

Figure 17: Overview of recruitment process⁸¹

Source: Data in Intranet of the Court.

176. According to the ICC Recruitment Guidelines for established posts, in order to accelerate the filling of vacant posts and increase the efficiency of the recruitment processes, rosters may be created for established posts as well as for GTA positions at headquarters and field offices, for positions in the General Service and Professional categories. Upon completion of a selection process, an Interview Panel may recommend suitable candidates for placement on a roster in instances where more than one candidate was found suitable for a vacant post. In the event that a similar vacancy arises, a rostered candidate may be offered the vacant post without having to participate in a second recruitment process.⁸²

177. In the process of recruitment, the hiring manager is allowed to exercise his or her discretion, especially when recommending candidates for a certain post in response to a request from the hiring section. The External Auditor was aware of this and decided to review how this discretion has affected geographical distribution in recruitment.

Analysis of the rostering process of the Court

178. The External Auditor analyzed the process of creating rosters as well as final appointments. Eleven rosters used from 2019 to 2021 for recruiting Professional staff in GTA positions were examined.

► Step 1 – Vacancy announcement and application

179. In order to attract applicants from non- and under-represented States Parties, the ICC has been advertising vacancies on various social networking sites such as Linked-in, Facebook and other job posting sites, distributing all vacancy announcements both in English and French and informing embassies of newly published vacancy announcements.⁸³

180. The External Auditor looked into the lists of those who applied for creating 11 rosters and found that the number of applicants from non- and under-represented States Parties is smaller than that of the applicants from over-represented and in balance States Parties. Considering that applicants from non- and under-represented State Parties are small in number, there seems to be a need to improve the Court's recruitment strategies to attract candidates from those States Parties.

⁸¹ The Recruitment process of the ICC: A Step-by-Step Guide p. 1.

⁸² ICC Recruitment Guidelines for established posts, para 11.1., 11.3., 11.4.

⁸³ *Report of the court on Human Resources Management*, ICC-ASP/20/3, para. 25., ICC-ASP-20-29, para. 23.

Table 32: Geographical distribution of applicants for 11 rosters

(No. of staff)

Roster No.	VA number	Level	Over-represented	In balance	Under-represented	Non-represented	Non-States Parties	Total
1	14421	P-3	238 (44%)	126 (18%)	48 (11%)	37 (7%)	115 (20%)	564
2	18465	P-2	139 (36%)	75 (19%)	46 (12%)	35 (9%)	93 (24%)	388
3	15481	P-1	268 (38%)	114 (16%)	100 (14%)	59 (8%)	154 (22%)	695
4	18739	P-3	90 (39%)	46 (20%)	37 (16%)	22 (9%)	38 (16%)	233
5	18498	P-2	206 (39%)	98 (19%)	80 (15%)	40 (8%)	98 (19%)	522
6	19999	P-2	273 (32%)	190 (22%)	142 (17%)	68 (8%)	182 (21%)	855
7	19646	P-1	296 (23%)	175 (20%)	141 (16%)	64 (7%)	201 (23%)	877
8	18326	P-1	284 (39%)	186 (18%)	123 (12%)	77 (9%)	190 (22%)	862
9	16361	P-2	227 (34%)	159 (24%)	93 (14%)	55 (8%)	131 (20%)	665
10	19103	P-2	220 (35%)	118 (19%)	87 (14%)	45 (7%)	148 (24%)	618
11	19045	P-2	162 (32%)	115 (22%)	87 (17%)	42 (8%)	106 (21%)	512
Total			2,403 (35%)	1,402(21%)	984 (14%)	544 (8%)	1,456 (21%)	6,789

Source: Data submitted by HR Section.

181. In fact, as part of the efforts to encourage those from non- and under-represented States Parties to apply more, the Court provides the list of non- and under-represented States Parties on the front page of the ICC e-Recruitment with vacancy postings. However, it is found that the list is based on the status as at 31 October 2021 and has not been updated for about seven months at the time of the on-site audit even though the Court collects data of geographical distribution on a monthly basis. Indeed, Australia is not included in the list even though this country is under-represented, and Burkina Faso, despite being in balance at this moment (as at 15 May 2022), is included. Thus, it seems necessary to continue to keep this list updated to provide relevant information to those interested in the Court in a timely manner.

Finding: Despite the Court's efforts to attract more from non- and under-represented States Parties, applicants from those States Parties are smaller in number compared to those from other categories, and the list showing geographical representation in e-Recruitment system has not been updated in a timely manner.

► *Step 2 - Panel composition*

182. Hiring managers compose panels which create rosters, and this was also the case with the aforementioned 11 rosters. According to paragraph 5.1 of the ICC Recruitment guidelines for established posts, the Interview Panel shall be composed of at least three members, representing both gender and diverse nationalities. If possible, the nationalities of the panel members should represent several regional groups. Also, the ICC manual regarding the recruitment process states that attention must be paid to the geographical representation and gender balance of the panel.⁸⁴

183. However, it is found that the composition of panels is not in compliance with these guidelines and geographically imbalanced as a result. As seen in Table 33 below, 22 out of 42 panel members are from WEOG, accounting for 52%. One panel member is from the Eastern European region and four members are from the Asian region. Furthermore, all panel members of the roster No. 11 are from WEOG.

⁸⁴ The Recruitment Process of the ICC: A Step-by-Step Guide, p.5.

Table 33: Composition of hiring manager and panel for 11 rosters

(No. of panels)

No.	Nationality of hiring manager	Panel composition					Total
		African	Asian	Eastern European	GRULAC	WEOG	
1	Trinidad and Tobago (GRULAC)*	1	1	0	1	1	4
2	UK (WEOG)*	1	0	0	2	1	4
3	Algerian (African)*	1	0	0	1	1	3
4	Spain (WEOG)	0	0	0	1	3	4
5	Portugal (WEOG)	2	0	0	1	2	5
6	Germany (WEOG)*	1	1	0	0	2	4
7	Algeria (African)*	1	0	0	0	2	3
8	Argentina (GRULAC)	0	2	0	0	2	4
9	Germany (WEOG)*	1	0	0	0	3	4
10	Australia (WEOG)*	0	0	1	1	1	3
11	Italy (WEOG)*	0	0	0	0	4	4
Total		8 (19%)	4 (10%)	1 (2%)	7 (17%)	22 (52%)	42 (100%)

* Hiring managers also serve as member of the panel.

Source: Data submitted by HR Section.

184. The External Auditor found that out of 11 hiring managers who were involved in the recruitment process as listed in Table 33, seven are from WEOG, two from the African region, and two from GRULAC. Eastern European or Asian nationals were not involved in these recruitments. It was also found out that eight hiring managers from the 11 rosters served as panel members⁸⁵ and that seven of them are from WEOG. As such, the fact that high proportion of hiring managers from WEOG are involved in the recruitment process as panel members might have an impact on geographical balance in panel composition.

► *Step 3 - Shortlisting of applicants*

185. Panels establish a shortlist of candidates for the selection process according to the requirements set out in the vacancy announcement (VA),⁸⁶ where gender balance and geographical representation also need to be considered. In particular, candidates from non- and under-represented States Parties and gender shall be granted priority provided that they meet all the requirements for the position and are as qualified as the other candidates when shortlisting applications.⁸⁷

186. Based on this principle, the External Auditor classified the geographical distribution of the 11 rosters and found that the geographical imbalance among States Parties persists when shortlisting candidates despite the above principle.

⁸⁵ The Court explained during the on-site audit that there have been cases where hiring managers are also involved in recruitment as panel members and that this has become a practice.

⁸⁶ ICC Recruitment Guidelines for established posts, para. 6.1.

⁸⁷ ICC Recruitment Guidelines for established posts, para. 6.3.

Table 34: Geographical representation of shortlisted candidates

(No. of candidates)

Roster No.	Over-represented	In balance	Under-represented	Non-represented	Non-States Parties	Total
1	19	7	5	1	0	32
2	7	4	5	1	2	19
3	10	4	2	2	2	20
4	11	6	2	2	2	23
5	14	7	5	4	3	33
6	13	5	9	2	2	31
7	0	3	6	0	0	9
8	13	7	7	1	6	34
9	15	7	16	7	2	47
10	13	4	11	1	1	30
11	15	6	7	2	7	37
Total	130(41%)	60(19%)	75(24%)	23(7%)	27(9%)	315(100%)

Source: Data submitted by HR Section.

187. The Court explained that, all panel members are reminded during the initial panel meeting of the importance of paying particular attention to candidates from non- and under-represented countries and they are asked to confirm that the candidates from non- and under-represented countries who were not shortlisted do not possess the skill sets required for the position and all is noted in the selection report for the Principal. As commented by the SRB⁸⁸ of the selection report of roster 8 listed in Table 34 above, however, no reason was described to explain why other applicants were not selected for the shortlist. Thus, it seems difficult to determine that the panels members could give due consideration to those from non- and under-represented States Parties.⁸⁹

► *Step 4 – Composition of rosters*

188. According to the report of the Court on Human Resources Management⁹⁰, geographical representation is also considered when the decision on the final selection of suitable candidates is made.

189. As a result of recruitment processes for 11 rosters, 97 candidates were recommended to be placed on the rosters. While 55 candidates (57%) out of 97 are from over-represented States Parties, four candidates (4%) are from non-represented States Parties, which is even fewer than that of those from non-States Parties, which is 12 (12%). Roster No. 1 is composed of nationals of over-represented States Parties only, and roster No. 11 includes seven candidates from non-States Parties, which accounts for more than 30% of the total candidates on this roster.

⁸⁸ The Selection Review Board (SRB) provides advice to the Registrar or the Prosecutor, as appropriate, on the selection process leading to the decision to appoint a candidate to a fixed-term position or to place a candidate on a roster for such potential subsequent fixed-term appointments. (Administrative Instruction on Selection Review Board, para. 2.1).

⁸⁹ Outcome from the Selection Review Board (SRB), SRB/019-2019.

⁹⁰ *Report of the court on Human Resources Management (ICC-ASP/20/3)*, para. 25.

Table 35: Geographical representation of rostered candidates

(No. of staff)

Roster No.	Roster composition					Total
	Over-represented	In balance	Under-represented	Non-represented	Non-States Parties	
1	6	0	0	0	0	6
2	2	0	1	0	0	3
3	6	0	1	0	1	8
4	6	1	0	0	0	7
5	4	0	1	1	0	6
6	10	3	2	1	2	18
7	0	2	2	0	0	4
8	3	1	1	0	1	6
9	9	2	3	1	1	16
10	1	0	1	0	0	2
11	8	2	3	1	7	21
Total	55(57%)	11(11%)	15(15%)	4(4%)	12(12%)	97

Source: Data submitted by HR Section.

► *Step 5 – Final selection*

190. According to the report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the ICC⁹¹, the Court selects the most qualified candidates and, when candidates perform equally well, the recruiting panel considers geographical and gender representation. During the audit, HRS explained that candidates placed on the rosters are considered to meet all the requirements necessary to fill the advertised positions.

191. Hiring managers request for appointments from the roster for vacant posts with due regard to internal candidates, gender balance and geographical representation. Considering these factors, the hiring managers requested the appointment of 25 Professional staff in GTA positions from 2019 to 2021. In terms of gender balance and sources of recruitment, 17 female (68%) and 12 internal candidates (48%) were chosen finally from the rosters. It seems that gender balance and internal candidacy are duly considered.

Table 36: Gender balance and sources of recruitment of candidates selected for Professional staff in GTA positions from 2019 to 2021

(No. of staff)

Total	Gender		Sources of recruitment	
	Female	Male	Internal	External
25	17 (68%)	8 (32%)	12 (48%)	13 (52%)

Source: Data submitted by HR Section.

⁹¹ Report of the Bureau on equitable geographical representation and gender balance in the recruitment of staff of the International Criminal Court (ICC-ASP/20/29), para. 11.

192. In terms of geographical representation, 12 candidates selected at the final stage are from over-represented States Parties; seven candidates from non- and under-represented States Parties; and three candidates from non-States Parties. In terms of regional distribution, 18 candidates (72%) were selected from WEOG while one (4%) was from the Asian region.

Table 37: Geographical representation of candidates selected for GTA positions from 11 rosters

(No. of staff)

Category	Over-represented	In balance	Under-represented	Non-represented	Non-States Parties	Total
	12 (48%)	3 (12%)	6 (24%)	1 (4%)	3 (12%)	25

Region	African	Asian	Eastern European	GRULAC	WEOG	Total
	2 (8%)	1 (4%)	2 (8%)	2 (8%)	18 (72%)	25

Source: Data submitted by HR Section.

193. Of course, there are cases where geographical representation is considered and reflected. In roster No. 5 consisting of six candidates, four of them are from over-represented States Parties, one from under-represented States Parties, and one from non-represented States Parties. These six candidates are all external candidates, and those who are placed by the panel as the first and the second according to the total scores are from over-represented States Parties. The hiring manager, however, requested two candidates from non- and under-represented States Parties for appointment. Also, the hiring manager involved in roster No. 10 requested a candidate from under-represented States Parties even though there was another candidate from over-represented States Parties who scored higher from the panel.

Table 38: Results of candidate selection from roster No. 5

Total score (rank)	Sources	Gender	Geographical representation	Selected
1	External	Male	Over-represented	
2	External	Female	Over-represented	
3	External	Male	Over-represented	√
4	External	Male	Non-represented	√
5	External	Male	Over-represented	
6	External	Female	Under-represented	√

194. On the contrary, there are other cases where geographical representation is not fully considered. Nine candidates from roster No. 6 were appointed in 2021. Two from over-represented States Parties were first requested for the appointment from this roster even though there were two other candidates from under-represented States Parties. That was the case even though these two from under-represented States Parties earned higher scores than the two from over-represented States. Moreover, the other two candidates from in balance States Parties were appointed before the two from under-represented States Parties.

195. In the case of roster No. 7, even though there were two candidates from under-represented States Parties, a candidate from in balance States Parties who earned the lowest score in the roster was requested for the appointment.

Table 39: Results of candidate selection from roster No. 7

<i>Total score (rank)</i>	<i>Sources</i>	<i>Gender</i>	<i>Geographical representation</i>	<i>Selected</i>
1	External	Female	Under-represented	
2	External	Female	In balance	
3	External	Female	Under-represented	
4	External	Male	In balance	√

196. In roster No. 8, there was a candidate from under-represented States Parties, but two other candidates from over-represented States Parties and one candidate from non-States Parties were requested for the appointment on the grounds that they were internal candidates. That was the case even though the total scores of those two candidates from over-represented States Parties were lower than that of the candidate from under-represented States Parties.

197. Four candidates from roster No. 9 were appointed in 2019. Two internal candidates from over-represented State Parties were requested for the appointments by the hiring manager even though there were two external candidates from under-represented State Parties with higher final scores. Also, an internal candidate from non-States Parties was subsequently requested for the appointment instead of those from under-represented State Parties.

198. Lastly, in roster No. 11, even though there were three male external candidates from non- and under-represented States Parties, one male candidate and one female internal candidate from non-States Parties were appointed to GTA positions.

199. Considering the inconsistency found in these sampled cases, it seems hard to believe that hiring managers pay due regard to geographical representation all the time.⁹² The final results do not seem to support the Court's explanation that geographical distribution, gender balance, and internal application are duly considered in selection process, and they suggest that geographical representation has not been considered properly as compared to the other two factors: gender balance and internal application.

200. It is noted that there have been efforts to improve geographical representation, but the audit reveals that more specific measures deem necessary to enhance the situation. For example, prioritising candidates from non- and under-represented States Parties at least in the selection from rosters, once those candidates are considered meeting the necessary requirements, can contribute to improving geographical diversity. It might also be an option to limit the discretion of hiring managers to a certain extent so that they are more mindful of geographical distribution.

Finding: Due consideration of geographical representation is not effectively given in the respective process of recruitment: panel composition, shortlisting, and selection of final candidates for appointments. Specifically,

- (a) One regional group is overly represented in panel composition, and candidates from non- and under-represented States Parties are not prioritized in shortlisting; and
- (b) Geographical representation is not duly considered by hiring managers as much as gender balance or internal application when providing recommendations in response to requests for candidates to be appointed from rosters.

⁹² This analysis of the sampled cases is based on the final results of each rostering process, and the appointments for established posts were not be considered. This analysis is limited in that it did not consider all possible situations that might occur in recruitment process, such as candidates on rosters did not wish to be hired or was no longer interested at the time of being recruited.

Recommendation 9: The External Auditor recommends the Court to:

- (a) compose panel striving for diversity of regions, where possible; and
- (b) strive to achieve meaningful outcomes toward the equitable geographical representation by employing various methods such as establishment of rules to prioritise candidates from non- and under-represented States Parties in the recommendation process by hiring managers in response to requests for candidates to be appointed from rosters.

VII. Conclusion

201. The External Auditor reviewed policies and processes regarding the use of temporary personnel of the Court, and the External Auditor identified a few areas that require attention of States Parties.

202. The Court uses a demand-based approach to budget for temporary personnel. The Court prepares the proposed Programme Budget based on expected staffing demands, and the CBF, an advisory body of the Assembly, deliberates on it. The External Auditor paid attention to the practice where the Court allocates more than what is needed for General Temporary Assistance (GTA) budget, and redeploys this overly allocated amount to fund the use of temporary personnel at its discretion without deliberation or approval of the Assembly. This practice might be necessary to reflect fluctuating and scalable nature of the Court's judicial operations; but it is obvious that this practice undermines transparency of budget preparation and makes it difficult to assess whether the budget has been implemented appropriately. Thus, the External Auditor hopes that the Court will ensure that this budget preparation practice will improve, as the weaknesses found in internal controls as well as external control by States Parties will be supplemented.

203. The External Auditor paid attention to the fact that while the Court and the CBF have expressed different views on whether the use of unapproved GTAs can be justified as a temporary measure to ensure business continuity, States Parties have not expressed a clear opinion on this. The audit confirmed that the justifications presented by the Court for the use of unapproved GTAs due to inevitable circumstances are not fully substantiated. It seems that procedural integrity and transparency in reporting might have been partially compromised, which are the core values that international organisations should pursue, considering that they are funded by contributions of States Parties. Thus, the External Auditor is of the view that States Parties and the Court carry out in-depth discussion on this matter as alternative measures might be necessary to ensure flexible management of human resources of the Court.

204. The External Auditor also noted the fact that discussion on reform of GTA was in place between the Court and the CBF from 2015 but stopped with no specific reasons. Back then, the Court requested conversion of long-standing GTA positions into established posts as a prerequisite for GTA reform, which was accepted by States Parties, thereby forming a consensus that the reform is to be completed by 2017. As of 2022, however, official movements to implement this plan such as publication of official documents or subsequent decisions have not been observed. What draws attention is that not only States Parties but also the CBF, which requested the reform in the first place, have not been urging the implementation of the plan. Inquiry was sent to the Court and the CBF for explanation on this, but the CBF has not provided a clear response.

205. Regarding geographical distribution, it is noted that efforts have been made such as coverage of the issue as agenda at working groups. The External Auditor, however, found that significant imbalance still exists in geographical diversity compared to other international organizations such the UN. This suggests that the measures taken by the Court have not worked well. Thus, fundamental changes seem necessary such as target setting, scope of application, and specific implementation plans in order to improve the level of geographical representation of the Court to a level internationally acknowledged. It is high time to develop policies that can produce effective results.

206. It is clear that temporary personnel is necessary to operate human resources of the Court in a flexible manner; but it must not be used as a means of circumventing States Parties'

control over the number of established posts. As the External Auditor concludes the performance audit for 2022, it needs to be noted that the opinions presented in this report are based on the audit performed on temporary personnel; any further application of the opinions to other areas that are outside the scope of this audit may require caution.

VIII. Acknowledgements

207. The External Auditor wishes to extend his sincere gratitude to the Director of the Division of Management Service of the ICC and staff members of the Human Resources and Budget Sections, for the cooperation and support during the audit.

APPENDICES

Appendix A: Opinion of the Court on the External Auditor's Recommendations

Recommendation 1 and 2

Opinion of the Court: As indicated by the External Auditors “While the budget increase has been limited to near Zero Real Growth Budgetary Envelope, both the staff budget and expenditure have increased more rapidly than the ICC’s overall budget and expenditure. In 2021, the staff expenditure takes up 77% of the total expenditure.” Accordingly, there is no “budgetary slack” as referred to in the finding above. The opposite is true, the Court needs more staff resources than those it has.

The External Auditors further find that “This might pose a risk to the financial sustainability of the Court, due to the rigid nature of the staff costs which is set to increase automatically in the long-term.” Precisely, one of the financial risks of a context in which the Court does not receive the resources it requires to fulfill its unavoidable judicial activities, is that of the artificial deprioritisation of vacant posts in order to sustain the services required elsewhere. Keeping posts vacant is a necessity and a measure of good governance, and a preventative budgetary measure, in order to avoid expenditure in a context of sustained liquidity challenges where the Court may not have sufficient resources to cover its needs by the end of the year.

The context should thus be understood: i) Liquidity challenges, ii) Reductions in the Court’s budget not consistent with its projected workload, iii) In-year staff increases for which no resources are provided. Faced with the necessity to ensure business continuity, with the need to contain expenditure in order to contain liquidity problems, and to reprioritize available vacancies in order to fund staff increases and judicial activities, the Court uses its flexibility to achieve this while guaranteeing its judicial independence. This does not mean the positions are not a priority, in fact, medium and long-term inefficiencies result from keeping many of these positions artificially vacant.

Recommendation 3

Opinion of the Court: There is already an existing separate commitment item for individual contractors that can be easily disclosed in the tables, in addition to the justifications and calculations already provided in the budget document narratives to the CBF and States Parties.

Recommendation 4

Opinion of the Court: The Court will prioritize the development and promulgation of an Administrative Instruction for GTA to address these issues.

Recommendation 5

Opinion of the Court: The Court provides detailed justifications for all GTA positions (new and continued) in the proposed Programme Budget. The External Auditors have not mention that the Court discontinue GTA positions from one year to another depending on operational needs.

The recommendation includes two different issues which should be separated:

Review existing GTAs to determine need for conversions. This is already done in the context of the PPB. It should be noted that frequently positions are created as GTA because the CBF recommends them as such despite they being requested as EP. The issue is complex, as it is not solely linked to function or duration.

Abolishing Established Posts that are no longer required is a continued practice of the Court already, it is not linked on whether GTA conversions are required, but on their own merit and in light of operational needs.

Recommendation 6

Opinion of the Court: The Court agrees to develop and promulgate an Administrative Instruction on duration and extension of fixed-term appointments funded against GTA.

Recommendation 7

Opinion of the Court: It should be noted that extending STAs always comes with justification for the consideration of either the Prosecutor or Registrar as appropriate at the stage of initial request. There is therefore no lack of justification, however, one could consider to document the reasons also again on the requests for extension, although this may seem to be redundant and inefficient.

Also note that the applicable STA policy allows for up to two years of contract when exceptionally approved by the respective appointing authority. The exercise of an inherent discretion does not need a justification if provided for by the policy. In other words, the discretion of the Registrar and of the Prosecutor already exists in the legal framework, it is not created by the policy, but regulated by it. Thus the application of the policy is already the regulated manner in which the discretion is exercised.

Recommendation 8

Opinion of the Court: The Court notes the reference to ICC-ASP/1/Res.10 (see below B.) and would like to ask for clarifications on its interpretation, particularly with reference to paragraph 4. In addition, the Court submits the comments of the consultants engaged for the review of the recruitment services for consideration of the External Auditors (see below A.)

A.

The recruitment process reviewers in their 2022 report have pointed out that, there is widespread confusion over the Court's priorities when it comes to recruitment.

It is thus of vital importance that the Court unambiguously clarify and communicate its strategic priorities and the interpretation of policies concerning recruitment and selection first and foremost from the ASP. In particular, the following should be emphasized:

- Article 44 Para. 2 of the Rome Statute interpretation in relation to recruitment and selection.
- The Court's stance of the recruitment from non-State Parties.
- The Court's position of its strategic (GRGB) priorities vs. career priorities.

Currently the Court lacks guidance from States Parties on what they want to achieve (GRGB, non-States Parties etc.). A clear clarification of policies and priorities will have a significant impact in the Court's GRGB outcomes as the ambiguity that currently exists provides shelter to those who wish to ignore or circumvent them.

B.

Resolution ICC-ASP/1/Res.10 Adopted at the 3rd plenary meeting, on 9 September 2002, by consensus ICC-ASP/1/Res.10 Selection of the staff of the International Criminal Court The Assembly of States Parties, Bearing in mind articles 44, paragraph 2, and 36, paragraph 8, of the Rome Statute of the International Criminal Court, whereby in the employment of the staff of the International Criminal Court the highest standards of efficiency, competency and integrity shall be ensured and account shall be taken of the need for the representation of the principal legal systems of the world, equitable geographic representation and a fair representation of men and women, Bearing in mind also article 50 of the Statute, according to which the official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish and the working languages shall be English and French, Noting that the Staff Regulations provided for in article 44, paragraph 3, of the Statute, embodying these principles cannot be enacted by the Assembly of States Parties before the second half of 2003, Desiring to set interim guidelines for the application of these principles during the transitional period of the establishment of the Court, Decides that the guidelines contained in the annex to the present resolution shall be applied in the selection and appointment of the staff of the Court until the Staff Regulations are adopted in accordance with the Statute. Annex to the resolution.

1. General principle. The requirements of article 36, paragraph 8, article 44, paragraph 2, and article 50, paragraphs 1 and 2, of the Statute shall apply to the recruitment of the entire staff of the Court, without any distinction as to category. However, with regard to geographical representation, the system described in paragraph 4 below shall apply only to staff in the Professional category (level P-1 and above).

2. Notifications. All vacancies to be filled, and requirements to be met by candidates to such vacancies, shall be notified to all States Parties and to those States which, having engaged in the process of ratification of or accession to the Statute, have expressed an interest in receiving such notifications. All such vacancies shall also be posted on the web site of the Court. Where appropriate in order to achieve a better balance in gender or geographical representation, such notifications may include preferential consideration of candidates of given nationalities or gender.

3. Competency. As a general rule, the competency of candidates shall be determined through an initial evaluation of their background and experience. This should, wherever possible and appropriate, include examples of the candidate's capacity of analysis and drafting ability in one or both of the working languages of the Court. This evaluation may, where appropriate, be of a competitive nature. The 347 ICC-ASP/1/3 second stage of the evaluation shall consist of an oral interview in one or both of the working languages. In the case of candidates from similar institutions, the initial evaluation may consist of an assessment of the candidate's experience and record in the releasing organization. This would be followed by an oral interview in one or both of the working languages. In both cases, knowledge of at least another official language shall be considered as an additional asset.

4. Geographical representation. For established (i.e., budgeted) posts, and in the case of appointments of at least 12 months' duration, the selection of staff in the Professional category shall be guided in principle by a system of desirable ranges based on that of the United Nations. Nationals from States Parties and from those States having engaged in the process of ratification of or accession to the Statute should have adequate representation on the staff of the Court; however, applications from nationals from non-States Parties may also be considered.

5. Selection Committee. The Director of Common Services shall establish a Selection Committee of not more than three individuals to provide advice on the selection of staff in accordance with these guidelines. The officer in charge of human resources shall be the convenor of the Committee.

Recommendation 9

Opinion of the Court: We are currently already applying this approach within the possible parameters and in alignment with the guidelines which state: if possible nationalities of panel members should represent several regional groups (emphasis added). Moreover, it is noted that during the initial Panel meeting, all panels members are reminded of the importance of paying particular attention to candidates from under- and from non-represented countries, and to ensure gender balance. Panels are asked to confirm that the candidates from under- and non-represented countries who were not shortlisted do not possess the skill sets required for the position and all is noted in the selection report for the Principal. As noted under recommendation 8, clarification from the ASP is needed on the interpretation and ideally coupled with a clear target setting for the purposes of all GRGB relates matters and priority treatments listed under ICC-ASP/1/Res.10.

Appendix B: List of long-term vacant GTA positions in APB 2021

Organ	Subprogramme	Grade	Duty station	Functional title	Work months	Vacant since
Judiciary	Chambers	P3	ICC	Legal Officer	12	2018
Judiciary	Chambers	P3	ICC	Legal Officer	12	2018
Judiciary	Chambers	P3	ICC	Legal Officer	12	2018
Judiciary	Chambers	P3	ICC	Legal Officer	12	2018
OTP	Immediate Office of the Prosecutor / Legal Advisory Section	P3	ICC	Special Assistant to the Prosecutor	12	2018
OTP	Services Section	P4	ICC	Reviser (Arabic)	12	2020
OTP	Services Section	P3	ICC	Translator	12	2018
OTP	Services Section	P3	ICC	Translator	12	2018
OTP	Services Section	P3	ICC	Translator	12	2018
OTP	Services Section	P3	ICC	Translator	12	2018
OTP	Services Section	P3	ICC	Translation Officer	12	2018
OTP	Services Section	P1	ICC	Assistant Translator	12	2018
OTP	Services Section	P1	ICC	Assistant Translator	12	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	4	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	6	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	5	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	4	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	4	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	6	2018
OTP	Services Section	GSOL	ICC	Administrative Assistant	12	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	6	2018
OTP	Services Section	GSOL	ICC	Field Interpreter	3	2018
OTP	Information, Knowledge and Evidence Management Section	GSOL	ICC	Disclosure/Search Assistant	1	2018
OTP	Information, Knowledge and Evidence Management Section	GSOL	ICC	Information Management Assistant	1	2018
OTP	Office of the Head	P3	ICC	International Cooperation Adviser	12	2018
OTP	Office of the Head	P3	ICC	Legal Officer - UN based (New York)	6	2020

Organ	Subprogramme	Grade	Duty station	Functional title	Work months	Vacant since
OTP	Deputy Prosecutor for Investigations	P3	ICC	Investigator	12	2019
OTP	Deputy Prosecutor for Investigations	P3	CAR	Operations Risk and Field Officer	1	2018
OTP	Deputy Prosecutor for Investigations	P2	ICC	Associate Investigator	12	2019
OTP	Deputy Prosecutor for Investigations	P2	ICC	Psycho Social Expert	6	2018
OTP	Deputy Prosecutor for Investigations	GSOL	ICC	Situation Specific Investigation Assistant	12	2019
OTP	Deputy Prosecutor for Investigations	GSOL	ICC	Analysis Assistant	1	2018
OTP	Deputy Prosecutor for Investigations	G6	UGA	Field Operations Coordinator	12	2018
OTP	Deputy Prosecutor for Investigations	G6	CIV	Field Operations Coordinator	12	2018
OTP	Deputy Prosecutor for Prosecutions	P5	ICC	Senior Appeal Counsel	1	2020
OTP	Deputy Prosecutor for Prosecutions	P1	ICC	Assistant Legal Officer	6	2018
OTP	Deputy Prosecutor for Prosecutions	P1	ICC	Assistant Legal Officer	6	2018
OTP	Deputy Prosecutor for Prosecutions	GSPL	ICC	Personal Assistant Deputy Prosecutor	12	2018
Registry	Office of the Director DMS	P3	ICC	Staff Counsellor	12	2020
Registry	Office of the Director DMS	GSPL	ICC	Senior Nurse	12	2019
Registry	Office of Public Counsel for the Defence	P3	ICC	Legal Officer	12	2018
Registry	Victims and Witnesses Section	P2	ICC	Associate Field Case Officer	12	2018
Registry	Country Office (Central African Republic)	G4	CAR	Senior Driver	12	2019
Registry	Country Office (Mali)	G5	MLI	Field Assistant (VPR)	12	2019
Registry	Country Office (Mali)	G5	MLI	Field Assistant Outreach	12	2019
Registry	Country Office (Mali)	G4	MLI	Senior Driver	12	2019
SASP	Conference	P5	ICC	Senior Legal Officer	0.5	2018
SASP	Conference	P4	ICC	Legal Officer	0.5	2018
SASP	Conference	P1	ICC	Special Assistant to the Director	12	2018
SASP	Committee on Budget and Finance	P3	ICC	Administration Officer	1	2018
STFV	TFV Secretariat	P4	MLI	Programme Manager	0.5	2019
STFV	TFV Secretariat	P2	MLI	Associate Field Programme Officer	12	2018

Organ	Subprogramme	Grade	Duty station	Functional title	Work months	Vacant since
STFV	TFV Secretariat	P2	DRC	Associate Field Programme Officer	12	2018
STFV	TFV Secretariat	G5	DRC	Field Programme Assistant	12	2019
STFV	TFV Secretariat	G5	DRC	Monitoring and Evaluation Assistant	0.5	2019
STFV	TFV Secretariat	G5	DRC	Monitoring and Evaluation Assistant	0.5	2019

* The list of approved GTA positions is only available since 2018. As such, a part of the GTA positions listed above might have been vacant since 2017 or before.

Appendix C: Geographical representation of Professional staff* by organ at year end from 2019 to 2021

(No. of staff)

Organ	Judiciary			OTP			Registry			Others		
Year	'19	'20	'21	'19	'20	'21	'19	'20	'21	'19	'20	'21
African	3	3	4	33	31	31	30	31	27	6	5	5
Asian	0	0	1	6	6	6	8	9	9	2	2	2
Eastern European	4	3	2	24	22	22	24	24	25	3	3	3
GRULAC	5	5	6	20	20	20	12	12	12	3	4	4
WEOG	31	30	34	169	162	151	121	116	112	8	11	12
<i>Non-Ratified</i>	7	5	3	37	37	37	25	23	20	5	5	5
Total	50	46	50	289	278	267	220	215	205	27	30	31

* It refers to Professional staff in established and GTA positions excluding elected officials and language staff.

Source: Data submitted by the ICC.

Appendix D: Geographical representation of higher level of Professional staff* at year end from 2019 to 2021

(No. of staff)

Grade	D1			P5			P4		
Year	'19	'20	'21	'19	'20	'21	'19	'20	'21
African	1	1	1	7	8	7	11	9	10
Asian	1	1	1	1	1	1	2	2	2
Eastern European	0	0	0	4	3	3	5	7	6
GRULAC	2	2	2	0	0	0	6	7	8
WEOG	5	5	5	30	28	27	43	42	45
Non-Ratified	0	0	0	2	2	1	11	11	11
Total	9	9	9	44	42	39	78	78	82

* It refers to Professional staff in established and GTA positions excluding elected officials and language staff.

Source: Data submitted by the ICC.