



Twenty-first session

The Hague, 5-10 December 2022

**Annual Report of the Head of the Independent Oversight
Mechanism****Executive summary**

Major Programme VII-5, the Independent Oversight Mechanism (IOM), was established by the Assembly of States Parties at its eighth session in accordance with article 112, paragraph 4, of the Rome Statute. The purpose of the IOM is to provide comprehensive oversight of the Court and enhance its economy and efficiency through its mandate to conduct independent internal administrative investigations, evaluations and inspections.

The present report outlines the activities undertaken by the IOM from 1 October 2021 to 30 September 2022. During this period, the IOM received 35 potential allegations of possible misconduct and initiated a detailed review of 25 of these. The IOM also issued two evaluation reports: one on the Strategic Plan of the Registry 2019-21, and a second on the Workplace Culture in the Judiciary of the Court. The IOM also continued to support the Court in the revisions of its regulatory framework through various administrative issuances, and the Assembly through the provision of input and technical expertise in discussions related to the assessment of the Independent Expert Review recommendations touching upon the work of the IOM. Finally, the IOM assisted with the formulation of due diligence processes and conducted such processes for the elections of elected officials.

I. Introduction

1. The present annual report is submitted to the Assembly pursuant to paragraph 38 of the IOM operational mandate (Resolution ICC-ASP/19/Res.6., Annex II), and covers the IOM's operations during the period from 1 October 2021 to 30 September 2022.

II. Policy matters

A. The Hague Working Group and Independent Expert Review

2. Like in prior reporting periods, the IOM continued to participate, where relevant, in meetings of the Bureau of the Assembly and its Working Groups, most notably the Hague Working Group facilitations on budget management oversight and on the review of the work and operational mandate of the IOM. During the period under review, the discussions in these facilitations focused on the assessment of recommendations from the report of the Independent Experts Review (IER) which touch upon the functions of the IOM. The IOM also participated in relevant meetings of the Review Mechanism.

B. Harmonisation of the IOM Mandate with the Regulatory Framework of the Court

3. The IOM continued to work with the organs of the Court to ensure that documents of the Court's regulatory framework are updated to align with the IOM mandate. In this reporting period, three Administrative Instructions closely related to the investigation function of the IOM were promulgated by the Court in close coordination with the IOM. They resulted from a Court-wide effort from all organs, and benefitted from the comments of the Staff Union Council and the Court's Focal Point for Gender Equality.

4. On 14 March 2022, the Court promulgated an Administrative Instruction on *Investigations of Unsatisfactory Conduct*, consistent with the operational mandate of the IOM. This instruction is the Court's first administrative issuance concerning the conduct of investigations into unsatisfactory conduct, consistent with the authority given to the IOM by the Assembly, and was prepared in accordance with best practices for administrative investigations in United Nations organisations. The instruction sets out in detail the rights and obligations of staff members involved in internal investigations, be they complainants, victims, witnesses or subjects, and specifies the methods of reporting suspected unsatisfactory conduct and the protections provided to individuals reporting such conduct or cooperating with IOM investigations, including in terms of confidentiality and protection from retaliation.

5. On the same day, the Court also promulgated an Administrative Instruction on *Unsatisfactory Conduct and Disciplinary Proceedings*, revising an earlier instruction dating from 2008. This revised instruction codifies the existing sequential practice whereby disciplinary matters are referred to the Disciplinary Advisory Board (DAB) only after the IOM has established the relevant facts. It further clarifies the role of the IOM and provides a more detailed framework for the suspension of staff from duty pending investigations or disciplinary proceedings. Together, the two instructions promulgated on 14 March 2022 expressly integrate the IOM into the Court's disciplinary framework.

6. On 6 April 2022, the Court promulgated an Administrative Instruction on *Addressing Discrimination, Harassment, including Sexual Harassment and Abuse of Authority*, updating two previous issuances dating back to 2005. This instruction was modelled on recent issuances in United Nations organisations, including the *UN System Model Policy on Sexual Harassment*, developed by a task force of the United Nations System Chief Executives Board for Coordination. In addition to providing specific guidelines for the conduct of investigations concerning alleged discrimination, harassment or abuse of authority, the instruction establishes a more robust framework for prevention and deterrence, and includes detailed provisions for support of any individual affected by such conduct.

7. The 6 April 2022 instruction extends protection not only to staff members but also to all internal and external parties coming into contact with the Court. It does not apply, however, in cases where the potential perpetrator of any such conduct is an elected official. The IOM therefore asked all elected officials to voluntarily sign a declaration of intent stating that they would refrain from engaging in the behaviour proscribed by the Administrative Instruction, in an effort to hold elected officials to the same standard as applicable to staff members, consultants and contractors in that respect. The Court's 22 elected officials have all now executed this declaration. On 7 October 2022, the judges of the Court went one step further and amended the Code of Judicial Ethics to explicitly make themselves accountable under both the Administrative Instruction on *Addressing Discrimination, Harassment, including Sexual Harassment and Abuse of Authority* and the Administrative Instruction on *Investigations of Unsatisfactory Conduct*, where applicable.

8. The IOM is also actively supporting the Court in the development of further issuances that are currently under consideration. These include the Court's first Administrative Instruction on the Prevention of Sexual Exploitation and Abuse, and a new Presidential Directive on Whistleblowing and Protection from Retaliation.

III. Summary of IOM Activities

A. Investigations

9. During the reporting period, the IOM pursued its core mandate of providing oversight to the Court by assessing allegations of potential misconduct. When the allegation falls within its mandate, *i.e.*, the facts alleged, if found to be true, would amount to misconduct, the IOM ordinarily conducts a Preliminary Assessment of the allegation and formally records the matter as a case. A Preliminary Assessment determines whether the allegation merits a Full Investigation, taking into account its credibility, materiality, and verifiability.

10. The IOM also continued to meet with individuals who wished to discuss potential complaints and seek the IOM's guidance in terms of the applicable process, should a formal complaint be made. When such a consultation did not lead to a formal complaint, the matter was considered closed at intake and not recorded as a "case" in the IOM records.

(i) Statistics

11. During this reporting period, the IOM received **35** matters, of which **10** were closed at intake and **25** led to the opening of a case. More specifically, of the ten matters closed at intake, seven were duplicative of allegations previously received, two were consultations which did not lead to formal complaints, and one did not fall within the IOM's mandate because it concerned managerial issues rather than alleged misconduct.

Table 1: IOM's Investigative Caseload, 1 October 2021 to 30 September 2022

New Matters Received (total: 35)	<ul style="list-style-type: none"> • Allegations closed at intake: 10 • Cases closed after Preliminary Assessment: 15 • Preliminary Assessments pending: 6 • Full Investigations initiated: 3 • Other: 1*
Cases carried over from last reporting period (total: 13)	<ul style="list-style-type: none"> • Cases closed after Preliminary Assessment: 8 • Preliminary Assessment Pending: 1 • Full Investigations: 4
Full Investigations (total: 6)	<ul style="list-style-type: none"> • Completed: 4 • Ongoing: 3**

* The referral received by the IOM already included all material facts established (see *infra*).** One investigation is being carried out by the Registrar following an IOM Preliminary Assessment.

12. Included in these statistics are twelve matters referred to the IOM by the Prosecutor based on a report of the *Ad Hoc* External Advisory Panel on Work Culture for the Office of the Prosecutor. The special process adopted by the IOM for these matters is detailed in the following section.

13. Of the 25 cases received from across the Court during the reporting period, 14 concern allegations of harassment, including sexual harassment and/or abuse of authority, three allegations of fraud, two undisclosed conflicts of interest and one case of sexual exploitation and abuse. Two of the allegations were against elected officials of the Court, one of which was found to be manifestly unfounded pursuant to Rule 26(3) of the Rules of Procedure and Evidence, and the other is still pending a Preliminary Assessment by the IOM.

(ii) ***Ad Hoc External Advisory Panel on Work Culture for the Office of the Prosecutor***

14. In August 2021, the Head of the IOM met the Chair of the newly-commissioned *Ad Hoc* External Advisory Panel on Work Culture for the Office of the Prosecutor (Panel), to discuss the regulatory framework of the Court and the available avenues for the Panel's work, which would not impinge upon the investigation mandate of the IOM. The IOM had one further meeting with the Panel in November 2021, but was not otherwise involved in the Panel's work.

15. On 10 March 2022, the Prosecutor forwarded to the IOM the Panel's report entitled "*Individual Allegations of Harassment, Sexual Harassment, Discrimination, Retaliation, and Other Serious Misconduct in the Office of the Prosecutor*". The report comprised 142 pages and outlined allegations of "Serious Misconduct" against 12 current and former staff members of the Office of the Prosecutor (OTP), the vast majority of them senior staff, based on summarised accounts by OTP personnel, which were set out in the report.

16. For one of these 12 cases, the Panel recommended that the Prosecutor exercise his functions of managerial interventions and performance management to address the issue; the IOM concurred with this recommendation.

17. In two other cases, the matters outlined were already the subject of past or ongoing IOM investigations. Accordingly, no separate action was initiated by the IOM with respect to these two matters.

18. As to the remaining nine matters, which would ordinarily have been considered allegations of misconduct for which a Preliminary Assessment would be initiated, the IOM opted for a different approach in consideration of the circumstances under which the information was received by the Panel and the IOM's commitment to its victim-centred approach. In particular, the IOM was mindful that the Panel report noted that a number of personnel, whom the Panel had interviewed, were reluctant to make a formal complaint or, otherwise, to consent to having their information used in an IOM investigation. In addition, the accounts provided by these persons took the form of unsigned summaries. In these circumstances, the IOM felt it more prudent to conduct preliminary work, which included approaching the individuals listed in the Panel report with a view to better understand their interest in participating in an IOM investigation, before undertaking further investigative work. In doing so, the IOM contacted over 40 potential complainants, roughly half of whom were explicitly named in the Panel report, while the others were identified through standard investigative activities. Indeed, most of these personnel expressed surprise that their account was now with the IOM, as they had understood that their information had been provided to the Panel in full confidence and had expected it to be shared only with the Prosecutor, with a view to identifying possible systemic issues regarding the working culture in the OTP.

19. Following this initial outreach to potential complainants, the IOM closed four out of the nine cases for lack of sufficiently credible evidence and/or based on the unwillingness of the relevant complainants to come forward and provide evidence as part of a formal IOM investigation.

20. In two cases, the IOM considered that the allegations were sufficiently credible, material and verifiable and would have initiated a Full Investigation, but for the staff members allegedly responsible for misconduct having since separated from the Court. One staff member separated prior to being informed of the allegations, and was therefore unaware

of them, while the other tendered their resignation to the Prosecutor upon being suspended by him pending investigation on the basis of the information in the Panel report. In both cases, the IOM recommended that a note be placed in the relevant staff members' personnel file, indicating that they separated while allegations of misconduct were pending before the IOM and that the IOM was to be informed should these individuals seek employment at the Court in the future, so as to consider whether to open a Full Investigation at that time. The Prosecutor has informed the IOM that he is favourably considering the recommendations and action is being taken towards their implementation.

21. The three remaining cases are currently pending before the IOM. One case against a current staff member is, at present, undergoing a Full Investigation. Two further are still under review by the IOM, as they concern former staff members of the Court.

22. No further information regarding these cases is provided in this report. Once the IOM's review of all cases arising from the Panel report is completed, a separate IOM report concerning the totality of those cases will be issued.

(iii) Pending Disciplinary Process

23. In its report last year, the IOM identified one investigation, set out below, in which allegations of misconduct had been substantiated against a staff member and where the disciplinary process had not yet been completed.

i. Undisclosed Conflict of Interest, Favouritism and Breach of Confidentiality

24. The IOM received allegations regarding an undisclosed conflict of interest and favouritism on the part of a staff member in the selection of an external party. On **29 September 2021**, the IOM completed its investigation and substantiated the allegations, finding that a conflict of interest existed and had not been duly disclosed, and that the relevant staff member's actions gave rise, at a minimum, to the perception of preferential treatment. The IOM further found that there had been past selections of this same external party with the same conflict of interest existing, and not having been disclosed. The IOM found that the failure to disclose the conflict was exacerbated by the fact that the relationship giving rise to the conflict was also not disclosed, and in fact had been actively concealed, precisely in order to avoid any obstacles in the selections of this external party. The IOM also found that the staff member had used their knowledge and position to favour the previous selections of the external party and had distributed confidential Court documents to the external party.

25. Upon receiving the IOM investigation report, the Registrar suspended the staff member pending the disciplinary process. Given the "gravity of the case compounded by multiple violations" of the Court's regulatory framework, the majority of the panel of the Disciplinary Advisory Board (DAB) recommended that the staff member be demoted with incremental step removals from the staff member's salary.

26. The Registrar concurred with the IOM's findings and conclusions. Considering the "unsatisfactory conduct at issue to be undeniably serious on account of its nature and persistence over several years", and that it "risk[ed] compromising the image, reputation and integrity" of the Court, among other, the Registrar decided, on **1 April 2022**, to **summarily dismiss** the staff member with immediate effect.

(iv) Investigations

Substantiated Allegations and Disciplinary Action

i. Breach of Confidentiality and Failure to Observe the Standards of Conduct for International Civil Service

27. The Prosecutor referred to the IOM allegations that a staff member from his office had violated their confidentiality obligations by disclosing confidential information to individuals external to the Court. The referral also included allegations that the staff member did not follow the Prosecutor's instructions concerning meetings with external parties. The

Prosecutor suspended the staff member upon receiving the report of possible unsatisfactory conduct, pending an IOM investigation. On **23 December 2021**, the IOM concluded its investigation. It found that the staff member had failed to show proper “[d]iscernment and vigilance regarding all communication that may raise issues of confidentiality, particularly communications with persons outside of the Court”, as required by the Staff Regulations of the Court and the Code of Conduct of the Office of the Prosecutor. The IOM further found that statements made by the staff member to external parties may also have violated the staff member’s duty of loyalty. The IOM recommended that disciplinary proceedings be initiated on this basis. It did not consider, however, that the instructions of the Prosecutor in terms of meeting external parties constituted an administrative issuance of the Court whose disregard could amount to misconduct, and therefore made no factual findings on this issue.

28. The DAB, to which the matter had been referred, also found that disregard of the Prosecutor’s instructions with respect to meeting external parties were not a disciplinary matter but one of performance management. However, and contrary to the IOM report, the DAB found that “the evidence [did] not support a finding that the Staff Member breached confidentiality obligations”. It added that “[a]t most, the Staff Member’s conduct was indiscreet and the most appropriate sanction [after the matter was reported] would have been for the Prosecutor to reprimand the Staff Member”. It therefore recommended that no further action be taken.

29. On **8 July 2022**, upon consideration of the IOM investigation report and the DAB panel report, the Prosecutor concluded that “the gravity and totality” of the conduct constituted “serious misconduct”, the nature of which had “irretrievably and permanently broken the relationship of mutual trust and confidence between the [OTP and the staff member] such that continued service with the Office...[was] neither practical nor possible”. The Prosecutor accordingly **summarily dismissed** the staff member with immediate effect.

ii. Fraud and Misappropriation of Funds

30. The IOM received allegations regarding missing funds in the amount of approximately €4,500 in a Country Office. The IOM fielded a mission and concluded its investigation on **11 February 2022**, finding that while there was insufficient evidence of fraud, the relevant staff member had been grossly negligent and responsible for the loss of funds. The IOM recommended that disciplinary action be taken with respect to the staff member.

31. The DAB concurred with the IOM’s findings, concluding that the staff member’s “ignorance to abide by the accounting rules throughout a prolonged period and mindful of accounting problems from at least April 2020 onwards, show a level of carelessness and misunderstanding of [their] tasks and responsibilities which is cause for concern.” The DAB accordingly recommended that the staff member be terminated. The Registrar agreed with the findings of the IOM and the DAB’s assessment of them, however, taking into account mitigating circumstances such as the absence of fraud or malice and the lack of oversight at that time, imposed, on **17 October 2022**, the sanctions of **written censure, loss of two within-grade increments, and a fine of 500 euros**. The Registrar also required the staff member to **reimburse** the Court for the financial loss, as contemplated in the Staff Rules.

iii. Abuse of Privileges

32. The Registrar referred to the IOM allegations that a staff member had abused their privileges as an international staff for personal purposes. On **11 February 2022**, The IOM found that there was no need for a further investigation, as the facts contained in the Registrar’s referral appeared to have already been established and amounted to an “abuse of privileges and position by an international staff, which by the personnel’s own admission was deliberate, and jeopardised the Court’s reputation and relationship with [the host country]”. The Registrar decided to refer the matter to the DAB based on these facts.

33. The DAB, taking into account mitigating circumstances such as the “demonstrated remorse” of the staff member and their understanding of the gravity of their actions, recommended that a written reprimand be issued, with no need for a disciplinary measure. The Registrar agreed with this recommendation, and on **4 July 2022**, imposed a written reprimand.

Selected Allegations Closed Without a Recommendation for Disciplinary Action

i. Mistreatment of Witness

34. The IOM reviewed allegations that a staff member had mistreated a witness of the Court. The IOM investigation found insufficient evidence to support the specific allegations made, but noted a number of concerns regarding the way in which the witness had been treated, which may have violated the Court's duty of care towards the witness. The IOM accordingly recommended to the Registrar that the matter be reviewed both by his legal office and by external parties with expertise on the subject matter, to assess whether there were any violations of the duty of care.

ii. Fraud in Legal Aid

35. The IOM received several allegations, from the same source, regarding reported fraud in the administration of legal aid funds, in particular in the area of financial investigations and indigency determinations. Following a Preliminary Assessment, the IOM did not find any credible evidence of fraud, in that no staff member appears to have made any misrepresentations that knowingly misled, or attempted to mislead, a party in order to obtain any financial or other benefit, or to cause a loss or avoid an obligation. Nevertheless, the IOM provided its report on the matter to the External Auditors, who will carry out a performance audit of the legal aid system with a view to providing recommendations to strengthen the legal aid process and rendering it more efficient and effective.

iii. Threats to potential victims

36. The IOM received allegations that a staff member in a Country Office had interfered with the appointment of counsel for the victims in one of the cases before the Court. The complaint alleged that, in addition to pressuring victims to retain a counsel they did not want, the staff member had also threatened them. The IOM conducted a field mission to review these allegations, and found no evidence of any pressure from the staff member regarding counsel selection. It concluded that much of the issues arose from a lack of understanding regarding the counsel selection and appointment process. The alleged threat also appeared to have been based on a misunderstanding. The IOM engaged with both the victim and the staff member and, since both were open to resolve the issue by a conciliatory process, it recommended that the Registrar conduct such a process as soon as possible.

B. Evaluation

37. An evaluation is an independent, rigorous, impartial, systematic and objective assessment of the relevance, effectiveness, efficiency, impact and sustainability of an activity, project, programme, strategy, policy, topic, theme, sector, operational area or institutional performance. It considers intended, as well as unintended, positive and negative consequences, and assesses what works well and less well. Its results are intended to be useful for decision-making and overall organisational accountability and learning.

38. During this reporting period, the IOM issued two evaluation reports, namely, (i) Evaluation of the International Criminal Court Registry's Strategic Plan 2019-2021; and (ii) Evaluation of the Workplace Culture in the Judiciary. The evaluation reports have been internally published on the IOM intranet site, which contains specific recommendations and management action plans as detailed in the reports themselves.

39. The IOM is currently working on the preparation of its 2023 evaluation work programme, to be presented to the Assembly at its 21st session.

(i) *Evaluation of the Registry's Strategic Plan 2019-2021*

40. On 20 December 2021, the IOM issued its final report on the evaluation of the Registry Strategic Plan (RSP) 2019-2021. This independent evaluation assessed the performance of the Registry in achieving its planned results during the RSP 2019-2021 and

the implementation efficiency of the strategic results, including gender-sensitivity. In addition, lessons learned and best practices were drawn from the operational context in which the strategic plan was delivered, taking into account the challenges posed by the restrictions caused by the global COVID-19 pandemic.

41. The evaluation considered the vision of the strategic direction of the RSP, including the 41 tasks, structured around continuous improvement, increasing staff engagement, geographical representation and gender balance. At the outset, the evaluation noted staff appreciation of the vision and goodwill of the Registrar to bring improvements in the Registry, and perceived that the RSP had provided a structure for prioritisation and performance management, facilitated a reporting culture, and included continuous improvement elements.

42. The evaluation found certain other elements of the RSP were less favoured among staff, namely that too many commitments were made with little time to plan and there were inconsistencies in key performance indicators across the various reporting systems. Substantial engagement in further activities needed to be taken into account in the interpretation of the progress of the RSP at all stages: these included the crisis management of the COVID-19 pandemic, the sanctions imposed on the Court from the United States government, the questions surrounding the liquidity issues facing the Court, as well as additional reporting with regard to the IER during the strategic cycle. The evaluation also revealed that many of the tasks found in the RSP that were not implemented in a timely manner were in fact held up at inter-organ consultations, by the Committee on Budget and Finance and/or the Assembly, and were part of the broader mechanism created to assess and implement the IER recommendations. It was however noted that tasks fully under the Registry's control were completed at an early stage of the cycle and before the onset of the pandemic.

43. The approach and adaptations made by the Registrar during the three-year cycle were found, overall, to be coherent. A number of high-level commitments were made during this period in terms of gender equality, including the establishment of a Focal Point on Gender Equality. Existing projects, while small in scope and fragmented, were found to be promising. The Strategy on Gender Equality and Workplace Culture for the International Criminal Court is expected to address these and other shortcomings.

44. A number of lessons were drawn from the experience of implementing the RSP, including that additional time invested in the formulation and planning of the RSP would have been beneficial in the long-term, that the expectations of staff needed to be managed continuously and that staff were able to adapt to challenging situations and remote work arrangements. Best practice included the processes and tools created and applied for the reporting and monitoring of progress, the continuous improvement element and process instigated as part of the RSP and the overall approach to adapt and re-prioritise the implementation of the RSP to respond to external circumstances.

45. The IOM issued ten recommendations, which were all accepted except for one that was partially accepted based on a rationale that the IOM considers understandable. An action plan was prepared by the Registry, and the IOM will monitor the implementation of these recommendations going forward.

(ii) *Evaluation of the Workplace Culture in the Judiciary*

46. On 30 June 2022, the IOM issued its report on the Independent Evaluation of the Workplace Culture in the Judiciary. This evaluation was requested by the President of the Court in response to the findings in the IER report and the 2018 Staff Engagement Survey, which highlighted specific issues of concern with respect to trust, staff welfare, morale and engagement in the Judiciary. The evaluation request was subsequently considered and formally requested by the Bureau of the Assembly.

47. The evaluation assessed the extent to which the specific issues and dynamics raised in the IER report and the staff engagement survey contributed to the existing workplace culture in the Judiciary. It focussed primarily on the lived experiences of judges and personnel on selected dimensions of the Judiciary's culture. Given the sensitive nature of the assessment, data was collected and analysed as part of an iterative approach, by means of in-

depth, confidential individual interviews with judges and staff, as well as focus group meetings. The process was highly participatory, with 80% of staff and all 18 judges having been involved in the initial round of consultations. The process was also intentionally iterative, allowing for evaluation findings to be regularly tested and validated through continuous feedback.

48. Overall, the evaluation found that there exists a strong desire amongst both judges and staff to improve the work environment in the Judiciary, a shared common aspiration where everyone contributes in an efficient and effective way to the pursuit of international criminal justice, as part of a well-resourced Judiciary with a well-functioning management system.

49. The evaluation uncovered structural deficits in the Judiciary's management system characterised by ineffective role clarity, both for staff and judges, and an overall lack of dialogue, which was acknowledged as affecting staff morale and performance and has created a sense of hopelessness in effecting change. The evaluation also found that there existed a perceived atmosphere of impunity created over many years with regard to harassing and bullying behaviour from judges. In addition, a general lack of accountability of staff transpired, due to ineffective performance evaluations, creating a perception that there are no consequences for underperformance, and undue pressure for staff who perform, as they receive additional workload due to their good performance.

50. The evaluation also found a strong desire by participants for a comprehensive welcome and induction to the Court for judges upon joining, to include training on how to manage trials and personnel; judicial independence; work methods and ethics; intercultural communication and management. Such a comprehensive welcome to the Court was seen as necessary to facilitate the human connection required to build camaraderie and collegiality amongst colleagues.

51. Although staff demonstrated awareness of the IOM investigation mandate, there was reluctance to formally report matters to the IOM for fear of retaliation. Some judges have embarked on an initiative simultaneous to the evaluation process to provide for an informal resolution mechanism for complaints about judges' behaviour. The IOM welcomed this initiative intended to contribute towards strengthening the accountability framework of judges and provided feedback from the evaluation intended to assist in the development of this initiative.

52. The evaluation made four recommendations and annexed a declaration (referred to above) to be signed by judges to the effect that they agreed to be bound by the Administrative Instruction on *Addressing Discrimination, Harassment, including Sexual Harassment and Abuse of Authority*.

(iii) *Strengthening the Evaluation Mandate*

53. The IOM's revised operational mandate brought two significant improvements strengthening the evaluation function, and specifically its independence and accountability. The evaluation function can now develop annual evaluation workplans on its own accord if no requests are received, and publish evaluation reports on the Court's internal website to inform stakeholders about the achievement of results (accountability) and what works well and what needs improvement (learning purpose).

54. In this regard, the IOM has embarked on an evaluation strategic plan, to incrementally build both the internal capacity and demand for evaluations, mindful of the limited evaluation resources at the disposal of the IOM. The intended outcome of the strategic plan is to (i) enhance the visibility and dissemination of evaluation results; (ii) conduct targeted outreach at Headquarters and Country Offices; and (iii) conduct follow-up on evaluation recommendations, including in the Review Mechanism context.

55. Consultations to raise awareness of the evaluation function and to stimulate evaluative thinking and culture at the Court took place during the reporting period, and are ongoing. In addition, a policy document on evaluation principles, aligned with the norms, ethical guidelines and standards of the United Nations Evaluation Group, was prepared by the IOM and published on the Court's internal website. The policy outlines the key principles guiding evaluations conducted by the IOM and is aimed at informing stakeholders of the values

underlying IOM evaluations. It is also intended for use by representatives of any other office that may be engaged in conducting decentralised evaluations, who are encouraged to apply the above principles in an effort to promote credible, impartial and high-quality evaluations harmonised with the centralised evaluations conducted by the IOM.

(iv) *Other Evaluations Conducted Outside of the IOM*

56. According to its mandate, the IOM is the custodian of all evaluations at the Court, including those in which it is not involved, and should thus receive information on any such internal evaluations planned and completed.

57. During the reporting period, the IOM was made aware of the planning and commissioning of two independent evaluations in the Trust Fund for Victims (TFV) on the implementation of reparations in the *Katanga* and *Lubanga* cases. In this regard, the Executive Director of the TFV issued a statement in August 2022 announcing the evaluation in the *Katanga* case to stakeholders and introducing an evaluation team consisting of social science, law, economics and public health experts from the University of Edinburgh, including supervised field research assistants.

C. *Inspection*

58. An inspection is a special, unscheduled, on-the-spot verification of an activity directed towards the resolution of problems, which may or may not have been previously identified. No inspection activities were conducted during this reporting period.

D. *Other Activities*

(i) *Due Diligence Processes for Elected Officials*

59. In July 2021, the Presidency of the Assembly and the Prosecutor, in consultation with the IOM, agreed on a due diligence process to be conducted with regard to candidates for the position of Deputy Prosecutor. This process envisaged the IOM assisting the Prosecutor in the conduct of an “in-depth background check”, and for the IOM to handle any allegations of past misconduct against any of the shortlisted candidates before the elections. On 18 November 2021, the IOM presented its report to the President of the Assembly and the Prosecutor. The IOM found that none of the allegations it received credibly amounted to misconduct as defined in the agreement, and consequently there was no evidence that any candidate may not be of high moral character, as required by the Rome Statute.

60. At its twentieth session, the Assembly requested the Bureau to “establish a due diligence process [...] for candidates for Registrar in consultation with the Presidency of the Court and the [IOM], to assist in the determination of the criterion of ‘high moral character’ as required by article 43, paragraph 3, of the Rome Statute.” On 8 June 2022, the Bureau adopted the proposal made by the Presidency of the Assembly, entrusting the IOM to conduct this process in two parts: first, review of background information with the support of relevant sections of the Registry; and, second, the creation of a confidential channel to receive allegations of past misconduct against any of the shortlisted candidates and review of these allegations. This process built upon the lessons learnt from the process concerning the election of Deputy Prosecutors and benefited from the contributions of civil society.

61. The due diligence process with respect to the Registrar election is currently ongoing, and the IOM will submit, by 30 November 2022, a report to the Presidency of the Court and the Presidency of the Assembly regarding any concerns it may have identified with respect to the high moral character of any of the shortlisted candidates.

(ii) *Outreach Activities and External Collaborations*

62. The IOM continued to conduct information sessions in country offices during missions, and with new staff as part of the Court’s induction programme, to ensure that field staff and new recruits are aware of the existence of the IOM and its mandate. With the

cooperation of the Human Resources Section, the IOM has extended these trainings to interns and visiting professionals, and will begin holding these sessions in a more regular fashion.

63. The IOM also continued to actively participate in meetings of oversight bodies of United Nations organisations such as the United Nations Representatives of Investigation Services, the United Nations Evaluation Group, the European Evaluation Society and the Conference of International Investigators. Representatives of the IOM played an active role in these meetings, exchanging ideas and best practices. In particular, the IOM's Senior Evaluation Specialist contributed (and continues to contribute) significantly in the areas of peer review and ethics in evaluation.

IV. IOM Staffing and Administrative Matters

64. The IOM continues to fulfil its broad and demanding mandate with a limited team. Its evaluation function is led by one staff member at P-4 level, and the IOM has developed, with the assistance of the Human Resources Section, a Junior Professional Programme profile to enhance the capacity of this function. It is now looking to states parties for support in this endeavour.

65. On the investigations side, the IOM continues to be staffed by two staff members (one Senior Investigator at the P-4 level and one Investigator at the P-3 level), both holding GTA positions. The Investigator position is a new one granted by the Assembly in its twentieth session, and was filled in August 2022 following a competitive recruitment process. The IOM has requested, in its 2023 proposed programme budget, that the position of Senior Investigator be regularised and converted into an established post, after now three years of demonstrated need for the position, which would also further strengthen the independence of the function. Finally, the IOM is in the final stages of its recruitment process for the position of Associate Investigator at the P-2 level, and hopes that the selected candidate will be able to join the team at the beginning of 2023.

V. Final remarks

66. In accordance with paragraph 39 of the IOM operational mandate, the IOM has circulated a draft of this annual report to the Heads of Organs, giving them the opportunity to provide comments for the IOM's consideration. The comments received were duly considered and incorporated in this report where appropriate. As contemplated in the above-referenced paragraph, the Heads of Organ were also informed of the opportunity to provide their views in an annex to the report, and none of the Heads of Organs indicated a desire to do so.
