



Twenty-first session of the Assembly of States Parties

The Hague, 5-10 December 2022

Briefing by

Mr. Aiman Hija, Vice-Chairperson

Audit Committee

World Forum, King Willem Alexander room

7 December 2022, 10:00 – 11:30

Madam President,

Your Excellencies and Distinguished delegates,

Ladies and gentlemen, I would like to thank you for the opportunity to address you today and to present the main outcomes of our discussions at the fifteenth and sixteenth sessions of the Audit Committee (“AC” or “the Committee”).

May I also take this opportunity to reiterate my appreciation to my colleagues from the Committee for their devotion and hard work, and to the representatives of the Court for their participation and valuable contributions. I would like also to thank our Executive Secretary and his team for their consistent hard work and effective support to the Committee throughout the year, upon which we rely.

The first session was held virtually as a consequence of the restrictions, from seventh to ninth of March, coordinating different time zones and limiting the topics of discussion and the second session was held in The Hague, from 18th to 20th of July.

I will now briefly summarize the main discussions held during the fifteenth and sixteenth sessions of the Committee, as captured in its final reports issued on 7 April and on 8 September 2022 respectively.

I. UPDATE ON THE WORK OF THE AUDIT COMMITTEE IN 2022

Madam President,

The Committee focused at its two sessions on: (a) governance; (b) oversight of internal and external audit matters; (c) risk management; and (d) values and ethics.

a. Governance

The Committee was pleased to see that the new Surface Transport Manual was included information on vehicle leasing reflecting the Committee’s recommendation.

The Committee discussed the upcoming expiry of terms of office of three AC members, two of whom will complete their second term at the end of 2022 and explored steps, timelines and formalities to be followed for the selection process. On behalf of the Committee, I would like to extend our appreciation to Mr. Samir Abu Lughod and Ms. Elena Sopková for their dedication and professional work. The Assembly was recommended to approve the re-appointment of Ms. Clarissa van Heerden (South Africa), as well as for the appointment of Mr. Fayezul H. Choudhury (Bangladesh) for a term of three years starting on 1 January 2023.

b. Oversight of internal audit matters

As part of its oversight of internal audit matters, the Committee discussed: (a) the Audit reports of the Office of Internal Audit (“OIA”); (b) the fleet management policy; (c) the Status of implementation of the 2021 and 2022 Internal Audit Plan; (d) the reassessment of the 2022 Internal Audit Plan; and (e) draft work plan for 2023.

The Committee raised a number of recommendations to enhance the quality of the internal audit reports. The Committee noted with concern the continued delayed in the audit submissions and recommended the OIA to put in place contingency plan to overcome such delays by applying an agile approach to audits.

Following the current delays on the status of implementation of the Internal Audit Plan for 2022, the Committee reiterated its concern about the low implementation levels of the Internal

Audit Plan, which is a recurrent matter every year. The AC further noted that the second quarter update showed a reduction of two out of ten audit assignments from the 2022 internal audit plan with no justification.

The Committee largely noted the lack of specific time frame agreed with the Court on addressing and implementing each of the recommendations raised by the OIA.

c. Oversight of external audit matters

As part of its oversight of external audit matters, the Committee discussed: (a) the Financial Statements of the Court for the year 2021; (b) the Financial Statements of the Trust Fund for Victims (“TFV”) for the year 2021; and (c) the External Auditor’s report on Temporary Personnel.

With regard to the Financial Statements of the Court and of the TFV for the year 2021, the Committee observed that based on the opinion of the External Auditor, the financial statements present fairly, in all material respects, the financial position of the Court and the TFV as at 31 December 2021, and the financial performance, the changes in net assets/equity, cash flow and the comparison of budget and actual amounts for the year end in accordance with the International Public Sector Accounting Standards. The External Auditor issued five recommendations for the financial statements of the Court and two recommendations for the financial statements of the TFV. The Committee is concerned that the External Auditor had identified gaps in internal controls that were not identified by the OIA, and therefore recommended the OIA to focus more closely and thoroughly on the internal controls in place and whether they are working effectively. The Committee recommended that the Assembly approve the Financial Statements of the Court and the Financial Statements of the TFV for the year ending 31 December 2021.

With regard to the Audit report of the External Auditor on Temporary Personnel, the Committee noted that the External Auditor issued nine recommendations. The AC noticed that there seems to be a great challenge around broader human resources and talent management together with capacity planning, and recommended that the report be considered by the Committee on Budget and Finance, as it is related to human resources and budget areas.

d. Risk management

Throughout 2021, the Court carried out risk management activities following a structured approach, in accordance with the administrative instruction on risk management. The Risk Management Committee (“RMC”) engaged with managers of the Court and collected and considered status updates on risk registers at the operational level. In addition, the RMC liaised with the owners of the Court’s strategic risks and updated the Court’s risk register.

The Committee noted the overall improvements in terms of assessment and presentation and further noted that additional areas in the audit assessment had been included as recommended previously by the AC, and recommended that the OIA include “Risk appetite” in its future risk management assessment of the Court.

e. Values and Ethics

The Committee noted that the work on the Charter took into consideration the relevant policies concerning harassment, sexual harassment and abuse of authority and also the Policy on Sexual Exploitation and Abuse. The Committee continued to monitor the on-going work on the development of the Court-wide Ethics Charter, which run until September 2022 and was followed by a thorough analysis and proposal submitted to the Court’s Coordination Council (“CoCo”).

II. IER RECOMMENDATIONS

The Committee continued to monitor the assessment of the recommendations of the Independent Expert Review that directly impact the mandate of the Audit Committee, i.e. IER recommendations 135, 366, 367, 368 and 370.

On **recommendation 135**, the Committee noted that the BMO focal point had extended the application of this recommendation –initially addressing only the CBF– to the Audit Committee. The Committee observed that the agenda item are in line with the mandate established in its Charter and emphasized that the Charter reflect the best practice and is in accordance with the Guidelines of the Institute of Internal Auditors.

On **recommendation 366** concerning the merger of the CBF and the AC, the Committee noted that the recommendation was negatively assessed at the BMO facilitation and that it should not be implemented and that States Parties emphasized that the two Committees have different mandates.

On **recommendation 367**, concerning the change of the reporting line of OIA to the CoCo instead of to the AC, the Committee noted that while the recommendation was initially positively assessed during the third BMO meeting, at its eighth BMO meeting States Parties decided to continue the discussion during 2023.

The Committee recalled that during the third BMO meeting, held on 8 July 2022, both the CBF Chair and the AC Vice-Chair stressed that this recommendation would go against the established practice across the United Nations, international standards, as well as the recommendations of the former External Auditor and remarked once more that the OIA should not report to its auditees. Furthermore, at the eighth BMO meeting, following the concern raised by a State Party on the impact on the reputational risk for the Court, States Parties deemed necessary to analyze in details the assessment of this recommendation during 2023.

On **recommendation 370**, the AC noted that it is linked to R369, the latter suggesting that the Secretariat of the Assembly not be absorbed within the Registry. However, as recommendation 369 has been negatively assessed by the Review Mechanism, recommendation 370 becomes redundant. The AC supported the IER statement on recommendation 370 concerning the functional independence of the Executive Secretary and strongly recommended that the Assembly maintain the current set-up.

On **recommendation 368**, whereby the Assembly is recommended to make use of the recommendations of the External Auditor assessing the oversight bodies, the AC noted that this recommendation has been positively assessed at the BMO facilitation without prejudice to the position of States Parties to the specific recommendations, that were not submitted at the time the IER report was issued. On the five recommendations of the former External Auditor on the oversight bodies, I would like to refer specifically to recommendation 3 and 4.

On Recommendation 3 whereby the former External Auditor recommended the Assembly to grant limited number of delegates permanent access to the AC as non-voting. The Committee stressed, on the first place, that in order to increase transparency, the Committee suggested to be invited to address the BMO facilitation, has submitted its reports to States Parties and the Chair of the Committee addresses the Assembly in each session. Furthermore, the AC will continue to engage with the BMO facilitator on all subjects of interest to States Parties. Secondly, it emphasized that the function of the Executive Secretary is crucial to the work of the Committee and to the relationship between the AC and the Court, as well as the States Parties. Thirdly, the Audit

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

On Recommendation 4 whereby the former External Auditor recommended the suppression of the current composition of the CBF and the AC, as well as the role of the Executive Secretary, the AC noted that during the BMO session it was clarified by the Chair of the CBF that there is no “Executive Secretariat” as referred to by the former External Auditor in his report but rather a post of “Executive Secretary” with the post-holder being a staff member of the Secretariat of the Assembly who reports on substantive matters to the Chair of the CBF and to the Chair of the Audit Committee.

Furthermore, the AC recalled that the United Nations Joint Inspection Unit (“JIU”) established that the “Audit and oversight committees should have administrative support and adequate resources in order to fulfill their oversight responsibilities”.¹ The JIU further stressed that “[...] independence and competence of an audit and oversight committee and its members would be rendered ineffective if the committee’s administrative support and the resources at its disposal were to be insufficient or unduly influenced by management or other stakeholders”.²

The AC emphasized that the function of the Executive Secretary and his team is crucial to the work of the AC and to the relationship between the AC and the Court, as well as the States Parties. The AC recommended that the Assembly maintain the same set-up of resources provided to its sessions, in particular the independent function of the Executive Secretary.

III. CONCLUSION

Madam President,

Allow me to conclude by underlining that since its re-establishment, the Audit Committee has acted as a catalyst in triggering important improvements in many fields within its mandate, such as through an enhanced risk management framework. The Audit Committee further established a more structured follow-up on recommendations, which has contributed to the reduction of risks and the identification of risk mitigating measures. Thus, the Audit Committee has not only provided an additional layer of accountability to the Assembly, but has also given an incentive to all actors to work more closely together to achieve tangible progress in the various areas of its mandate.

I thank you for your attention.

¹ Review of Audit and Oversight Committees in the United Nations System, 2019 (JIU/REP/2019/6), Criterion 10.

² *Ibid.*