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**Twenty-first session**

The Hague, 5-10 December 2022

**Report of the Bureau on the Budget sub-topics of Budget Management  
Oversight and Premises**

1. This report is submitted by the facilitator for the budget, Ambassador Frances-Galatia Latinou Williams (Cyprus), pursuant to the mandate given by the Bureau to the focal points for the sub-topics of budget management oversight and premises (Ambassador William Roelants de Stappers (Belgium), and Ms. Marija Stajic-Radivojsa (Serbia), respectively) within The Hague Working Group facilitation for the budget.
2. The focal points have prepared reports on their activities during 2022. These reports appear as annex I and annex II to this report.

## Annex I

### Report of the focal point for the topic of Budget Management Oversight to the Assembly of States Parties

#### A. Introduction

1. The mandate for Budget Management Oversight (BMO) in 2022 is derived from the budget resolution adopted at the twentieth session of the Assembly of States Parties.<sup>1</sup> On 10 January 2022 the Bureau approved the allocation of BMO to The Hague Working Group as a sub-topic of the budget facilitation. On 21 February 2022, the Bureau appointed Ambassador William Roelants de Stappers (Belgium) as focal point for the topic of budget management oversight.

#### B. Meetings and discussions

2. Eight meetings were held in 2022 on the topic of BMO, on 15 March, 29 April, 8 June, 15 July, 12 and 26 October, 9 and 22 November with States Parties, the Court and representatives of the oversight bodies. The meetings were held in person with virtual participation of representatives of the oversight bodies when they could not be present physically.

3. Participants in the meetings have included representatives of various oversight bodies and relevant offices: the Chair of the Committee on Budget and Finance, Mr. Werner Druml, the Vice-Chair of the Audit Committee, Mr. Aiman Ibrahim Hija, the Director of the Office of Internal Audit, Ms. Florence Bole, the head of the Independent Oversight Mechanism (IOM) Mr. Saklaine Hedary, and the representative of the External Auditor, Mr. Yang Chan Cho.

4. The meetings provided an opportunity for States Parties to continue their consideration of various matters related to the topic of budget management oversight.

##### 1. International Criminal Court governance oversight

5. The BMO facilitation discussed the independent expert review (IER) recommendations allocated to it by the Comprehensive action plan of the Review Mechanism. The results of this assessment have been reflected in a separate report<sup>2</sup> submitted to the Bureau of the Assembly on 27 June 2022, pursuant to resolution ICC-ASP/20/Res.3.<sup>3</sup> The facilitation finalized the assessment of all the allocated recommendations, with the following assessments: R366<sup>4</sup> negative assessment, and R367<sup>5</sup> and R368<sup>6</sup> positive assessment.

6. Furthermore, in accordance with resolution ICC-ASP/20/Res.1, section I, para. 3, the BMO had an Assembly mandate to consider the report of the External Auditor (Cour des comptes) on International Criminal Court Governance Oversight.<sup>7</sup>

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<sup>1</sup> ICC-ASP/20/Res.1, Sections I and J.

<sup>2</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-11/2022-RM-report-progress.pdf>

<sup>3</sup> ICC-ASP/20/Res.3, paragraph 11: “Requests the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2022, and [...]”

<sup>4</sup> R366. The Audit Committee and the CBF could be merged into one Organ of budgetary control and audit. The mandate of CBF – Audit Committee members should be extended to a five-six years, non-renewable term.

<sup>5</sup> R367. As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body’s role towards the OIA would be overseeing the adequacy of the framework set up for the Court’s internal audit function, rather than oversight of the substance of the OIA’s work.

<sup>6</sup> R368. The ASP is recommended to make use of the upcoming recommendations of the External Auditor, tasked with assessing the Court’s oversight bodies, to find ways to streamline and render more efficient its oversight structures.

<sup>7</sup> ICC-ASP/20/6 and Add.1.

7. As indicated in the BMO report on IER related recommendations dated 27 June 2022, given that there were two important exercises, the Review Mechanism and the BMO one, it was stated that the BMO discussion could however complement the Review Mechanism process. When the recommendations by the External Auditor were in line with the recommendations of the IER, the External Auditor's recommendations would serve as input to the assessment discussion by the Review Mechanism. It was up to States Parties to determine what value they placed on the recommendations by the External Auditor.

8. During the meetings held on 15 July and 9 November 2022, the recommendations by the External Auditor were assessed as follows: recommendations 1<sup>8</sup> and 2<sup>9</sup> were assessed positively, whereas recommendation 5<sup>10</sup> was assessed negatively. In relation to recommendation 3<sup>11</sup> there was general agreement on the existence of a positive evolution towards increased interaction between the States Parties and the Audit Committee. In relation to recommendation 4,<sup>12</sup> there was general agreement that the first three parts of the recommendation were not applicable, as they had already received a negative assessment under the discussion on the IER BMO related recommendations. While some clarifications were made regarding the "Executive Secretary" (as there is no Executive Secretariat, for example), there was no conclusive view on the fourth part of the recommendation and discussions therefore continue.<sup>13</sup>

## **2. Consideration of the report of the Audit Committee on the work of its fifteenth and sixteenth sessions**

9. On 12 October 2022, the Vice-Chair of the Audit Committee gave a presentation on the reports of the Audit Committee on the work of its fifteenth and sixteenth sessions,<sup>14</sup> focusing inter alia on governance of the Court, oversight of internal audit matters, the oversight of external audit matters, risk management, values and ethics, and the follow-up on the assessment of the recommendations of the Independent Expert Review. The working group had an exchange of views on some of the issues contained in the report(s).

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Recommendation 364 was discussed under the IOM facilitation which requested the Court in coordination with the Director of the OIA and the Head of the IOM, to submit a document regarding R364, indicating developments made with regards to the effectiveness and authority of these bodies. The facilitation indicated that the recommendation to merge the oversight bodies would be further discussed at the BMO facilitation. The recommendation will therefore be discussed in the context of the BMO facilitation next year, once the Court submits its document.

<sup>8</sup> "Given the ICC's persistent liquidity shortage, and the high level of ICC's governance oversight cost ratio compared to other International Organisations, the External Auditor recommends that no reform of the ICC Organisation as a whole, and of the governance oversight organs in particular, should lead to increased expenditure, unless equivalent decrease(s) are found and decided in other domains, and a priority should be given to reforms that can provide measurable economies"

<sup>9</sup> "The External Auditor recommends to the Coordination Council (CoCo) to formally endorse, under the ex-post control of the AC, the annual internal audit program. The Audit Committee could ask for amendments, which would need in their turn to be approved and endorsed by the CoCo. The Office of Internal Audit (OIA) should report directly to the CoCo, and the CoCo with the advice of the AC, should be fully responsible for the evaluation of the Director of OIA."

<sup>10</sup> "The External Auditor recommends merging the Office of Internal Audit and the Independent Oversight Mechanism in one Major Programme."

<sup>11</sup> "The External Auditor recommends the ASP to give through its Bureau a permanent access to the Audit Committee to a limited number of delegates as non voting members. The role of these delegates would be to serve as "focal points" to provide information to their colleagues of other delegations on the current activity of the independent Audit Committee."

<sup>12</sup> - " to suppress the CBF composed of independent experts and to transfer its competence in the preparation/negotiation of the detailed budget proposal with ICC's internal Budget Working Group to The Hague Working Group (THWG) or one of its sub-groups;

- to submit each year, before Summer, the initial budget proposal to The Hague Working Group, which could immediately start preparing and negotiating, in direct contact with ICC's internal Budget Working Group, the ASP's final consensual decision on budget to be taken in December,

- as an option to ask the Audit Committee, who would be given an advisory role, to issue a synthetic initial technical opinion on the budget proposal;

- to suppress the Executive Secretariat, in order to restore the principle of subsidiarity of the governance oversight organs towards the Assembly."

<sup>13</sup> Among different views, one seemed to suggest that while it did not support the suppression of the Executive Secretary, it did support a change in structure.

<sup>14</sup> AC/15/5 and AC/16/5. The reports of the Audit Committee are available at: [https://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx)

### **3. Consideration of the Financial statements of the International Criminal Court for the year ended 31 December 2020**

10. The working group agreed with the recommendation by the Committee on Budget and Finance to approve the Financial statements of the International Criminal Court for the year ended 31 December 2021.<sup>15</sup>

### **4. Consideration of the Financial statements of the Trust Fund for Victims for the year ended 31 December 2020**

11. The working group agreed to the recommendation by the Committee on Budget and Finance to approve the Financial statements of the Trust Fund for Victims for the year ended 31 December 2020.<sup>16</sup>

### **5. External Auditor performance audit on Temporary Personnel**

12. The working group considered the External Auditor performance audit on Temporary Personnel during the fifth meeting of the facilitation held on 12 October 2022<sup>17</sup> and took note that in its forthcoming report, the Committee on Budget and Finance would recommend the Assembly to approve the Performance audit on Temporary Personnel and would request the Court to submit an action plan on the implementation on the recommendations issued by the External Auditor in advance of the Committee's next session in May 2023.

### **6. Future performance audits**

13. The working group was informed by the External Auditor that a provisional time line and proposed discussing topics for 2023 would be provided in May 2023, after the audit on legal aid would be submitted.

### **7. Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims**

14. As in the case of prior years, the working group invited the Court to hold consultations on the implementation of and updates to the strategic plans. At the first meeting of the facilitation held on 15 March 2022, the four strategic plans were considered.<sup>18</sup> Additionally, the evaluation of the Strategic Plan of the Registry by the Independent Oversight Mechanism, dated 21 December 2021, was considered. On 25 November 2022, the draft Strategic Plans (2023-2025) for the Court, the Registry and the Trust Fund for Victims were conveyed to States Parties with an invitation to provide comments by 31 January 2023. It was noted that the draft strategic plan (2023-2025) of the Office of the Prosecutor (OTP) which was in the final stages of internal consultation within the OTP, would be shared for comments with States Parties and civil society in the coming days.

### **8. Appointment of Audit Committee members**

15. The working group took note of the report of the ad hoc Panel for the Selection of Audit Committee members (AC/SP/2022/1) dated 15 September 2022 which included the recommendation to reappoint/appoint two members of the Audit Committee as members of the Audit Committee for the period of three years starting on 1 January 2023: Ms. Clarissa van Heerden (South Africa); and Mr. Fayezul H. Choudhury (Bangladesh).

### **9. Amendments to the Charter of the Audit Committee**

16. In accordance with resolution ICC-ASP/20/Res.1, section I, para. 6; ICC-ASP/19/Res.1, section I, para. 4, and ICC-ASP/18/Res.1, section I, para. 7, the BMO facilitation had an Assembly mandate to consider the proposed amendments to the Charter of the Audit Committee contained in annex III to the report of the Audit Committee on the work at its tenth session<sup>19</sup> taking into consideration the outcome of the evaluation undertaken by the External Auditor, the report of the Independent Expert Review,<sup>20</sup> and the

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<sup>15</sup> ICC-ASP/21/15, Para 304.

<sup>16</sup> ICC-ASP/21/15, Para 306.

<sup>17</sup> ICC-ASP/21/3.

<sup>18</sup> Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims.

<sup>19</sup> <https://asp.icc-cpi.int/AuditCommittee>

<sup>20</sup> ICC-ASP/19/16.

report of the Review Mechanism, and the positive assessment of the External Auditor's recommendation 2.

17. On 26 October, 9 and 22 November 2022, the proposed amendments were considered, particularly those pertaining to section N of the Charter. It was agreed that discussions should continue in 2023.

### **C. Recommendations**

18. The focal point, through the Bureau, submits the proposed language contained in the Annex to this report for consideration by the Assembly.

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## Appendix

### Proposed resolution language for 2022

#### To be inserted into the budget resolution

##### A. Audit

*The Assembly of States Parties,*

*Having regard* to the Charter of the Audit Committee, adopted at its fourteenth session,<sup>21</sup> as amended,

*Taking note* of the proposed amendments to the Charter of the Audit Committee;

*Further noting* the recommendations of the Committee on Budget and Finance concerning audit matters,<sup>22</sup>

*Taking note* of the findings and recommendations in the final report of the Independent Expert Review of the International Criminal Court and the Rome Statute system related to Internal and External Oversight Mechanisms,<sup>23</sup> including the positive assessment given to recommendation R367<sup>24</sup> and the subsequent technical deliberations on the determination of the appropriate international audit standards,

*Taking note* of the External Auditor final report on International Criminal Court Governance Oversight,<sup>25</sup>

1. *Welcomes* the reports of the Audit Committee on the work of its fifteenth and sixteenth sessions;
2. *Welcomes* the performance audit report on temporary personnel submitted by the External Auditor,<sup>26</sup> and the conclusions and recommendations contained therein, *notes* the request of the Committee on Budget and Finance to the Court to submit an action plan on the implementation of the recommendations made by the External Auditor,<sup>27</sup> *decides* to continue the consideration of the outcome of the evaluation with a view to further improving the use of general temporary assistance (GTA) contracts, and *requests* all organs of the Court to make best efforts to further improve the use of GTA contracts;
3. *Takes note* of the recommendation made by the ad hoc selection panel and *decides* to re-appoint Ms. Clarissa van Heerden (South Africa) and appoint Mr. Fayeziul H. Choudhury (Bangladesh) as members of the Audit Committee for a term of three years starting on 1 January 2023; and
4. *Welcomes* the initial consideration of the proposed amendments to the Charter of the Audit Committee and *requests* the Bureau through the Budget Management Oversight facilitation to continue discussions on these amendments in the first quarter of 2023, taking into

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<sup>21</sup> *Official Records ... Fourteenth session ... 2015 (ICC-ASP/14/20)*, vol. II, part B.3, annex IV.

<sup>22</sup> *Official Records ... Twentieth session ... 2020 (ICC-ASP/20/20)*, vol. II, part B.1, paras. 109 to 111 and *Official Records ... Twentieth session ... 2020 (ICC-ASP/20/20)*, vol. II, part B.2, paras. 257 to 274.

<sup>23</sup> ICC-ASP/19/16.

<sup>24</sup> R367. As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work.

<sup>25</sup> ICC-ASP/20/6.

<sup>26</sup> ICC-ASP/21/3.

<sup>27</sup> ICC-ASP/21/15, paragraph 309.

account both the positive assessment of the relevant recommendation of the IER report<sup>28</sup> as reflected in a separate report submitted to the Bureau of the Assembly on 27 June 2022 by the facilitation<sup>29</sup>, and the subsequent technical deliberations on the determination of the appropriate international audit standards.

## B. Budget Management Oversight

*The Assembly of States Parties,*

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims are dynamic and updated on a regular basis;
2. *Notes* the Strategic Plans of the Court, the Office of the Prosecutor and the Registry for the period 2019-2021 and of the Trust Fund for Victims for the period 2020-2021 and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor the Registry and the Trust Fund for Victims;
3. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;
4. *Invites* the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans in writing, and *invites* the Court to hold annual consultations with the working groups of the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year;
5. *Recalls* the management oversight responsibility entrusted to the Assembly of States Parties and the mandates of the Audit Committee, the Committee on Budget and Finance, the External Auditor and the Independent Oversight Mechanism as well as the Office of Internal Audit, and *encourages* these bodies to further intensify their coordination in order to optimize oversight capacity and reporting, ensure an effective division of labour and avoid duplication of competence and work, in conformity with the resolution on the review of the International Criminal Court and the Rome Statute system;<sup>30</sup>
6. *Welcomes* the continuous efforts of the oversight bodies to streamline their activities and *invites* them to continue their efforts in that regard;
7. *Welcomes* the increased interaction between these bodies and States Parties, and the initiatives to continue to improve such interactions including via informal meetings;
8. *Recalls* relevant decisions of the Assembly of States Parties concerning the Secretariat of the Assembly of States Parties,<sup>31</sup> as well as the respective recommendations of the External Auditor<sup>32</sup> and *welcomes* efforts to further improve synergies and flexibility as regards the human resources of the Secretariat of the Assembly.

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<sup>28</sup> R367. As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work.

<sup>29</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-11/2022-RM-report-progress.pdf>.

<sup>30</sup> ICC-ASP/20/Res.3.

<sup>31</sup> ICC-ASP/2/Res.3; *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. I, part 2, footnote 9); and ICC-ASP/18/Res.1, annex, rule 16. para. 1. See also ICC-ASP/18/INF.7, Amendments to the Rules of Procedure of the Committee on Budget and Finance, rule 16 para. 1.

<sup>32</sup> External Auditor: Final report on the International Criminal Court governance oversight (ICC-ASP/20/6).

## Annex II

### Report of the focal point for the topic of premises

#### A. Introduction

1. The mandate for the budget sub-topic of premises in 2022 was derived from resolution ICC-ASP/20/Res.1, which was adopted by the Assembly of States Parties at its nineteenth session. In section G, paragraph 6 of that resolution, the Assembly reaffirmed that “the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership [of the Court’s premises], via its Hague Working Group which has a facilitation on the budget, and request[ed] that a report on the topic be submitted for consideration by the twentieth session of the Assembly”.

2. The Bureau appointed Ms. Marija Stajic-Radivojsa (Serbia) as focal point for the topic of premises on 21 February 2022.

#### B. Meetings and discussions

3. In 2022, The Hague Working Group (“the working group”) held three consultations on the budget sub-topic of premises: on 8, 15 and 24 November. The Court participated in these meetings.

4. The meetings provided an opportunity for the working group to consider and discuss updates from the Court on premises matters and a pro bono expert’s activities and cooperation with the Court. In addition, the working group had the benefit of the recommendations of the Committee on Budget and Finance (“the Committee”), as set out in the reports on the work of its resumed thirty-eighth<sup>33</sup> and thirty-ninth<sup>34</sup> sessions.

5. At the meeting on 8 November, States Parties received a briefing on the report of the Court on its cooperation with the pro bono expert and the assessment of medium- and long-term arrangements for capital replacement in the light of the budget planning for 2023.<sup>35</sup> The report noted that the Oversight Committee and the Working Group on Total Cost of Ownership had identified the main contractor model as the most advantageous solution to deal with maintenance and capital replacement in terms of cost, effectiveness, efficiency and risk mitigation and, as such, that model has been adopted by the Assembly. The report further noted that because only limited funds are available for capital replacement, the Court continues to commit only to replacing or repairing those essential items that have failed or are in danger of imminent failure. The risk of this strategy is the likelihood of higher costs for corrective maintenance and capital replacement in the longer term, and of building-critical failures occurring at any time. The risk will be mitigated by extensive monitoring of the most vulnerable systems. The funding gap for capital replacement will reach approximately €3.0 million by 2023 as the deficit continues to roll over. Pursuant to the report, the Court has started consultations with the pro bono expert assigned by the States Parties. The initial advice of the pro bono expert is that an additional risk-based evaluation of the building should be undertaken to reassess the replacement periods of the various building components determined by the main contractor. Furthermore, the pro bono expert advises that the maintenance scope for the security systems should be separated from general maintenance and discrete contracts entered into.

6. At the meeting on 24 November States Parties considered the draft resolution text. Noting past discussions and possible security considerations, States Parties reiterated the importance of availability of adequate space and unimpeded/facilitated/priority access to the premises and within the public areas of the Court. With a view to finding appropriate solutions in close cooperation with the Court, States Parties expressed readiness to continue discussing the issue, next year through the budget sub-topic of premises.

7. A visit to the premises of the Court took place on 15 November 2022. The technical tour allowed nine delegates to be informed on various issues concerning the premises.

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<sup>33</sup> ICC-ASP/21/5/Add.1.

<sup>34</sup> ICC-ASP/21/15.

<sup>35</sup> CBF/39/14.



### **Expenditure 2023**

8. During the presentation on 8 November, the Court explained that the approved funding since the start of the capital replacement programme (2020) has been much lower than required in line with the plan, due to funding limitations. As such, the Court has transitioned from a proactive to a reactive approach with replacement periods based on industry standards and manufactures instructions to a fully reactive approach replacing only those elements that are already faulty or where a breakdown is imminent. This meant that elaborating on plans would no longer be suitable. Instead, the Court has tried to identify the most vulnerable installations and apply a close monitoring of these systems to mitigate any failure risk.

9. As in 2022, the Court will continue to pay special attention in 2023 to: heating and cooling distribution, particularly water pumps; electrical infrastructure/emergency power infrastructure; security and safety installations, particularly the server infrastructure managing access to the premises, operability of the security control room, issuance of pass and ID badges, cameras/biometric palm readers, and security cameras; external doors, particularly those most used at the main entrances to the building; and other areas of the building which are vulnerable in the medium to long term, including the integrity of the façades, roofs and maintenance cradles for the façades. There have been critical failures: MER room (server heating up due to failing component), and power outages in Court tower.

10. The Court explained that for the Proposed Programme Budget for 2023, the same amount was included as for 2022, but with a 10 percent increase due to the high level of inflation. Continued absorption of the significantly more drastic price increases expected is not realistic and would pose a considerable risk to the operability of the property. States Parties expressed some level of concern regarding the reactive approach and the associated imminent risks, as well as noting that it was not a sustainable system, rather it would bring higher costs in the long run. Additionally, a question was raised regarding the practice of other international institutions, including international tribunals. The main difference, the Court explained, was that other institutions did not own the respective building.

### **Engagement of the Court with the pro bono expert**

11. The Court explained that the pro bono expert<sup>36</sup> had started to familiarize himself with the capital replacement plans, as submitted in the Court's report at the thirty-fourth session of the Committee on Budget and Finance. The first phase of the assignment was focused on a desktop assessment and second phase of assignment was a site visit conducted on 10 and 11 November 2022. In this context, the focal point for the budget sub-topic of premises had a fruitful meeting with the pro bono expert and the Chair of the Committee, including on the state of play and considerations for the future. During the meeting, she was informed that the conduct of an assessment by an external consulting company next year would benefit States Parties by providing them with a clear picture of what needs to be done.

### **Proposed budget for 2023**

12. The proposed 2023 budget for Major Programme V amounts to €2.54 million and has increased by €267.0 thousand when compared to the approved budget for 2022 of €2.27 million. This proposal is composed of two main elements: (i) preventive and corrective maintenance (recurring) and (ii) planned capital replacements (variable). It includes an estimated increase of 10 per cent for inflation in the contract for maintenance and capital replacement as compared with the 2022 programme budget. The proposed amounts are €2,132.2 thousand for preventive and corrective maintenance and €364.8 thousand for capital replacements. The budget proposal also includes an amount of €40 thousand for an assessment to be undertaken by an external consulting company. The Committee on Budget and Finance had reviewed the

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<sup>36</sup> Mr. Rotter (Austria).

proposed budget and recommended that the Assembly approve the requested amount of €2,537.0 thousand.<sup>37</sup>

### **C. Recommendations**

13. The pro bono expert's visit on 10 and 11 November 2022, was financed by Major Programme IV, in economy class, despite not being included in the budget. In the future, the Court should indicate the number and duration of such trips, with a view to having them reflected in the budget proposal if States Parties agree thereon.

14. The focal point through the Bureau submits the proposed language contained in the annex to this report for the consideration of the Assembly.

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<sup>37</sup> ICC-ASP/21/15, para. 162.

## Appendix

### Proposed resolution language for 2022

#### To be inserted into the budget resolution

#### Premises of the Court

*The Assembly of States Parties,*

*Noting* the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,<sup>38</sup>

1. *Approves* capital replacement for the premises of the Court at the level of €364.8 thousand in 2023, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Reiterates* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary and *requests* the Court to continue to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process, taking into account the possible need for a multi-year approach, as appropriate;
4. *Welcomes* the Committee's review of estimates for capital replacement, the advice of the pro bono expert on a fully impartial evaluation of the building and the establishment of a medium- and long-term plan, as well as of possible financial and administrative mechanisms including possible alternatives to current contractual arrangements, at its resumed thirty- eighth and thirty- ninth sessions, and *invites* the Committee to continue to undertake a detailed analysis and evaluation of the proposed budget taking into account the need for prioritization;
5. *Recalls* the recommendations of the Committee regarding a mechanism for pro bono expert advice from States Parties in the planning and implementation of capital replacement, and *invites* States Parties to put forward further suggestions in this regard;
6. *Welcomes* the engagement of Mr. Michael Rotter (Austria) as a pro bono expert and *invites* the Court to continue its cooperation with him and benefit from his advice in its future work on capital replacement;
7. *Emphasizes* the importance of availability of adequate space and unimpeded/facilitated/priority access of States Parties to the premises and within the public areas of the Court, including the conference rooms<sup>39</sup>, cafeterias and library, and *encourages* the Court to seek and provide appropriate solutions in this regard; and
8. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, and *requests* that a report on the topic be submitted for consideration by the twenty-second session of the Assembly.

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<sup>38</sup> ICC-ASP/21/15, paras 156 – 162.

<sup>39</sup> Cluster 1.