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Trust Fund for Victims financial statements for the period 1 January to 31 December 2012

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Letter of transmittal

5 July 2013

In accordance with Financial Regulation 11.1, I have the honour to submit the financial statements of the Trust Fund for Victims for the financial period 1 January to 31 December 2012.

(Signed) Herman von Hebel
Registrar

M. Hervé-Adrien Metzger
Director
Cour des Comptes,
13 rue Cambon,
75100 Cedex 01
France

Letter to the Registrar for the Trust Fund for Victims Financial Statements 2012

4 July 2013

Dear Mr Registrar,

In consideration of TFV Regulation 77(b), the Board of Directors shall submit the accounts and Financial Statements of the Trust Fund for Victims for review by the External Auditor.

I shall appreciate if you will sign the Letter of Transmittal for the Trust Fund for Victims Financial Statements (2012) to the External Auditor.

Respectfully yours,

(Signed) Motoo Noguchi,
Chair, Board of Directors of the Trust Fund for Victims

Independent auditor's opinion and report to the Board of Directors of the Trust Fund for Victims and the Assembly of States Parties

We have audited the Financial Statements of The Trust Fund for Victims (TFV), for the 12 month period ended 31 December 2012. These Financial Statements include a statement of income and expenditure and changes in fund balances, a statement of assets, liabilities, reserves and fund balances, a cash flow statement, a statement of appropriation, a statement of Contingency Fund Applications and other information and notes for the financial year ending at that date.

By virtue of Part IV, paragraph 77 of the Regulations of the Trust Fund for Victims, the Board of Directors is responsible for preparing and presenting the financial statements of The Trust Fund for Victims. These statements are in conformity with the United Nations System Accounting Standards (UNSAS). This responsibility includes the design, implementation and monitoring of internal control procedures to ensure the preparation and the fair presentation of financial statements, free of significant misstatements, resulting either from frauds or errors. This responsibility also includes the determination of fair accounting estimates adapted to the circumstances.

Our responsibility is to express an opinion on these financial statements based on our audit. We have conducted our audit in accordance with the International Standards on Auditing (ISA). These Standards require us to comply with the ethical rules and to plan and perform our audit in order to obtain a reasonable assurance that the financial statements are free from material misstatements.

An audit consists in implementing audit procedures in order to collect audit evidence regarding the amounts and the information presented in the financial statements. The design of the audit procedures is based on the external auditor's professional judgment, as well as the risk evaluation that the financial statements include significant misstatements, resulting either from frauds or errors. In the context of this risk evaluation, the auditor considers the internal control in place for the preparation and presentation of the financial statements, in order to design appropriate audit procedures and not in order to express any opinion on the internal control. An audit also consists in evaluating that the accounting method applied and the presentation of the financial statements are appropriate and that the significant accounting estimates are reasonable.

We believe that the audit evidence collected is sufficient and appropriate to constitute a reasonable basis for our opinion.

Based on our audit, the financial statements give a fair view of the income and expenditure and changes in fund balances as well as the assets, liabilities, reserves and fund balances and cash flow of The Trust Fund for Victims as at 31 December 2012, for the 12 month period ended 31 December 2012 in conformity with the UNSAS.

Didier MIGAUD

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External auditor's report on the 2012 financial statement audit

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Audit objective, scope and approach

1. We have audited the financial statements of the Trust Fund for Victims (TFV) in accordance with International Standards on Auditing (ISA) and in accordance with Regulation 12 of the Financial Regulations and Rules of the International Criminal Court (ICC), including the additional terms of reference governing the audit.
2. The overall objective of an audit of financial statements is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with the applicable financial framework.
3. The additional terms of reference governing the audit of ICC and all trust funds including The Trust Fund for Victims, disclosed in the annex 6.(c) to the Financial Regulations and Rules lists other matters, which the Auditor considers should be brought to the notice of the Assembly of States Parties, such as wasteful or improper expenditure of the Trust Fund for Victims' money and other assets, and expenditure not in accordance with the intention of the Assembly of States Parties.
4. The audit mission comprised three phases:
 - (a) a risk analysis phase carried out in the first year of the external audit mandate, from 01 to 05 October 2012;
 - (b) an interim audit, focusing on internal controls, budgeting and governance issues, from 03 to 14 December 2012; and
 - (c) a final audit, focusing on the financial statements and disclosure requirements in general, from 10 to 21 June 2013.
5. Findings and recommendations arising from the audit are set out in the summary below and further developed in the report.
6. We noted that all ten recommendations resulting from the previous audit carried out by the United Kingdom National Audit Office were either implemented or in the process of being implemented. These are disclosed in the annex to this report.
7. The Auditor has received a Letter of representation, signed by the Executive Director of the Secretariat Trust Fund for Victims on 14 January 2013.
8. Findings and recommendations have been discussed with the Executive Director of the Trust Fund for Victims, the Legal Advisor of TFV, the Chief of Budget and Finance Section of ICC and the ICC IPSAS Project Coordinator relating to recommendations included in the draft audit report, took place on 20 June 2013.
9. The draft observations have been reviewed, taking into account the written comments sent by The Trust Fund for Victims and the International Criminal Court.

Summary of 2012 recommendations

Recommendation n°1: The External Auditor recommends improving the ways of working between the Trust Fund for Victims and the ICC Budget and Finance Section by taking the necessary steps to help ensure that the ICC accounting function responds in a timely manner to reasonable demands from the External Auditor. This should also put meeting the requirements of the upcoming implementation of IPSAS standards, as a key priority for TFV and the ICC accounting function.

Recommendation n°2: The External Auditor recommends to the Board of Directors of TFV to decide which accounting policy to apply by making a judgement based on a detailed analysis of all contracts with respect to measurable performance conditions and enforceable refund of funds. It is also recommended that the TFV Board of Directors initiate this analysis performing it in close collaboration with the ICC IPSAS Unit head.

Main findings and recommendations

General issues relating to the accounting function and the conduct of the audit

10. The Trust Fund for Victims has provided the Auditor and its staff free access to all books and records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit.

11. However, access to books and records such as a trial balance which reconciles to the financial statements was provided with considerable delay after repeat requests from the Auditor.

12. Part of the explanation to justify these delays relates to the fact that the responsibility for the provision of the documents and schedules falls with the International Criminal Court's Budget and Finance Section, which at the time of the audit was involved in a work intensive budget preparation phase and that at ICC, both budget and accounting fall under the same section.

13. The difficulties encountered and considerable delays demonstrate that the current ways of working between the Trust Fund for Victims and the ICC Budget and Finance Section is not optimal to ensure timely and efficient support to the audit process.

Recommendation n°1

The External Auditor recommends improving the ways of working between the Trust Fund for Victims and the ICC Budget and Finance Section by taking the necessary steps to help ensure that the ICC accounting function responds in a timely manner to reasonable demands from the External Auditor. This should also put meeting the requirements of the upcoming implementation of IPSAS standards, as a key priority for TFV and the ICC accounting function.

Advance payments to implementing partners

14. The future transition to IPSAS requires an involvement of management and financial department prior to the change in accounting standards. The adopted accounting policy should result in financial information which is relevant to the decision-making needs of users and reflects the economic substance of transactions.

15. Management is responsible for the choice of the appropriated accounting policy and this policy should be based on his judgment.

16. At this stage, given the considerable amount of work involved, TFV Secretariat and the ICC Budget and Finance Section are not sufficiently prepared for the IPSAS transition related to advance payments to suppliers.

Recommendation n°2

The External Auditor recommends to the Board of Directors of TFV to decide which accounting policy to apply by making a judgement based on a detailed analysis of all contracts with respect to measurable performance conditions and enforceable refund of funds. It is also recommended that the TFV Board of Directors initiate this analysis performing it in close collaboration with the ICC IPSAS Unit head.

Acknowledgements

17. The External Auditor wishes to thank The Trust Fund for Victims and the members of the Office of the Registrar of the International Criminal Court, for the cooperation and general support provided to the audit teams during the audit.

Annex

Follow-up of previous recommendations raised by the United Kingdom National Audit Office

| <i>Financial year</i> | <i>Nº</i> | <i>Recommendations</i> | <i>Completed</i> | <i>Partially completed</i> | <i>Not yet completed</i> |
|--|-----------|---|------------------|----------------------------|--------------------------|
| 2011 | 1 | The Fund should work closely with the ICC IPSAS implementation team to develop specific and appropriate IPSAS accounting policies which are tailored to the situation and requirement of the Fund. | | X | |
| 2011 | 2 | The Funds should clearly identify the objectives and anticipated benefits of the IPSAS project and develop a methodology to track and manage benefits realisation. | | X | |
| 2011 | 3 | The Fund's management should engage with the OIA to ensure that it receives sufficient assurance on the adequacy and effectiveness of the Fund's framework of governance, risk management and control. | | X | |
| 2010 | 1 | The process of setting objectives for the Fund must be examined. All objectives given must be measurable, specific and achievable. | | X | |
| 2010 | 2 | The Fund should make all efforts to complete the work on an online donation facility and publicise its availability in order to maximise donations generated from coverage of the first ICC rulings expected this year. | X | | |
| 2010 | 3 | The Fund must ensure that in dealing with smaller, local partner organisations contingencies are in place so that in the event the Fund is no longer able to provide funds and support, the projects are able to continue or come to an end in a way that protects the reputation of the Fund. | X | | |
| 2010 | 4 | The Fund should ensure that the bidding process for projects is as simple as possible to encourage participation. Clear guidance on preparing a bid should be provided by the Fund for those who are uncertain of the process; this will help in making the process open to as many applicants as possible. | | X | |
| 2010 | 5 | The Fund should look to review each stage of the tender process in depth in order to capture lessons learned that need to be learnt in order to improve the process for future tenders. | | X | |
| 2010 | 6 | We recommend that the Trust Fund for Victims should consider the necessary resources required supporting the administrative and financial requirements of the Fund as online donations and reparations become more significant over the coming financial periods. | | X | |
| 2010 | 7 | The management and Board should engage in enterprise risk management. On-going processes for identifying, assessing and mitigating risks should be implemented as soon as possible in order to safeguard the resources which have been entrusted to the Fund. | | X | |
| Total number of recommendations: 10 | | | 2 | 8 | 0 |

1. After careful review over the implementation status of recommendations raised by the United Kingdom National Audit Office, it was noted that out of a total of ten recommendations raised for financial years 2010 and 2011, two have been implemented and eight have been partially implemented.

2. The majority of partially met recommendations relate to governance and ways of working issues. The External Auditor will carry out a complete review of questions relating to the governance of the Trust Fund for Victims as part of audit procedures carried out in 2013 and 2014.

Statement I

Trust Fund for Victims

Statement of income and expenditure and changes in fund balances for the period ending 31 December 2012 (in euro)

| | 2012 | Notes Ref. | 2011 |
|---|------------------|------------|------------------|
| Income | | | |
| Voluntary contributions | 2,502,203 | 3.4 | 3,256,706 |
| Interest income | 59,897 | | 56,452 |
| <i>Total income</i> | <i>2,562,100</i> | | <i>3,313,158</i> |
| Expenditure | | | |
| Disbursements | 1,132,917 | 3.5 | 1,662,013 |
| Unliquidated obligations | 317,740 | 3.5, 3.6 | 841,076 |
| Repatriation Grant Accrual | - | | 4,629 |
| <i>Total expenditure</i> | <i>1,450,657</i> | | <i>2,507,718</i> |
| Excess/(shortfall) of income over expenditure | 1,111,443 | | 805,440 |
| Savings on, or cancellation of, prior periods obligations | 29,252 | 3.7 | 186,333 |
| Refund to Donors | (19,546) | 3.8 | (15,215) |
| Fund balances at beginning of financial period | 3,410,307 | | 2,433,749 |
| Fund balances as at 31 December | 4,531,456 | | 3,410,307 |

Date: Signed: Chair of the Board of Directors for the Trust Fund for Victims.....
Chief of Budget and Finance Section.....

Statement II

Trust Fund for Victims

Statement of assets, liabilities, reserves and fund balances as at 31 December 2012 (in euro)

| | 2012 | Notes Ref. | 2011 |
|--|------------------|------------|------------------|
| Assets | | | |
| Cash and term deposits | 4,847,002 | | 4,244,218 |
| Other accounts receivable | 14,642 | 3.9 | 14,630 |
| <i>Total assets</i> | <i>4,861,644</i> | | <i>4,258,848</i> |
| Liabilities | | | |
| Unliquidated obligations | 317,740 | 3.6 | 841,076 |
| Repatriation Grant Accrual | 7,465 | | 7,465 |
| Other accounts payable | 4,983 | | - |
| <i>Total liabilities</i> | <i>330,188</i> | | <i>848,541</i> |
| Reserves and fund balances | | | |
| Cumulative surplus | 4,531,456 | | 3,410,307 |
| <i>Total reserves and fund balances</i> | <i>4,531,456</i> | | <i>3,410,307</i> |
| Total liabilities, reserves and fund balances | 4,861,644 | | 4,258,848 |

Date: Signed: Chair of the Board of Directors for the Trust Fund for Victims.....
Chief of Budget and Finance Section.....

Statement III

Trust Fund for Victims
Statement of cash flow as at 31 December 2012 (in euro)

| | 2012 | 2011 |
|---|------------------|------------------|
| Cash flows from operating activities | | |
| Net excess/(shortfall) of income over expenditure (Statement I) | 1,111,443 | 805,439 |
| Other accounts receivable (increase)/decrease | (12) | 44,751 |
| Unliquidated obligations increase/(decrease) | (523,336) | 7,092 |
| Other accounts payable increase (decrease) | 4,983 | - |
| Repatriation Grant Accrual | - | 4,629 |
| Less: interest income | (59,897) | (56,452) |
| <i>Net cash from operating activities</i> | <i>533,181</i> | <i>805,459</i> |
| Cash flows from investing and financing activities | | |
| Plus: interest income | 59,897 | 56,452 |
| <i>Net cash from investing and financing activities</i> | <i>59,897</i> | <i>56,452</i> |
| Cash flows from other sources | | |
| Savings on, or cancellation of prior periods' obligations | 29,252 | 186,333 |
| Refund to donors | (19,546) | (15,215) |
| <i>Net cash from other sources</i> | <i>9,706</i> | <i>171,118</i> |
| Net increase/(decrease) in cash and term deposits | 602,784 | 1,033,029 |
| Cash and term deposits at beginning of period | 4,244,218 | 3,211,189 |
| Cash and term deposits at 31 December (Statement II) | 4,847,002 | 4,244,218 |

Notes to the financial statements of the Trust Fund for Victims

1. The Trust Fund for Victims and its objectives

1.1 The Trust Fund for Victims was established by the Assembly of States Parties (ASP), in its resolution ICC-ASP/1/Res.6, for the benefit of victims of crimes within the jurisdiction of the International Criminal Court (ICC), and the families of such victims.

In the annex to that resolution, the Assembly of States Parties established a Board of Directors, which is responsible for the management of the Trust Fund.

2. Summary of significant accounting and financial reporting policies

2.1 The financial statements of the Trust Fund for Victims are maintained in accordance with the Financial Regulations and Rules of the ICC, as established by the Assembly of States Parties in the annex to resolution ICC-ASP/1/Res.6. The financial statements of the Trust Fund are currently in conformity with the United Nations System Accounting Standards. These notes form an integral part of the Trust Fund's financial statements.

2.2 *Fund accounting*: the Trust Fund's accounts are maintained on a fund accounting basis.

2.3 *Financial period*: the financial period of the Trust Fund is one calendar year, unless otherwise decided by the Assembly of States Parties.

2.4 *Historical cost basis*: the accounts are prepared on the historical cost basis of accounting and are not adjusted to reflect the effects of changing prices for goods and services.

2.5 *Currency of accounts*: the accounts of the Trust Fund are presented in euro. Funds held in other currencies are converted into euro at the United Nations operational rate of exchange in effect at the date of the financial statement. Transactions in other currencies are converted into euro at the United Nations operational rate of exchange in effect at the date of transaction.

2.6 *Funding*: the Trust Fund for Victims is funded by:

a) Voluntary contributions from governments, international organisations, individuals, corporations and other entities, in accordance with relevant criteria adopted by the Assembly of States Parties;

b) Money and other property collected through fines or forfeiture transferred to the Trust Fund if ordered by the ICC pursuant to article 79, paragraph 2, of the Statute;

c) Resources collected through awards for reparations, if ordered by the ICC pursuant to rule 98 of the Rules of Procedure and Evidence; and

d) Resources as the Assembly of States Parties may decide to allocate.

2.7 *Income*: voluntary contributions are recorded as income at the time that the actual contributions are received from the donors.

2.8 *Cash and term deposits* comprise funds held in interest-bearing bank accounts, time deposits, and call accounts.

3. The Trust Fund for Victims (statements I-III)

3.1 *Statement I* reports the income and expenditure and changes in reserve and fund balances during the financial period. It includes the calculation of the excess or shortfall of income over expenditure for the current period and prior-period adjustments of income or expenditure.

3.2 *Statement II* shows the assets, liabilities, reserves and fund balances as at 31 December 2012.

3.3 *Statement III* is the cash flow summary statement prepared using the indirect method.

3.4 *Voluntary contributions* of €2,502,203 were received from governments, individuals, organisations and other entities.

3.5 In 2012, around 20 per cent or €497,610 of voluntary contributions accepted by the Trust Fund was earmarked for assistance to victims of sexual and gender-based violence. 16 per cent or €407,066 are contributions received from Germany and Finland earmarked to reparations activities.

Table 1: Earmarked Contributions

| <i>Countries</i> | <i>2012</i> | | | <i>2011</i> | | |
|------------------------|---------------------|---------------------|----------------|---------------------|---------------------|---------------|
| | <i>Contribution</i> | <i>Disbursement</i> | <i>Net</i> | <i>Contribution</i> | <i>Disbursement</i> | <i>Net</i> |
| Finland | 307,066 | - | 307,066 | 200,000 | 174,137 | 25,863 |
| Germany | 300,000 | - | 300,000 | 158,859 | 140,231 | 18,628 |
| Netherlands | 25,000 | 25,000 | - | 22,725 | 22,725 | - |
| Norway | 272,610 | - | 272,610 | 253,501 | 206,580 | 46,921 |
| Total (in euro) | 904,676 | 25,000 | 879,676 | 635,085 | 543,673 | 91,412 |

3.6 The contribution from Finland in 2012 includes the following amounts: €200,000 earmarked for sexual and gender-based violence activities under the TFV's assistance mandate and €107,066 earmarked to support activities related to TFV reparations mandate. Please note that €200,000 is the first instalment of a multi-annual agreement with the Government of Finland of €800,000 which will be paid during the period 31 December 2012 -31 December 2015.

3.7 The contribution figure from Germany in 2012 represents a donation of €300,000 earmarked to the TFV's reparations mandate (e.g. Lubanga case). A carried over balance from the donation of 2011 in the amount of €19,546 was refunded to the German government, as per signed agreement, in July 2012.

3.8 The contribution from the Netherlands was paid in 2 separate instalments. The first instalment of €225,000 was received on 24 October 2011 and in order to comply with the reporting requirements of the donor, it has been treated as earmarked only in 2012. The contribution from the Netherlands was earmarked to the general TFV assistance mandate and not to a specific category of activities. The second instalment of €25,000 has been received on 29 June 2012.

3.9 *Expenditures* of €1,450,657 comprise disbursements of €1,132,917 and unliquidated obligations of €317,740. Earmarked disbursements amounted to €250,000 in 2012 spent on assistance to victims.

3.10 *Unliquidated Obligation* have been recognized in accordance with ICC Financial Regulation 4.5 "Appropriations shall remain available for twelve months following the end of the financial period to which they relate to the extent that they are required to liquidate any outstanding legal obligations of the financial period". Due to the nature of the activities of the fund, unliquidated obligations reported in the financial statements of the Trust Fund for Victims relate to ongoing contracts which were signed at the end of 2012 and as a result include activities relating to 2012. The Trust Fund for Victims reserves the rights to cancel these obligations in exceptional circumstances, reducing the actual obligation at 31 December 2012.

3.11 *Savings on, or cancellation of prior periods' obligations*: the savings on prior periods' obligations were €29,252.

3.12 *Refund to donors*: €19,546 is the balance of a project supporting a legal advisor to assist in the legal preparations for implementing reparations funded by Germany in 2012.

3.13 *Other accounts receivable* in the amount of €14,642 represent interest earned but not yet received as at 31 December 2012.

3.14 *United Nations Joint Staff Pension Fund (UNJSPF)*: in accordance with decision ICC-ASP/1/Decision 3 of the Assembly of States Parties and United Nations General Assembly resolution 58/262 adopted on 23 December 2003, the ICC became a member organisation of the UNJSPF with effect from 1 January 2004. The UNJSPF provides retirement, death, disability and related benefits to ICC staff.

3.15 The Pension Fund is a funded defined benefit plan. The financial obligation of the organisation to the Fund consists of its mandated contribution at the rate established by the United Nations General Assembly of 15.8 per cent of pensionable remuneration, together with any share of any actuarial deficiency payments under Article 26 of the Regulations of the Fund. Such deficiency payments are only payable if and when the United Nations General Assembly has invoked the provision of article 26, following determination that there is a requirement for deficiency payments based on an assessment of the actuarial sufficiency of the Fund as of the valuation date. At the time of this report, the United Nations General Assembly has not invoked this provision.

3.16 *Contributions from the ICC*: in annex 6 of resolution ICC-ASP/1/Res.6, the Assembly of States Parties decided that the Registrar of the Court should be responsible for providing such assistance as is necessary for the proper functioning of the Board of Directors of the Trust Fund in carrying out its tasks, and should participate in the meetings of the Board in an advisory capacity.

3.17 In 2012, the Assembly of States Parties approved an appropriation of €1,450,600 for the Secretariat of the Trust Fund for Victims which administers the Trust Fund and offers administrative support to the Board and its meetings. Expenditures recorded in the accounts of the International Criminal Court for the Secretariat during the financial period are €1,327,725.

3.18 *Donations in kind*

No donations in kind were received by the Trust Fund for Victims during 2012.

3.19 *Matched partner expenditure*

The following are the significant matching funding recorded by the Trust Fund for Victims during the financial period:

The Trust Fund for Victims recorded € 463,914 (31.12.2012 UN Foreign Exchange rate) as matching resources such as services, support provided to the victims by implementing partners in 2012.
