



Twentieth session

The Hague, 6-11 December 2021

**Report of the Committee on Budget and Finance
on the work of its thirty-sixth session**

Table of Contents

Executive Summary	4
I. Introduction.....	5
A. <i>Opening of the session</i>	<i>5</i>
<i>Attendance and services for the thirty-sixth session</i>	<i>5</i>
B. <i>Election of officers</i>	<i>5</i>
C. <i>Adoption of the agenda and organization of work</i>	<i>5</i>
II. Participation of observers.....	7
III. Consideration of issues on the agenda of the Committee at its thirty-sixth session.....	7
A. <i>Budgetary governance workshop.....</i>	<i>7</i>
1. <i>Impact of COVID-19 on operations and further measures to achieve efficiency..</i>	<i>7</i>
2. <i>Budget implementation and the baseline: Presentation of baseline data for year to year comparison</i>	<i>7</i>
3. <i>New budget document proposal</i>	<i>8</i>
4. <i>2022 Proposed Programme Budget outlook</i>	<i>8</i>
B. <i>Other financial and budgetary matters</i>	<i>9</i>
1. <i>Status of 2021 contributions</i>	<i>9</i>
2. <i>Prior years' outstanding contributions.....</i>	<i>9</i>
3. <i>States in arrears</i>	<i>11</i>
4. <i>Programme performance of the 2020 budget</i>	<i>11</i>
5. <i>Budget performance 2021 first quarter.....</i>	<i>15</i>
6. <i>Contingency Fund notification</i>	<i>16</i>
7. <i>Transfer of funds</i>	<i>16</i>
C. <i>Human resources matters</i>	<i>16</i>
1. <i>Annual report on Human Resources Management</i>	<i>16</i>
2. <i>Equitable geographical representation and gender balance</i>	<i>16</i>
3. <i>The use of unapproved General Temporary Assistance</i>	<i>17</i>
4. <i>Mobility.....</i>	<i>18</i>
5. <i>Cost of sick leave</i>	<i>18</i>
6. <i>Update on the Junior Professional Officer Programme</i>	<i>18</i>
7. <i>Update on redeployment of post from the Democratic Republic of the Congo to the Headquarters.....</i>	<i>19</i>
8. <i>Proposal to introduce the National Professional Officer category.....</i>	<i>19</i>
D. <i>Premises.....</i>	<i>19</i>
1. <i>Alternative arrangements explored to further integrate maintenance and capital replacement programmes into one contract.....</i>	<i>19</i>
2. <i>Negotiations with a view to reducing the interest rate on the loan</i>	<i>20</i>
E. <i>Trust Fund for Victims ("TFV")</i>	<i>20</i>
1. <i>External auditing firm: objectives and audit to implementing partners</i>	<i>20</i>
2. <i>Update on approaches to the use of donor funds for Incidental Programme Costs ("IPC")</i>	<i>21</i>
F. <i>Audit matters.....</i>	<i>21</i>
1. <i>External Auditor's Note on the Governance Oversight workshop</i>	<i>21</i>
G. <i>Other matters</i>	<i>22</i>
1. <i>Update on the establishment of the alternative dispute resolution mechanism ...</i>	<i>22</i>
2. <i>The IER recommendations and the Review Mechanism.....</i>	<i>22</i>
3. <i>Agenda items deferred for future sessions.....</i>	<i>23</i>
4. <i>Future sessions of the Committee.....</i>	<i>23</i>
Annex I: Status of contributions as at 31 March 2021	24
Annex II: List of deferred agenda items.....	27
Annex III: Reflections of the Committee on the ten questions raised by the External Auditor.....	28
Annex IV: The Committee's comments on 15 recommendations of the Independent Expert Review	31
Annex V: Geographical representation.....	37
Annex VI: Gender balance	38
Annex VII: List of documents	39

List of Tables

Table 1: Analysis of the trend in outstanding contributions	10
Table 2: Budget Performance 2020 by expenditure item (amounts in thousands of euros)	11
Table 3: Summary of notifications to access the Contingency Fund in 2020.....	15
Table 4: Unapproved General Temporarily Assistance positions and duration of contracts	18

List of Figures

Figure 1: Outstanding contributions over the past ten years (in thousands of euros)	10
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Executive Summary

1. The Committee on Budget and Finance held its thirty-sixth session from 17-21 and on 28 May 2021. During the virtual session the Committee considered a range of issues, and the Court provided updates on the following: the impact of COVID-19, the liquidity challenges facing the Court, and the performance of the budget in 2020 and the first quarter of 2021. The Committee discussed with the Court several other issues including Human Resource strategies, Premises management and the Trust Fund for Victims. Some agenda items were delayed due to the security classification of the virtual platform, these will be considered at the next session, if/when travel permits.

2. The Committee would first and foremost like to recognise the resilience, determination and creativity demonstrated by the Court during a challenging year. As an organisation the Court has, in difficult circumstances, proved to be adaptable when swiftly changing the way it works to enable operations and resilient as a workforce as it made progress against expected outcomes. The Committee commended the sustained effort and skill displayed by the Court since the start of the pandemic and is reassured that if presented with similar challenges the Court should be equipped to navigate them effectively.

3. In 2020, the Court highlighted the challenges it faced when absorbing unforeseen costs. Furthermore, the Court used one-time savings generated by the pandemic, delivered longer term efficiencies and continued to explore new policies to find further efficiencies. The Committee heard specifically about efficiencies the Court had found for the provision of training and the intention to explore a possible National Professional Officer cadre. As the Court's ability to bring forward cases and investigations increases, travel restrictions are lifted, and existing fixed costs remain high, the Committee is conscious that the budget will come under increasing pressure.

4. The Committee continued to be concerned about the liquidity issues faced by the Court. During 2020, the liquidity situation was resolved on a one-time basis through early payments and reprioritisation; this will potentially exacerbate the liquidity challenge in 2021. The Committee requested that the Court outline its ability to reprioritise and effectively manage the liquidity risk during the potentially problematic final months of the year.

5. The Court foresees a workload increase and may seek a budget uplift for 2022. Before presenting the proposed budget for 2022, the Committee requested that the Court continue to: recognise the economic challenges facing States Parties; review where new savings and efficiencies could be found or expanded; identify where further prioritisation could offset rising costs; and fully scrutinise any requirements both in terms of necessity and the cost-effectiveness of the solution. The Committee was concerned that in light of a difficult global economic context and the rising percentage of outstanding contributions the Court would, without action, face either increasing budgetary pressures and/or liquidity issues. The Court and State Parties will need to agree how best to balance difficult prioritisation decisions against the ability to find efficiencies and affordability (for States Parties). There is a risk that any agreement to increase the budget could simply increase the level of outstanding contributions and the liquidity risk the Court faces.

6. The Committee wished to highlight its recommendations: more effective management of unapproved General Temporary Assistance and rising contractor expenditure, and the pursuit and material reduction of outstanding contributions.

I. Introduction

A. Opening of the session

1. The thirty-sixth session of the Committee on Budget and Finance (“the Committee”), comprising six meetings, was held from 17 to 21 May 2021, in accordance with the decision of the Assembly of States Parties (“the Assembly”) taken at its nineteenth session.¹ Due to COVID-19 restrictions, the Committee also met on 28 May. The session was held via remote-link.

2. The President of the Assembly of the States Parties, (“the Assembly”), Mrs. Silvia Fernández de Gurmendi, delivered her remarks and the President of the International Criminal Court (“the Court”), Judge Piotr Hofmański, delivered the welcoming remarks at the opening of the session. The Prosecutor of the Court, Mrs. Fatou Bensouda, also delivered her remarks.

Attendance and services for the thirty-sixth session

3. The following members attended the thirty-sixth session of the Committee:

- (a) Werner Druml (Austria);
- (b) Carolina María Fernández Opazo (Mexico);
- (c) Fawzi A. Gharaibeh (Jordan);
- (d) Yukiko Harimoto (Japan);
- (e) Urmet Lee (Estonia);
- (f) Loudon Overson Mattiya (Malawi);
- (g) Daniel McDonnell (United Kingdom);
- (h) Mónica Sánchez Izquierdo (Ecuador);
- (i) Margaret Wambui Ngugi Shava (Kenya);
- (j) Elena Sopková (Slovakia);
- (k) Klaus Stein (Germany); and
- (l) Richard Veneau (France).

4. The Executive Secretary to the Committee on Budget and Finance, Mr. Fakhri Dajani, acted as Secretary of the Committee, and his team assisted in providing the necessary substantive and logistical support to the Committee.

B. Election of officers

5. In accordance with Rule 10 of its Rules of Procedure, the Committee elected Mr. Werner Druml (Austria) as Chairperson of the Committee and Mrs. Carolina María Fernández Opazo (Mexico) as Vice-Chairperson. The Committee further appointed Mr. Urmet Lee (Estonia) as Rapporteur in accordance with Rule 13 of the Rules of Procedure.

6. The Committee extended its great appreciation to former member Mr. Hitoshi Kozaki (Japan) for his work during previous years.

C. Adoption of the agenda and organization of work

7. At its first meeting, the Committee adopted the following agenda² for the thirty-sixth session:

¹ *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Nineteenth session, The Hague, 14-16 December 2020* (ICC-ASP/19/20), vol. I, part I, section B., para. 40, and Res. 6, Annex I, para. 19 (a).

² CBF/36/1/Rev.1.

1. Opening of the session

- (a) Election of officers
- (b) Adoption of the agenda and organization of work
- (c) Participation of observers
- (d) Internal discussion
- (e) Remarks by the President of the Assembly of the States Parties
- (f) Welcoming remarks by the President of the Court
- (g) Remarks by the Prosecutor of the Court

2. Budgetary governance

- (a) Workshop on the budgetary process and analytical annexes:
 - (i) Impact of COVID-19 on operations and further measures to achieve efficiency
 - (ii) Budget implementation and the baseline: Presentation of baseline data for year to year comparison
 - (iii) New budget document proposal
 - (iv) 2022 Proposal Programme Budget outlook

3. Other financial and budgetary matters

- (a) Status of contributions
- (b) States in arrears
- (c) Programme performance of the 2020 budget and 2021 first quarter

4. Human resource matters

- (a) Annual report on Human Resources Management
- (b) Geographical distribution and gender balance
- (c) The use of unapproved General Temporary Assistance
- (d) Cost of sick leave
- (e) Update on the Junior Professional Officer Programme
- (f) Update on redeployment
 - (i) of post from the Democratic Republic of the Congo to the Headquarters
 - (ii) of staff in Major Programme II
- (g) Proposal to introduce the National Professional Officer category

5. Premises

- (a) Alternative arrangements explored to further integrate maintenance and capital replacement programmes into one contract
- (b) Negotiations with a view to reducing the interest rate on the loan

6. Trust Fund for Victims

- (a) External auditing firm: objectives and audit to implementing partners
- (b) Update on approaches on the use of donor funds for Incidental Programme Costs

7. Audit matters

- (a) External Auditor's Note on the Governance Oversight workshop

8. Other matters

- (a) Update on the outcome of the Court's consideration of the recommendations of the Independent Expert Review including update on the establishment of the alternative dispute resolution mechanism
- (b) Agenda items deferred for future sessions

II. Participation of observers

8. Representatives from the Presidency, the Office of the Prosecutor (“the OTP”) and the Registry addressed the Committee and participated in the session. The Committee wished to thank the observers for their input to the discussions.

III. Consideration of issues on the agenda of the Committee at its thirty-sixth session

A. Budgetary governance workshop

9. The Committee held a workshop with the Court on (a) the impact of COVID-19 on operations and further measures to achieve efficiency; (b) budget implementation and the baseline: Presentation of baseline data for year to year comparison; (c) the new budget document proposal; and, (d) 2022 Proposed Programme Budget (“PPB”) outlook, such as savings and efficiencies in light of the unpredictability of the COVID-19 pandemic, etc.

1. Impact of COVID-19 on operations and further measures to achieve efficiency

10. The Committee received an update from the Court and considered the impact of the COVID-19 pandemic and the potential new cases on its operations, in particular on the IT Section. The Court informed the Committee of an increase to its workload in response to the recent developments and a resilient modality, which was identified to run the Court to fulfil its mandate and the measures taken to protect the health and safety of its staff. Additional costs related to COVID-19 mainly concern safety measures in connection with equipment and consultancy services.

11. The Committee noted that 75 per cent of staff were still working remotely and it would monitor the budgetary implication of all human resources arrangements.

12. It was noted that the Crisis Management Team continues to provide guidance and recommend practical measures to manage the COVID-19 pandemic to organize the activities of the Court in a coordinated manner. While acknowledging the role the Crisis Management Team has played, the Committee observed the need to adjust the approach and activities at the Court from long term perspectives under the new circumstances.

13. **The Committee recommended that the Court continue its efforts to identify the efficiency and savings in its operations as a result of the pandemic. Furthermore, the Committee invited the Court to present a plan on its projections in terms of return to office planning, the hybrid work model and the new working environment at its thirty-seventh session.**

2. Budget implementation and the baseline: Presentation of baseline data for year to year comparison

14. At its last session, the Committee³ invited the Court to continue compiling the baseline as an analytical tool for the future budgetary process. Therefore, the budget workshop focused on the annex concerning savings and efficiencies. It was recognized by the Committee members, as well as by the Court, that in using the current way of representing certain types of costs⁴ that by nature lower the budget increase and linking them rigidly with the notion of budget baseline may be oversimplified and will not give the correct picture for a year-to-year comparison of baseline. The savings and efficiencies annex brings value as a quantitative

³ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 29.

⁴ Savings, efficiencies, non-recurrent costs, and additional cost reductions.

representation of direct savings and non-recurrent costs, which can be compared year-to-year, but not so much in terms of costs avoided, and even less so in the case of efficiencies.

15. The Committee recommended that the Court should develop and agree with the Committee a new improved solution to the issue of how to present evidence of efficiency gains, and it recommended that until then an annex concerning the baseline, as well as savings and efficiencies, should continue to be provided with the proposed programme budget.

3. New budget document proposal

16. The Committee was briefed by the Court about the new budget document proposal. The idea of changing the budget structure should meet the recommendation of the External Auditor⁵ to produce a leaner document with more comparable quantitative data. The proposal of the Court involves trying to harmonize the budget structure with the presentation of the United Nations organizations. Also, the Court is seeking to synchronize the three important management processes, namely strategic, risk and budget management and produce a comprehensive view of why funds are needed, how much and where are they going to be spent. This is in line with the recommendation made by the Independent Expert Review (“IER”) about budget planning.⁶ In implementation reporting, this budget set-up would create new opportunities to link the use of financial resources with results, which are due to be expressed using the Key Performance Indicators.

17. The Committee welcomed the initiative of the Court to renew the budget structure and make the budget document leaner. **For the next step, the Committee recommended that the Court also produce, along with the 2022 Proposed Programme Budget for the thirty-seventh session of the Committee, a mock-up of one major programme using the new structure.** Before fully launching the comprehensive change of budget presentation, this would allow the Committee and States Parties to have a better idea of what information will be available and what information will be excluded from the budget narrative. There are both positive and negative aspects to performance budgeting which need to be further discussed so that the optimal solution can be designed for the Court.

4. 2022 Proposed Programme Budget outlook

18. At its thirty-fifth session, the Committee noted the significant difference between the PPB and the budget baseline for 2021 and that not all of the reductions would be sustainable over the coming years. There had been innovations and changes to managing country offices and interviewing witnesses, as well as arranging communication within the Court, which had generated cost savings. The Committee looked forward to seeing new budget proposals to take full advantage of the Court’s adaptability, process innovations and flexible administration of funds demonstrated while managing the COVID crises.

19. At its thirty-sixth session, especially through the presentations by the heads of the Organs and the Budget Workshop, the Committee received some indication on the 2022 PPB outlook. The Court foresees an increase in workload, which may lead to budget increases in 2022 PPB. The size of the increase is not clear yet. The Committee was also informed that there are judiciary proceedings in progress that may increase resource needs significantly and due to the timing, the impact of those decisions may become clear only after the first draft of 2022 PPB is circulated at the end of July 2021.

20. The Committee took note of the 2022 PPB outlook and recommended that the Court look for efficiencies and savings before submitting the next financially sustainable budget proposal. This requires a diligent budget preparation, especially in view of the

⁵ CBF33/10S01 Recommendation No. 5.

⁶ See IER recommendation No. 132.

fact that there is a high level of outstanding contributions and that liquidity shortage constitutes a risk for budget implementation.

B. Other financial and budgetary matters

1. Status of 2021 contributions

21. The Committee reviewed the status of contributions as at 31 March 2021. See Annex I:
- (a) the assessed contribution of the 2021 approved budget of €144,673,900;⁷ and
 - (b) contributions corresponding to Major Programme VII-2 (host State loan) amounting to €3,585,100 for the permanent premises.
22. The Committee noted that as at 31 March 2021, regular contributions of €70,049,109 (48.4 per cent) were outstanding for the 2021 approved budget (excluding host State loan). The Committee observed that only 40 out of the 123 States Parties had fully paid their contribution as at 31 March 2021.
23. States Parties that did not opt to make a one-time payment were required to cover the instalment payments due on the loan from the host State. The outstanding contributions for the host State loan as at 31 March 2021 stood at €1,725,545.
24. the Committee noted with great concern that a total of €71.8 million of 2021 contributions (budget plus host State loan) was outstanding as at 31 March 2021, which represents 48.4 per cent of the 2021 approved budget. The Committee recalled that it was imperative for States Parties to make their contributions on time.
25. **The Committee requested that the Court continue to remind States Parties that had not paid their contributions in full of their obligations.**

2. Prior years' outstanding contributions

26. The Committee noted with great concern that the outstanding/unpaid regular contributions from previous years (excluding the host State loan) as at 31 March 2021 stood at €32,245,200. In this regard, the Committee noted that the total outstanding contributions (excluding the host State loan) from previous years of only four States Parties amount roughly to €30.8 million (or roughly 95.5 per cent) of the overall outstanding contributions from previous years.
27. States Parties that did not opt to make a one-time payment were required to cover the instalment payments due on the loan from the host State. Prior years' outstanding contributions for the host State loan as at 31 March 2021, stood at €882,177.
28. The Committee recalled that it was imperative for States Parties to pay their outstanding contributions. Failure to do so may result in a shortage in the cash flow needed for the Court's core activities and operations. This risk, which the Committee has been pointing out for quite some time, almost materialised at the end of 2020 had the Court not been able to convince some of the States Parties to pay their contribution for 2021 in advance. The Committee also noted from the "Monthly financial situation report as at 31 December 2020" that a total of €20.7 million contributions received in 2020 was related to 2021 assessments. Without these contributions received in advance, liquidity shortfall at the end of 2020 financial year would have reached €14.3 million, which would have been only partially covered by the current level of the working capital fund of €11.5 million, leaving a cash deficit of €2.8 million.
29. As a consequence, the liquidity situation in 2021 becomes even tighter. The cash flow projections of the Court for the current year show a liquidity shortfall amounting to approximately to €20.6 million by the end of 2021. Considering this projection the Committee

⁷ ICC-ASP/19/Res.1, Section A, para 3.

can only underline the urgent need for States Parties to pay their contributions on time, in accordance with Regulation 5.6 of the Financial Regulations and Rules (“FRR”) in order to ensure that the Court has sufficient funds throughout the year.

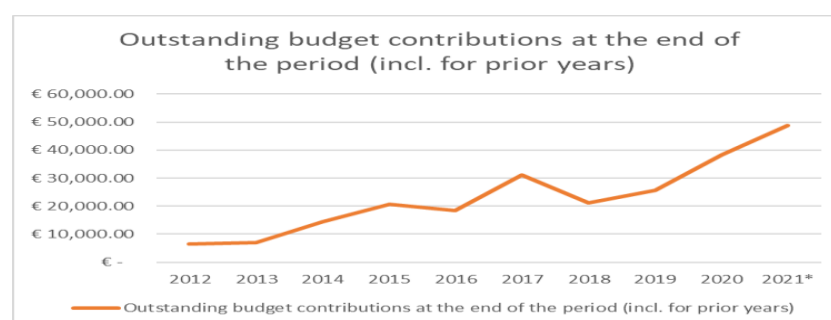
30. Table 1 below provides an analysis of the trend in outstanding contributions, including a projection for 2021 based on information available as at 31 March 2021.

31. The trend over the last ten years has seen the level of outstanding contributions rise from about three per cent in 2011 to about 26 per cent in 2020, €2.8 million to €38.4 million respectively. Over the same period the programme budget for the Court has risen from €103.6 million to €149.2 million, a growth of about 44 per cent. The raw numbers suggest that a number of State Parties might have struggled to keep up with the growth in demand for the Court’s budget.

Table 1: Analysis of the trend in outstanding contributions

	Programme budget	Outstanding budget contributions at the end of the period (incl. for prior years)	Outstanding contributions (in per cent)
2011	103,607.90	2,791.60	2.69%
2012	108,800.00	6,569.27	6.04%
2013	115,120.30	6,980.18	6.06%
2014	121,656.20	14,489.26	11.91%
2015	130,665.60	20,785.67	15.91%
2016	139,590.60	18,405.97	13.18%
2017	144,587.30	31,047.93	21.47%
2018	147,431.90	21,121.66	14.33%
2019	148,135.10	25,771.66	17.40%
2020	149,205.60	38,401.74	25.74%
2021*	148,259.00	48,835.90	32.94%

Figure 1: Outstanding contributions over the past ten years (in thousands of euros)



* The forecast for 2021 is based on 2020 trends of contributions received. As reported by the Court in its monthly financial situation report as at 31 March 2021, information on payment of €104.98 million of outstanding contributions is currently pending.

32. The Committee requested that the Court continue to remind States Parties that had not paid their contributions in full of their obligation. It is those States Parties that could make a positive difference to the liquidity situation of the Court. Furthermore, the Committee recommended that the Bureau, through the President of the Assembly, the Coordinator of the New York Working Group and Court officials, continue engaging in a dialogue with States Parties that have outstanding contributions and take up this issue in their bilateral and multilateral meetings.

33. The Committee welcomed the fact that the Court considered the payments of contributions as a political issue that needs attention, not only at the end of a year but right at the beginning. In that sense the Court will contact State Parties which are behind with their payments early on to encourage them to pay their contributions and arrears. Notwithstanding those efforts, the Court should also develop a contingency spending plan that enables it to reduce spending if need be to avoid a deficit at year end.

3. States in arrears

34. The Committee observed that as at 31 March 2021, nine States Parties were in arrears and would not be able to vote in accordance with article 112(8) of the Rome Statute.

35. In light of the continuously deteriorating liquidity situation, the Committee emphasized again the External Auditor's recommendation that in order to strengthen the process of recovering outstanding contributions, States Parties in arrears for the preceding two full years should only be allowed to vote once the payment schedule is fulfilled, and that requests for exemption should only be granted once a minimum amount identified has been paid and once a payment plan for the remaining balance is presented.

36. **The Committee recommended that the Court work closely with States Parties to implement an affordable and realistic repayment plan for those States Parties in arrears.**

4. Programme performance of the 2020 budget

a) General observations

37. The Committee considered the "Report on activities and programme performance of the International Criminal Court for the year 2020" and noted that in 2020, based on preliminary and unaudited figures, the Court's total actual expenditure including the Contingency Fund ("CF") amounted to €144.72 million, which represents 97 per cent of the approved 2020 budget of €149.21 million. The remaining balance represents a surplus of €4.49 million. See Table 2 below.

38. The implementation rate of the regular budget for 2020 was 95.2 per cent or a total of €142.06 million against the approved budget of €149.21 million.

39. Four CF notifications were submitted to the Committee with a total notified amount of €3.59 million, of which €2.66 million was actually needed. The Committee welcomed the Court's effort to absorb the expenditure for unforeseen situations and developments within its regular budget.

Table 2: Budget Performance 2020 by expenditure item (amounts in thousands of euros)⁸

Items	Approved Budget 2020	Total Contingency Fund (CF) 2020	Total Consolidated Budget and CF 2020	Actual Expenditure 2020*	Actual Expenditure CF 2020*	Total Actual Expenditure Incl. CF 2020	Total Actual incl. CF Implementation Rate 2020 against Approved Budget in %
	[1]	[2]	[3]=[1]+[2]	[4]	[5]	[6]=[4]+[5]	[7]=[6]/[1]
Judges' Salaries	5,516.9	-	5,516.9	5,208.5	-	5,208.5	94.4
Professional staff	61,403.7	-	61,403.7	n/a	n/a	n/a	n/a
General Service staff	26,082.4	-	26,082.4	n/a	n/a	n/a	n/a
Subtotal staff	87,486.1	-	87,486.1	89,011.6	-	89,011.6	101.7

⁸ CBF/36/10: Report on activities and programme performance of the International Criminal Court for the year 2020, Annex XVI: Budget Performance 2020 by Sub-Programme, Programme and Major Programme and by Item (amounts in thousands of euros), Table 10: Court consolidated budget performance in 2020, by item of expenditure (amounts in thousands of euros).

Items	Approved Budget 2020	Total Contingency Fund (CF) 2020	Total Consolidated Budget and CF 2020	Actual Expenditure 2020*	Actual Expenditure CF 2020*	Total Actual Expenditure Incl. CF 2020	Total Actual incl. CF Implementation Rate 2020 against Approved Budget in %
General temporary assistance	17,341.4	620.7	17,962.1	17,044.6	348.6	17,393.2	100.3
Temporary assistance for meetings	283.5	191.6	475.1	446.7	166.3	613.0	216.2
Overtime	223.5	70.0	293.5	181.9	40.1	222.0	99.3
Subtotal other staff	17,848.4	882.3	18,730.7	17,673.2	555.0	18,228.2	102.1
Travel	6,332.2	287.9	6,620.1	1,995.4	123.1	2,118.5	33.5
Hospitality	28.0	-	28.0	14.0	-	14.0	50.2
Contractual services	4,072.7	300.6	4,373.3	3,373.8	177.3	3,551.2	87.2
Training	1,045.1	-	1,045.1	365.9	-	365.9	35.0
Consultants	689.4	158.1	847.5	1,006.9	128.2	1,135.0	164.6
Counsel for defence	3,167.5	978.1	4,145.6	2,721.7	921.4	3,643.1	115.0
Counsel for victims	1,300.0	374.3	1,674.3	1,211.9	328.8	1,540.7	118.5
General operating expenses	15,523.9	428.0	15,951.9	13,674.2	208.8	13,883.0	89.4
Supplies and materials	1,233.7	99.5	1,333.2	920.1	138.5	1,058.6	85.8
Furniture and equipment	1,376.6	84.6	1,461.2	1,294.2	82.1	1,376.3	100.0
Subtotal non-staff	34,769.1	2,711.1	37,480.2	26,578.1	2,108.2	28,686.3	82.5
Total	145,620.5	3,593.4	149,213.9	138,471.4	2,663.2	141,134.6	96.9
Host State Loan	3,585.1	-	3,585.1	3,585.1	-	3,585.1	100.0
Total Including Host State Loan	149,205.6	3,593.4	152,799.0	142,056.5	2,663.2	144,719.7	97.0

* Expenditure for 2020 is based on preliminary, unaudited figures which are subject to change.

b) Judicial development and pandemic impacting the use of budgetary resources

40. The Committee observed that in 2020 the Court was able to overcome major challenges posed by the COVID-19 pandemic while ensuring business continuity, including conducting hearings and investigations. Furthermore, unforeseen changes to judicial activities, as well as other external factors, had a direct impact on the use of budgetary resources that had been approved by the Assembly.

41. The breakout of the pandemic affected all areas of the Court's judicial activities, however, postponement of missions and travel restrictions led to the most significant underspend of €4.33 million; in addition, the curtailment of planned training activities underspend of €0.68 million⁹ and general operating expenses underspend of €1.64 million¹⁰ linked to the low occupation of the Court's premises and hearing days of 71 days had allowed the Court to absorb higher staff costs overrun of €1.25 million, legal aid overrun of 0.72 million¹¹ and consultants overrun of €0.45 million.¹² The Committee welcomed the Court's effort to reprioritize its activities and find efficiencies and savings, and to reallocate funds in order to cover unforeseen expenditures and remain within the approved budgetary envelope.

42. The Committee observed that in 2020 not a single day for hearings had been budgeted for. The Committee noted that in the case of Al Hassan the trial was opened in July and continued throughout 2020 and in the trial case of Ongwen closing statements were made in March and the judgment was delivered in April 2021. In the case of Yekatom/Ngaissona the trial was set to begin on 09 February 2021. The final appeals continued in two cases: Gbagbo and Blé Goudé, and Ntaganda.

43. On 15 March 2020, Mr. Lubanga, the first sentenced person, was released having served his sentence (14 years of imprisonment); however, reparations proceedings that started in 2012 are still ongoing. The reparations proceedings in Ntaganda, Katanga and Al

⁹ Training: €0.68 million = €1.05 million - €0.37 million.

¹⁰ General operating expenses: €1.64 million = €15.52 million - €13.88 million.

¹¹ Legal aid: €0.72 million = (€3.18 million + €1.30 million) - (€3.64 million + €1.54 million).

¹² Consultants: €0.45 million = €0.69 million - €1.14 million.

Mahdi continued throughout 2020. The Committee noted that in no case were the reparation proceedings completed in 2020 and recalled its earlier assessment that the issue of reparations had a potentially significant impact on the reputation of the Court. The Committee was cognizant of the fact that the final pattern of reparations would depend on a decision by Chambers, however, it reiterated its intention to closely monitor the situation at its forthcoming sessions.

c) Staff costs for established posts, GTA and Temporary assistance for meetings

44. In 2020, the cost of the Court's staff for established posts exceeded the approved budget by €1.5 million (approved budget €87.49 million versus €89.01 million). A high implementation rate of 101.7 per cent was due to the application of the revised UNCS salary scales. The Committee welcomed the fact that recruitment activities were rescheduled and postponed in order to strike a balance between reducing the financial impact of increased staff costs and meeting relevant operational needs, including but not limited to judicial activities.

45. The overspend rate under the budget line item "Temporary assistance for meetings" including CF of 216.2 per cent, or €0.33 million against the approved budget of €0.28 million was directly linked to COVID-19 pandemic, when additional interpretation services for a second session of the Assembly were needed and the engagement of freelance interpreters enabled the Registry to support courtroom operations proactively.

46. The Committee recommended that the Court reap the benefits of 2020 practices and make every effort to manage its human resources in a flexible, justifiable and transparent manner to react to unexpected situations. As far as possible, the Court should use resources based on actual workload requirements and redeploy or discontinue posts that are unfilled and considered not to be needed. The Committee stressed that approved staff budget lines should not be exceeded, as the UNCS salary scales will not change in 2021.

d) Travel

47. The health and safety measures that were implemented to protect staff and travel restrictions meant that the travel budget including CF was implemented at a rate of 33.5 per cent or €2.12 million against the approved budget of €6.33 million. The funds allocated to missions were used to offset the overspend in the 2020 staff costs and had generated a surplus for the 2020 budget.

e) Hospitality

48. In response to the COVID-19 pandemic, many in-person meetings were cancelled; the number of official visits to the Court was reduced to a minimum, which resulted in an implementation rate for hospitality of 50.2 per cent of the €28 thousand approved budget.

f) Training

49. The training budget was implemented at 35.0 per cent, or €0.37 million, against the approved budget of €1.05 million as most training was conducted remotely or postponed.

50. The Committee recommended exploring the possibility of organizing training activities remotely in the future as much as possible.

g) Consultants

51. The consultants' budget including CF had an implementation rate of 164.6 per cent, or €1.14 million, against the approved budget of €0.69 million as a result of more consultants being needed due to unforeseen situations and to travel restrictions applied on the Court's staff. Nevertheless, the Committee observed that the Court has reached a certain degree of maturity and, therefore, it is expected to have sufficient experienced staff, which will reduce the use of

consultants. **The Committee recommended that the Court reverts to the practice of using its own staff and that the services of consultants are used exceptionally and temporarily when the Court is unable to meet its needs using in-house resources.**

h) Legal aid

52. The total expenditure including CF of €5.2 million for legal aid was overspent by €0.72 million against the approved budget of €4.47 million, which was mainly due to unforeseen development in the case of Abd-Al-Rahman and Gicheru. The Committee noted that unexpected differences between budget assumptions and actual developments in other cases also have a direct impact on the implementation rate of the approved legal aid budget.

i) General operating expenses

53. The budget including CF was underspent by €1.64 million as result of a reduction in the cost of utilities, the renegotiation of a number of building expenses contracts, the postponement of some activities such as adjustments to the premises and slowing down some investigative activities. However, the pandemic also gave rise to additional expenditure, including the cost of expanding the remote working Citrix infrastructure and the purchase of WebEx licences required to accommodate secure remote access for staff working from home.

j) Supplies and materials

54. The Committee welcomed the compliance with the budget appropriations for supplies and materials despite some unplanned expenditure for personal protective equipment in order to provide a safe environment during the phased return of staff to the premises and reduce the risk at the country offices.

k) IT expenditure

55. The Committee acknowledged the role effective and resilient IT systems have played in securing remote working, as well as the continuation of the Court's operations during the pandemic. It is evident that a number of new work practices and procedures introduced throughout the Court are here to stay and they will heavily rely on the Court's IT systems. As the 5-year IT/IM strategy enters its completion phase and the Judicial Workflow Platform enters its launch phase, the COVID-19 lessons must be translated into a new IT vision and development plans. There is an opportunity to offset or reduce the structural costs of the Court's operations and at the same time increase staff work satisfaction and provide technological flexibility for the Court's operations when the workload increases.

l) Transfer of funds

56. The Court reported on one transfer of funds involving an amount greater than €200 thousand during 2020. The amount of €250.00 thousand was transferred within the Programmes of the Secretariat of the Assembly travel budget line to contractual services for translation services required during the nineteenth session of the Assembly in The Hague. The Committee acknowledged that the transfer was in conformity with the FRR and was due to unforeseen or unplanned development at the time of the submission of the proposed programme budget; nevertheless the Committee underlined the fact that any such transfer of funds should not be considered when calculating the baseline for the following year.

m) Contingency Fund notifications in 2020

57. In 2020, the Court was confronted with a number of unforeseen developments and submitted four CF notifications as detailed in Table 3 below.

Table 3: Summary of notifications to access the Contingency Fund in 2020

<i>Date</i>	<i>Justification</i>	<i>(Revised) amount notified</i>
10/01/2020	Situation in Cote d'Ivoire for the case <i>The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé</i>	€138,500
19/06/2020	Situation in Mali for the case <i>The Prosecutor v. Al Hassan</i>	€909,500
24/06/2020	Situation in the Central African Republic (CAR II) for the case <i>The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona (Yekatom and Ngaïssona)</i>	€1,751,300
23/10/2019	Situation in Sudan for the case <i>The Prosecutor v. Mr Abd-Al-Rahman</i>	€794,100
Total		€3,593,400

58. The Committee noted that the overall use of resources for unforeseen situations amounted to €2.66 million, or 74.1 per cent, compared to the total notified amount of €3.59 million and that these resource requirements were absorbed within the regular approved budget.

5. Budget performance 2021 first quarter

59. The Committee had before it the “Report on budget performance of the International Criminal Court as at 31 March 2021.”¹³ The Committee noted that the implementation rate, as at 31 March 2021, was 29.9 per cent, or €43.22 million, against the 2021 approved budget of €144.67 million (excluding the instalments for the host State loan of €3.59 million) and agreed to continue monitoring the situation at its thirty-seventh session in September 2021.

60. The Committee noted that although the implementation rate was lower than in 2020, it remained high.¹⁴ Furthermore, the Committee observed that the continuing pandemic situation was having a direct impact on the Court’s operations and thus on the 2021 budget implementation. Activities that required travel were the most affected, both in terms of additional costs for mitigating measures and in terms of delays or cancellations. The Committee was informed that 75 per cent of staff continued to work remotely.

61. The Committee took note that the implementation rate for the Judges’ costs was 20.1 per cent. This low rate of implementation was due to the introduction of the new remuneration system for the judges. The Committee observed that the 2021 budget was approved for the remuneration of 14 full-time judges. At the time of the Committee’s session the number of judges corresponded with the 2021 budget assumption. However, upon information received from the Court the mandate of three former judges, of which term of nine years had reached the end at the beginning of March 2021 continued for a short time in accordance with Article 36 of the Rome Statute. **The Committee recommended that the Court make utmost efforts to absorb any additional unforeseen costs resulting from the extension of the mandate of the former judges into the approved budget.**

62. The Committee noted high implementation rates in contractual expenses, training, general operating expenses, supplies and materials. The yearly budget provisions allocated to consultants have even been overspent with the unprecedentedly high implementation rate of 103.3 per cent.

63. The high percentage rate of implementation of non-staff costs in the first quarter of the year was explained by the front-loading of the same expenses in relation to leases in the field, obligations linked to yearly contracts for information and communications technology services, maintenance of premises, outsourcing security services at country offices and

¹³ CBF/36/12.

¹⁴As at 31 March 2020, the Court’s programme budget implementation rate was 31.8 per cent, or €46.29 million against the approved budget of €145.62 million (CBF/34/9/Rev.1).

obligations for the rental of detention cells. The exceptionally high level of costs for consultants was justified by the need to provide legal representation for victims.

64. **Implementation rate for training reached 30 per cent. Taking into account the experience gained in 2020 from on-line learning, the Committee recommended that this budget line be kept in the approved budget envelope.**

65. The Committee noted with concern that the implementation rate for non-staff costs was 51.4 per cent and with the exception of travel and hospitality, all budget lines were overspent. **The Committee recommended that the Court carefully manage financial resources and make every effort not to exceed the 2021 approved budget.**

66. The implementation rate for Court-wide staff costs was 24.2 per cent. **The Committee recommended that the Court continue to monitor its recruitment activities in an effort to achieve a balance between staff costs and relevant operational needs, including but not limited to judicial, investigative, and prosecutorial and support activities.** Furthermore, the Committee reiterated its previous recommendation that the Court manage its human resources in a flexible and efficient manner to allow it to react to unexpected situations as much as possible and redeploy resources based on actual workload requirements.

6. Contingency Fund notification

67. The Committee noted that no CF notifications were submitted during the first quarter of 2021. However, a CF notification is in preparation for submission to the Committee to meet unforeseen costs with regard to the case of *The Prosecutor v. Mahamat Said Abdel Kani* in the situation in the Central African Republic (CAR II).

7. Transfer of funds

68. The Committee observed that there were no transfers of funds greater than €200.00 thousand during the first quarter of 2021.

C. Human resources matters

1. Annual report on Human Resources Management

69. The Committee considered strategic objectives in relation to human resources management: workforce statistics; gender balance and gender equality; geographical distribution; use of unapproved GTA; sick leave; redeployment and a proposal on mobility.

70. Overall, the Committee was satisfied with the way the Court had handled human resources during the COVID-19 pandemic and expressed its willingness to continue discussing the lessons learnt during such a complex time, as well as continuing with the further digitalization of human resources processes.

2. Equitable geographical representation and gender balance

Geographical representation

71. The Court submitted the Human Resource Management report early in May 2021, preceded by statistical tables showing the status of Geographical Representation and Gender Balance (“GRGB”) as at 31 March 2021. The Court subscribed to the opinion that a diverse workforce would increase productivity and acknowledged that its “organizational legitimacy required representation of all State Parties”. The Court also noted that progress in the area of GRGB had been slow; measures taken in the past few years were not as effective as had been hoped for. Therefore, the Court felt that a new targeted approach was called for. The Court included GRGB as a strategic objective in the Registry’s plan. A new policy, which emphasized balance throughout the staff selection process, was drafted in 2020; its promulgation is expected in the second half of 2022 or 2023.

72. Over the span of five years (2016-2021), the human resources statistics pertaining to representation of States Parties in the Professional staff showed significant improvement in the in-balance category and slight improvement in the under-represented and non-represented categories; whereas no improvements were taken place in the over-represented and non-ratified categories. More details are illustrated in Annex V(1).

73. As at 31 March 2021, the total staff count was 1,361.¹⁵ The total established posts for Professional staff was 437 excluding 21 elected officials and 40 language staff; the number of staff nationalities stood at 92. More details are illustrated in Annex V(2).

74. Total GTA positions involving Professional staff was 113 which included 43 nationalities.

75. The imbalance has almost remained the same since 2016 in terms of the regional distribution of the Professional staff, where Africans occupied 16.5 per cent, Asians 7.1 per cent, East Europeans 10.3 per cent, GRULACs 7.6 per cent, and WEOGs 58.7 per cent. See Annex V(2). The distribution by higher grade level (D-1, P-5 and P-4) showed imbalance between the regional Groups. See Annex V(3) for details. **The Committee recommended that the Court draw up a long-term plan to gradually alleviate the imbalance in the regional geographical representation of professional staff.**

Gender balance

76. The Court's Human Resource Management report furnished data classified by major programme and professional grade level as at 31 March 2021. Overall, females and males comprised 49.3 per cent and 50.7 per cent of the Professional Staff, excluding elected officials and language staff. The large number of females occupying the lower grade levels, namely, P-3, P-2 and P-1, that constituted 77 per cent of all females employed in the Court, almost bridged the gender gap. At the higher professional grade levels, namely, D-1, P-5 and P-4, females constituted 32.8 per cent of the total higher professional grade levels. Annex VI shows the gender distribution by major programme, and percentages by grade.

77. In response to the large gender imbalance the Principals of the Court's organs agreed to establish a Gender Equality Focal Point to assist in improving the development of Court-wide policies and to address gender issues concerning conditions of employment at the Court. **The Committee recommended that the Court draw up a long-term timeline to gradually narrow the gender gap.**

3. The use of unapproved General Temporary Assistance

78. Since its thirty-third session, the Committee had noted repeatedly with concern the Court-wide use of unapproved GTA contracts and the fact that their resources were not included in the CF notifications as unavoidable or unforeseeable human resources needs and were mainly justified as a consequence of increased workload. Since then, the Committee had stressed the need for proper justification and strongly recommended that the Court refrain from using GTAs in the future.

79. Unfortunately, the Court has continued its practice of using unapproved GTA, as the following Table 4 shows that a significant increase of unapproved GTA contracts Court-wide is evident over the period of the last three years, not only in number of contracts but more significantly in number of months.

¹⁵ ICC Staff count 1,361: established posts (854), approved GTA (168), Short-Term Appointment (37), JPO (4), Interns (48), Visiting Professionals (14), Individual Contractors and Consultants (215), and Elected officials/Judges (21).

Table 4: Unapproved General Temporarily Assistance positions and duration of contracts

Year	MP I		MPII		MP III		Summary Total	
	No. posts	No. months	No. posts	No. months	No. posts	No. months	No. posts	No. months
2016	2	24	3	33	4	23	9	80
2017	0	0	6	38	3	14	9	52
2018	0	0	7	38	7	33	14	71
2019	4	23	17	93	6	52	27	168
2020	4	40	13	150	5	60	22	250

80. The situation of hiring unapproved GTA has continued in 2021. From January to March 2021, 23 unapproved GTA contracts were used Court-wide. None of these cases was characterised as unforeseen or unavoidable and they were not included in the CF notification. The Court in many cases continued to justify the recruitment for additional positions because of the expected increase in activities, strengthening capacity, and a higher level of duties. A number of unapproved positions were maintained for more than two consecutive and full years.

81. The Committee stressed that the use of unapproved GTA by the Court undermines budget discipline and the purview of the Assembly, following advice from the Committee after its thorough examination of assumptions and workload.

82. **The Committee expressed concern about the fact that the situation in terms of the use of unapproved GTA has remained unchanged and recommended that the management of the Court accountable for the prudent use of human resources takes all necessary measures to improve the situation and refrain from using unapproved GTA in line with financial and budgetary discipline. The Committee requested that it be updated on the use of the unapproved GTAs at its thirty-seventh session.**

4. Mobility

83. The Committee noted that there had been a decrease in the number of staff using either temporary horizontal or vertical mobility, while the number on Special Leave Without Pay had remained relatively stable.

84. The Committee also considered the proposed changes to the Financial Rules and Regulation in order to allow the Court a better and more flexible use of resources, particularly by allowing for the temporary assignment of staff members across organs, and it was of the view that further discussion was warranted and that the Committee would continue to consider the item during its thirty-eighth session.

5. Cost of sick leave

85. The Committee took note of the fact that the Court had developed an analytical data dashboard for sick leave, resulting in some initial conclusions, while the Committee will continue to monitor the issue closely.

6. Update on the Junior Professional Officer Programme

86. The Committee took note of the Court's request to establish the Junior Professional Officer Programme on a permanent basis due to the apparent success and increase in the size of the programme.

87. **The Committee took note that the additional workload in the Human Resources Section brought on by the pandemic in 2020 had not allowed the Court to finalize this exercise, and thus requested an extension to the deadline for submitting the report, to be accompanied by new guidelines and a sample agreement for consideration by the Committee at its thirty-seventh session.**

7. Update on redeployment of post from the Democratic Republic of the Congo to the Headquarters

88. The Committee reviewed the information provided by the Court regarding the redeployment of a P-3 post from a Field Office in the Democratic Republic of the Congo to the Headquarters, and while it was of the view that increased workload at the Headquarters would merit additional human resources, the approval by the Assembly for the redeployment was still pending and thus **the Committee requested further information regarding the unapproved GTA performing the duties and responsibilities of the External Affairs Coordinator at its thirty-seventh session in order to recommend the appropriate actions to the Assembly on the matter.**

8. Proposal to introduce the National Professional Officer category

89. The Court submitted to the Committee a proposal on the National Professional Officer Category (“NPO”) related to field operations.

90. The Court stated that the NPO already exists in the United Nations framework and is employed by some United Nations organizations to perform Professional-level work that requires knowledge and experience nationally. The introduction of the NPO would offer a flexible, cost-efficient and cost-effective option to select candidates to support field operations.

91. NPOs are nationals of the country in which they are to serve and are restricted locally and perform functions within their home countries/regions. They are staff members of the Court and are subject to its Rules and Regulation. Specifically, they perform functions of a professional nature requiring local knowledge in culture and language, among other things. The same international standards of recruitment in terms of qualifications and performance would apply.

92. The NPO posts would be graded on the basis of the applicable standards established by the International Civil Service Commission for posts in the Professional categories. The posts would be budgeted and would have no impact on geographical representation.

93. The Court asked the Committee to positively consider the proposal in order to take the necessary steps towards its establishment after the Assembly. The Committee examined the proposal and took note of the positive aspects of the NPO category although estimates of potential cost savings were not available. **The Committee expressed the view that while it believed it was a way forward in the management of human resources in the field offices, some questions remained outstanding regarding financial and administrative matters, i.e. estimates of potential cost savings and it thus required further information from the Court before being able to make a specific recommendation to the Assembly. Therefore it would continue to discuss the proposal during its thirty-seventh session.**

D. Premises

1. Alternative arrangements explored to further integrate maintenance and capital replacement programmes into one contract

94. The Committee considered the “Report of the Court on its assessment of alternative arrangements to further integrate maintenance and capital replacements” requested by the Committee at its thirty-fifth session.

95. The report sets out the preconditions for such an integrative approach:

96. The Court believed that the technical and economic capacity and the experience to enter into such a contract are present on the Dutch and wider regional markets. The risk allocation in a life cycle-oriented approach of primary operational risks would require a long contractual term covering a large part of the building’s life cycle (20 to 30 years) and is seen as being viable given the scope and financial value of the contract. Close monitoring of the contractor’s performance,

as well as consistent and reliable funding through the annual budget would be required. In this respect, the Court emphasised repeatedly during the presentation that a firm commitment on the part of the States Parties is key. As the report points out, an integrative approach would also require substantive changes in the structure of the Court's Facilities Management Unit.

97. The Committee took note of these preconditions, noting however, that the survey conducted in 2019 by the Inter-Agency Network of Facilities Managers ("INFM") had shown that none of the other organizations had a maintenance contract in place for preventive and/or corrective maintenance services, which also includes capital replacements. Such an integrated contract would therefore seem to be new territory and require particular scrutiny of all aspects.

98. The Court premises are of a very complex nature and therefore constitute a major challenge for the Facility Management team. The outsourcing of responsibilities and operational risks may therefore be sensible. Risk premiums and required long-term financial commitments however raise questions of efficiency and their long-term budgetary impact, for example.

99. The consideration of alternative arrangements to further integrate maintenance and capital replacement would strongly benefit from external advice. The Committee has recommended such a mechanism in previous sessions, which was also supported by the Assembly at its eighteenth and nineteenth sessions. It took note of the definition of the "ideal profile" of such pro bono experts provided by the Court and hoped that State Parties would be in a position to nominate experts for this purpose. Such external expert advice could also be useful during the whole life cycle of the premises.

2. Negotiations with a view to reducing the interest rate on the loan

100. Given the prevailing interest rate on the international financial markets and the economic crisis and budget constraints of many States Parties, the Committee invited the Court and the States Parties to explore the possibility of opening negotiations with the host State with a view to reducing the interest rate on the loan provided by the host State. The Court did approach the Foreign Ministry of the host State; however, it was advised that the host State "regretfully does not see an opportunity for negotiating the current interest rate". The Committee was not advised whether any State Party had approached the host State in this regard.

101. The Committee welcomed the readiness of the Registry "to immediately open negotiations with the host State when an opportunity for negotiating the current interest rate does arise in the view of the host State."

E. Trust Fund for Victims ("TFV")

1. External auditing firm: objectives and audit to implementing partners

102. The Committee was informed on the status of the procurement process concerning the external auditing firm for implementing partners and took note of the work done in order to select the appropriate provider.

103. Furthermore, the Committee welcomed the consultation and support of the Procurement Unit and the Office of Internal Audit to ensure that all vendors are fairly assessed.

104. The Committee noted that the TFV objectives to be achieved by the external auditing firm would be to enable the Secretariat of TFV to review the performance reports of TFV implementing partners and ensure accountability for the resources used to implement the assistance programmes and reparations awards across situation countries.

105. The Committee therefore recommended that the TFV establish a time frame in order to expedite the engagement of an external audit firm to commission an independent annual audit and share a sample of the report with the Committee including budgetary implications.

106. Among the possible solutions for harmonizing the external audit approach across the increasing number of implementing partners of the TFV, the Fund should also look for solutions such as the Group Auditor modality as set out in the International Standards on Auditing (ISA 600). The Committee recognized that the TFV and its implementing partners are not forming a consolidated group and thus the provisions of the standard cannot be directly implemented. Depending on the cost of external audit solutions a similar viable monitoring environment as described in ISA 600 could be created, which would involve a central auditor in The Hague supervising and controlling the independent auditors of the implementing partners. This would probably require amendments to the contracts with the implementing partners in the sections where the auditing provisions are described.

2. Update on approaches to the use of donor funds for Incidental Programme Costs (“IPC”)

107. The Committee noted that the TFV maintains the IPC provision from the other sources portion of its extra-budgetary resources and supports self-sustained activities. Furthermore, the Committee expressed a concern that other resources should not be seen as a mechanism for alleviating pressure on the Secretariat of the TFV budget on programme-related activities and therefore the relationship between the TFV regular budget and the IPC provision should be clearly identified. The IPC provision should be planned to form part of the TFV overall Fund Management and Investment Policy with rules on usage to avoid duplication, programme-related investment to improve ways in which victims benefit from reparations awards and support activities with allocations recommended by the Secretariat and approved by the Board of the TFV.

108. The Committee recommended that the TFV quantify and synchronize the other IPC-funded activities that relate to extraordinary needs in the area of victim verification procedures for reparations purposes in order to attract resources from private and public donors and related visibility activities, as well as extra reparations to services, and report to its thirty-seventh session.

F. Audit matters

1. External Auditor’s Note on the Governance Oversight workshop

109. On 7 December 2019, and at its eighteenth session, the Assembly requested “*the External Auditor to conduct an evaluation of the oversight bodies of the Court as part of its work in 2020, replacing the performance audit and to recommend possible actions on their respective mandates and reporting lines, while fully respecting the independence of the Court as a whole*”. The External Auditor submitted a “Note for the Workshop on the ICC Governance oversight”. The Committee was informed that there are no plans to share the report by the External Auditor; however, the Note was submitted to the Committee for its consideration and for questions to be answered questions before the Workshop took place. The Committee examined the External Auditor’s Note with great interest and reflected on the issues that are directly related to its mandate.

110. The workshop took place from 24 to 25 May 2021 in The Hague. The Chair, the Vice-Chair and the Executive Secretary to the Committee participated virtually and in person. Reflections on the Note in Annex III to this report were sent in writing to the convener of the External Auditor with the request to be attached to the External Auditor’s report that will be presented to the Assembly.

111. These discussions refer in particular to the importance of the Committee’s composition of elected experts serving on an independent basis and of the Executive Secretary assisting the Committee in its work being administratively part of the Secretariat of the Assembly but reporting directly to the Committee through its Chairperson. Openness to more contacts with the Budget Facilitator and States Parties was also expressed.

G. Other matters

1. Update on the establishment of the alternative dispute resolution mechanism

112. The Committee recalled that an Independent Expert had been appointed by the Court in 2019 to conduct an assessment of the internal conflict management system and provide an advisory opinion on the potential establishment of an informal mechanism.

113. At its thirty-fifth session, the Committee was informed that the report of the expert on “Informal conflict resolution at the ICC” was shared with the Independent Expert Review (“IER”) of the Court in view of its mandate, which included looking into Internal grievance procedures. The Committee had recommended that it be informed at its thirty-sixth session about the outcome of the Court’s consideration of the recommendations of the IER, including the potential financial implications of the establishment of an informal dispute mechanism.

114. The Committee noted that the IER report was issued on 30 September 2020 and the Court provided its consolidated response to the IER recommendations in the document entitled “Overall Response of the ICC to the IER of the ICC and the Rome Statue System” issued on 15 April 2021.

115. At the time of the Committee’s session there was no outcome regarding the recommendations of the IER on the establishment of an alternative dispute mechanism at the Court. However, the “Report of the Court on the outcome of its consideration of the recommendations of the Independent Expert Review including the potential financial implication of the establishment of an informal dispute mechanism” has been submitted to the Committee for preliminary considerations on the potential financial implications of establishing such a mechanism.

116. The Committee noted that different models are possible:

- a. The appointment of an Ombudsperson as a multi-year established post at P-5 level: the cost would be approximately €185.2 thousand per year and the cost would be recurrent;
- b. The United Nations Ombudsman and Mediation Services, whose cost consideration would require a careful adjustment of the Court’s legal framework; additionally, several factors should be taken into consideration for this modality in order to assess the financial impact on the Court’s budget;
- c. Recruitment of an individual consultant, with a cost estimate of €144 thousand per year. The amount would cover 120 working days of consultancy services. However, the days of service would be decided by assessing the potential number of cases. This option would enable the Court to meet the IER recommendation that the Ombudsperson be a “true outsider”.

117. **The Committee observed that not all relevant information on the alternative dispute resolution mechanism was available for it to express its view and it recommended that it be provided with an update at its thirty-seventh session.**

2. The IER recommendations and the Review Mechanism

118. The Committee noted that the IER report “Independent Expert Review of the International Criminal Court and the Rome Statute System” was distributed on 09 November 2020. The Report contains 384 recommendations, both short and long-term, with varying degrees of complexity, and urgency of implementation.

119. The Committee would like to express its appreciation to the President of the Assembly who assisted the Committee with engaging with the Review Mechanism process. The Committee assured the President that the Committee would be ready for any consultation

within its mandate in the areas of budget, finance and administration that would assist the States Parties in this process.

120. The Committee was able to provide comments on the 15 recommendations most relevant and material to the Committee as having a budgetary, financial and administrative impact as illustrated in Annex IV.

3. Agenda items deferred for future sessions

121. The Committee reviewed the list of agenda items, which had originally been scheduled for consideration at its thirty-sixth session, but due to the time limitations of the remote session as a security restriction imposed by the COVID-19 pandemic, had been deferred. A list of these items is in Annex II to this report. The Committee decided that the deferred items would be dealt with, to the extent feasible, at its thirty-seventh session. The Committee considered that this would only be possible if the situation improved sufficiently to allow an in-person meeting to take place in The Hague.

4. Future sessions of the Committee

122. The thirty-seventh session of the Committee is scheduled¹⁶ to take place from 6 to 17 September 2021 in The Hague. The Committee will keep the situation under review in light of developments regarding the COVID-19 pandemic.

¹⁶ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. I, part I, section B., para. 40 and Res. 6, Annex I, para.19 (a).

Annex I: Status of contributions as at 31 March 2021

		Prior Years			Year 2021				Total Outstanding General Fund	Grand Total Outstanding/ All Funds	State Party Account Status	Date latest received payment
State Party		Outstanding Regular Contributions	Outstanding Host State Loan Contributions	Total Outstanding Contributions	Assessed Regular Contributions	Assessed Host State Loan Contributions	Total Assessed Contributions	Total Outstanding Contributions				
1	Afghanistan	-	-	-	14,467	706	15,173	15,173	15,173	15,173	Overdue	27/05/2020
2	Albania	-	-	-	21,267	-	21,267	-	-	-	Fully settled	01/03/2021
3	Andorra	-	-	-	13,310	-	13,310	13,310	13,310	13,310	Overdue	27/04/2020
4	Antigua and Barbuda	27,297	558	27,855	5,353	186	5,539	5,539	33,394	33,394	Ineligible to vote	01/10/2016
5	Argentina	3,669,710	-	3,669,710	2,425,169	-	2,425,169	2,425,169	6,094,879	6,094,879	In arrears	22/02/2021
6	Australia	-	-	-	5,857,557	-	5,857,557	-	-	-	Fully settled	08/01/2021
7	Austria	-	-	-	1,794,390	113,387	1,907,777	-	-	-	Fully settled	11/01/2021
8	Bangladesh	-	-	-	14,467	893	15,360	-	-	-	Fully settled	18/01/2021
9	Barbados	-	-	-	18,518	-	18,518	18,518	18,518	18,518	Overdue	06/03/2020
10	Belgium	-	-	-	2,176,040	141,803	2,317,843	-	-	-	Fully settled	09/12/2020
11	Belize	2,613	143	2,756	2,604	143	2,747	2,747	5,503	5,503	In arrears	15/11/2019
12	Benin	-	-	-	7,957	430	8,387	-	-	-	Fully settled	25/03/2021
13	Bolivia (Plurinational State of)	42,526	-	42,526	42,389	-	42,389	42,389	84,915	84,915	In arrears	16/09/2020
14	Bosnia and Herzegovina	-	-	-	31,828	-	31,828	-	-	-	Fully settled	25/02/2021
15	Botswana	-	-	-	37,037	2,269	39,306	-	-	-	Fully settled	08/02/2021
16	Brazil	15,407,298	416,882	15,824,180	7,813,693	416,882	8,230,575	8,230,575	24,054,755	24,054,755	In arrears	08/02/2021
17	Bulgaria	-	-	-	121,960	6,679	128,639	128,639	128,639	128,639	Overdue	29/01/2020
18	Burkina Faso	3,348	-	3,348	7,957	165	8,122	8,122	11,470	11,470	In arrears	14/04/2020
19	Cabo Verde	1,636	-	1,636	2,604	143	2,747	2,747	4,383	4,383	In arrears	09/10/2020
20	Cambodia	-	-	-	14,467	441	14,908	-	-	-	Fully settled	18/03/2021
21	Canada	-	-	-	7,246,426	-	7,246,426	-	-	-	Fully settled	31/12/2020
22	Central African Republic	13,184	629	13,813	2,604	143	2,747	2,747	16,560	16,568	Ineligible to vote	09/12/2014
23	Chad	-	-	-	10,561	154	10,715	10,715	10,715	10,715	Overdue	05/10/2020
24	Chile	-	-	-	1,078,689	-	1,078,689	1,078,689	1,078,689	1,078,689	Overdue	20/11/2020
25	Colombia	46,163	-	46,163	763,299	-	763,299	763,299	809,462	809,462	In arrears	31/03/2020
26	Comoros	26,799	657	27,456	2,604	143	2,747	2,747	30,203	30,257	Ineligible to vote	no payments
27	Congo	107,802	3,244	111,046	15,914	706	16,620	16,620	127,666	128,074	Ineligible to vote	01/06/2011
28	Cook Islands	-	-	-	2,604	143	2,747	2,745	2,745	2,745	Overdue	20/05/2020
29	Costa Rica	-	-	-	164,350	-	164,350	-	-	-	Fully settled	12/03/2021
30	Côte d'Ivoire	24,770	-	24,770	34,432	1,563	35,995	35,995	60,765	60,765	In arrears	24/09/2019
31	Croatia	-	-	-	204,135	17,901	222,036	-	-	-	Fully settled	21/01/2021
32	Cyprus	-	-	-	95,485	-	95,485	95,485	95,485	95,485	Overdue	12/02/2020
33	Czechia	-	-	-	824,352	-	824,352	-	-	-	Fully settled	13/01/2021
34	Democratic Republic of the Congo	-	-	-	14,467	32	14,499	14,499	14,499	14,499	Overdue	28/12/2020
35	Denmark	-	-	-	1,468,440	-	1,468,440	-	-	-	Fully settled	20/01/2021
36	Djibouti	-	-	-	2,604	143	2,747	-	-	-	Fully settled	12/08/2020
37	Dominica	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	29/04/2020
38	Dominican Republic	2,732	-	2,732	140,478	6,392	146,870	146,870	149,602	149,602	In arrears	14/12/2020
39	Ecuador	212,776	-	212,776	212,092	-	212,092	212,092	424,868	424,868	In arrears	30/01/2020
40	El Salvador	-	-	-	31,828	-	31,828	31,009	31,009	36,093	Overdue	15/05/2020
41	Estonia	-	-	-	103,442	-	103,442	-	-	-	Fully settled	08/01/2021
42	Fiji	-	-	-	7,957	430	8,387	7,173	7,173	7,173	Overdue	08/01/2021
43	Finland	-	-	-	1,115,870	-	1,115,870	-	-	-	Fully settled	19/01/2021
44	France	-	-	-	11,733,777	794,694	12,528,471	12,528,181	12,528,181	12,528,181	Overdue	09/06/2020
45	Gabon	39,914	1,793	41,707	39,785	1,793	41,578	41,578	83,285	83,285	In arrears	05/08/2019

		Prior Years			Year 2021							
State Party		Outstanding Regular Contributions	Outstanding Host State Loan Contributions	Total Outstanding Contributions	Assessed Regular Contributions	Assessed Host State Loan Contributions	Total Assessed Contributions	Total Outstanding Contributions	Total Outstanding General Fund	Grand Total Outstanding/ All Funds	State Party Account Status	Date latest received payment
46	Gambia	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	19/11/2020
47	Georgia	-	-	-	21,267	-	21,267	-	-	-	Fully settled	24/02/2021
48	Germany	-	-	-	16,141,556	-	16,141,556	-	-	-	Fully settled	15/01/2021
49	Ghana	1,818	-	1,818	39,785	1,986	41,771	41,771	43,589	43,589	In arrears	18/01/2021
50	Greece	-	-	-	970,038	-	970,038	970,038	970,038	970,038	Overdue	29/06/2020
51	Grenada	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	20/05/2020
52	Guatemala	676	-	676	95,485	3,836	99,321	99,321	99,997	99,997	In arrears	31/12/2020
53	Guinea	40,102	657	40,759	7,957	143	8,100	8,100	48,859	49,077	Ineligible to vote	20/04/2015
54	Guyana	-	-	-	5,353	143	5,496	1,938	1,938	1,938	Overdue	20/03/2019
55	Honduras	37	-	37	23,871	1,136	25,007	25,007	25,044	25,044	In arrears	07/12/2020
56	Hungary	-	-	-	545,999	5,589	551,588	-	-	-	Fully settled	28/12/2020
57	Iceland	-	-	-	74,218	-	74,218	74,218	74,218	74,218	Overdue	27/01/2020
58	Ireland	-	-	-	983,348	-	983,348	-	-	-	Fully settled	21/01/2021
59	Italy	-	-	-	8,765,213	-	8,765,213	-	-	-	Fully settled	12/02/2021
60	Japan	-	-	-	22,698,901	1,538,944	24,237,845	13,976,927	13,976,927	13,976,927	Overdue	15/01/2021
61	Jordan	-	-	-	55,699	-	55,699	55,699	55,699	55,699	Overdue	24/09/2020
62	Kenya	-	-	-	63,657	1,850	65,507	65,507	65,507	65,507	Overdue	14/08/2020
63	Kiribati	-	-	-	2,604	-	2,604	2,604	2,604	2,989	Overdue	30/03/2020
64	Latvia	-	-	-	124,564	-	124,564	-	-	-	Fully settled	05/01/2021
65	Lesotho	168	-	168	2,604	143	2,747	2,747	2,915	2,915	In arrears	08/02/2019
66	Liberia	10,212	548	10,760	2,604	143	2,747	2,747	13,507	13,507	Ineligible to vote	30/05/2016
67	Liechtenstein	-	-	-	23,871	-	23,871	-	-	-	Fully settled	15/01/2021
68	Lithuania	-	-	-	188,221	-	188,221	-	-	-	Fully settled	23/02/2021
69	Luxembourg	-	-	-	177,515	-	177,515	-	-	-	Fully settled	18/01/2021
70	Madagascar	-	-	-	10,561	430	10,991	10,991	10,991	10,991	Overdue	18/01/2021
71	Malawi	-	-	-	5,353	287	5,640	5,640	5,640	5,640	Overdue	01/06/2020
72	Maldives	-	-	-	10,561	143	10,704	-	-	-	Fully settled	28/12/2020
73	Mali	-	-	-	10,561	574	11,135	11,135	11,135	11,135	Overdue	29/06/2020
74	Malta	-	-	-	44,994	-	44,994	-	-	-	Fully settled	20/01/2021
75	Marshall Islands	2,613	123	2,736	2,604	143	2,747	2,747	5,483	5,483	In arrears	05/12/2019
76	Mauritius	-	-	-	29,224	-	29,224	29,224	29,224	29,224	Overdue	03/02/2020
77	Mexico	-	-	-	3,424,431	-	3,424,431	3,424,286	3,424,286	3,424,286	Overdue	15/01/2021
78	Mongolia	-	-	-	13,310	-	13,310	13,310	13,310	13,310	Overdue	27/01/2020
79	Montenegro	-	-	-	10,561	-	10,561	10,561	10,561	10,561	Overdue	06/02/2020
80	Namibia	-	-	-	23,871	-	23,871	23,871	23,871	23,871	Overdue	29/05/2020
81	Nauru	-	-	-	2,604	143	2,747	178	178	178	Overdue	16/04/2020
82	Netherlands	-	-	-	3,594,134	-	3,594,134	-	-	-	Fully settled	13/01/2021
83	New Zealand	-	-	-	771,257	35,952	807,209	-	-	-	Fully settled	23/12/2020
84	Niger	-	-	-	5,353	287	5,640	5,518	5,518	5,518	Overdue	15/02/2021
85	Nigeria	1,326,350	23,324	1,349,674	662,606	12,785	675,391	675,391	2,025,065	2,025,065	In arrears	09/06/2020
86	North Macedonia	-	-	-	18,518	1,136	19,654	19,654	19,654	19,654	Overdue	14/10/2020
87	Norway	-	-	-	1,998,525	120,916	2,119,441	2,119,441	2,119,441	2,119,441	Overdue	25/02/2020
88	Panama	1,061	-	1,061	119,211	749	119,960	119,960	121,021	121,021	In arrears	23/11/2020
89	Paraguay	58,503	1,423	59,926	42,389	1,423	43,812	43,812	103,738	103,738	In arrears	16/09/2019
90	Peru	417,563	16,621	434,184	402,917	16,621	419,538	419,538	853,722	853,722	In arrears	10/02/2020
91	Poland	-	-	-	2,125,694	-	2,125,694	-	-	-	Fully settled	30/12/2020

		Prior Years			Year 2021				Total Outstanding General Fund	Grand Total Outstanding/ All Funds	State Party Account Status	Date latest received payment
State Party		Outstanding Regular Contributions	Outstanding Host State Loan Contributions	Total Outstanding Contributions	Assessed Regular Contributions	Assessed Host State Loan Contributions	Total Assessed Contributions	Total Outstanding Contributions				
92	Portugal	-	-	-	927,649	-	927,649	-	-	-	Fully settled	04/01/2021
93	Republic of Korea	-	-	-	6,008,741	230,628	6,239,369	6,239,369	6,239,369	6,239,369	Overdue	31/01/2020
94	Republic of Moldova	-	-	-	7,957	-	7,957	7,957	7,957	7,957	Overdue	13/05/2020
95	Romania	-	-	-	524,732	-	524,732	-	-	-	Fully settled	21/01/2021
96	Saint Kitts and Nevis	5,215	276	5,491	2,604	143	2,747	2,747	8,238	8,238	In arrears	12/02/2021
97	Saint Lucia	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	18/03/2020
98	Saint Vincent and the Grenadines	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	04/06/2020
99	Samoa	-	-	-	2,604	-	2,604	2,586	2,586	2,586	Overdue	07/02/2020
100	San Marino	-	-	-	5,353	-	5,353	-	-	-	Fully settled	18/02/2021
101	Senegal	87	-	87	14,467	850	15,317	15,317	15,404	15,404	In arrears	01/09/2020
102	Serbia	-	-	-	74,218	-	74,218	74,218	74,218	74,218	Overdue	10/02/2020
103	Seychelles	-	-	-	5,353	143	5,496	5,496	5,496	5,496	Overdue	02/10/2020
104	Sierra Leone	-	-	-	2,604	143	2,747	2,747	2,747	2,747	Overdue	05/06/2020
105	Slovakia	-	-	-	405,521	-	405,521	-	-	-	Fully settled	23/12/2020
106	Slovenia	-	-	-	201,386	-	201,386	-	-	-	Fully settled	27/01/2021
107	South Africa	-	-	-	720,910	-	720,910	-	-	-	Fully settled	16/03/2021
108	Spain	-	-	-	5,687,999	-	5,687,999	5,687,854	5,687,854	5,687,854	Overdue	30/03/2020
109	State of Palestine	-	-	-	21,267	706	21,973	21,973	21,973	21,973	Overdue	04/08/2020
110	Suriname	41,324	1,322	42,646	13,310	441	13,751	13,751	56,397	56,397	Ineligible to vote	02/12/2020
111	Sweden	-	-	-	2,401,297	-	2,401,297	-	-	-	Fully settled	23/03/2021
112	Switzerland	-	-	-	3,050,739	-	3,050,739	-	-	-	Fully settled	08/02/2021
113	Tajikistan	-	-	-	10,561	430	10,991	430	430	430	Overdue	31/03/2021
114	Timor-Leste	-	-	-	5,353	-	5,353	-	-	-	Fully settled	23/02/2021
115	Trinidad and Tobago	-	-	-	106,046	-	106,046	93,354	93,354	93,354	Overdue	30/09/2020
116	Tunisia	-	-	-	66,261	5,112	71,373	71,373	71,373	71,373	Overdue	25/01/2021
117	Uganda	2,061	-	2,061	14,467	850	15,317	15,317	17,378	17,378	In arrears	19/10/2020
118	United Kingdom	-	-	-	12,104,865	-	12,104,865	9,078,540	9,078,540	9,078,540	Overdue	29/01/2021
119	United Republic of Tanzania	14,514	893	15,407	14,467	893	15,360	15,360	30,767	30,767	In arrears	10/01/2020
120	Uruguay	231,354	-	231,354	230,610	-	230,610	230,610	461,964	461,964	In arrears	08/11/2019
121	Vanuatu	2,613	143	2,756	2,604	143	2,747	2,747	5,503	5,503	In arrears	11/11/2019
122	Venezuela (Bolivarian Republic of)	10,389,188	409,205	10,798,393	1,929,516	89,087	2,018,603	2,018,603	12,816,996	12,816,996	Ineligible to vote	26/11/2018
123	Zambia	71,173	3,735	74,908	14,467	850	15,317	15,317	90,225	90,262	Ineligible to vote	29/06/2015
Rounding differences					154	(16)	138					
		32,245,200	882,176	33,127,376	144,673,900	3,584,984	148,258,884	71,774,654	104,902,030	104,908,224		

Notes:

All amounts are in euros.

1) Regards outstanding amounts of assessed contributions to i) CF; and ii) the permanent premises by new States Parties that joined the Court after 2015.

Annex II: List of deferred agenda items

- i. Other financial and budgetary matters
 - a. Cost ratios covering 2019 and 2020;¹⁷
 - b. Update on unliquidated obligations as at 31 December 2020, and open purchase orders and travel claims;¹⁸
 - c. Update on the cost of legal aid.¹⁹
- ii. Institutional reform and administrative matters
 - a. Update on the implementation of the strategic plans for the Court, the Office of the Prosecutor and the Registry.²⁰
- iii. Audit matters
 - a. Progress report on the performance of the Office of Internal Audit;²¹
 - b. Update on the status of recommendations of the External Auditor by the Audit Committee.²²
- iv. Other matters
 - a. Update on all cases pending before the ILO Administrative Tribunal and the internal Appeals Board.²³

¹⁷ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 26.

¹⁸ *Ibid.*, para. 203.

¹⁹ Resolution ICC-ASP/11/Res.1.

²⁰ Resolution ICC-ASP/18/Res.1, section J, para. 6.

²¹ *Official Records ... Nineteenth session ... 2020* (ICC-ASP/19/20), vol. II, part B.2, para. 216.

²² *Ibid.*, para. 227.

²³ *Ibid.*, para. 236.

Annex III: Reflections of the Committee on the ten questions raised by the External Auditor

COMMITTEE ON BUDGET AND FINANCE

Reference: ASP/CBF/2021/019

Secretariat – Secrétariat
The Hague, 23 May 2021

Mr. Michel Camoin
Director of ICC's External audit
Cour des comptes
13, rue Cambon – 75100 PARIS Cedex 01
France

Dear Mr. Camoin,

I am referring to your revised working document "NOTE FOR THE WORKSHOP ON THE ICC GOVERNANCE OVERSIGHT" ("the Note") received on 18 May 2021.

A) Background

On 7 December 2019, and at its eighteenth session, the Assembly of States Parties requested: "*the External Auditor to conduct an evaluation of the oversight bodies of the Court as part of its work in 2020, replacing the performance audit, and to recommend possible actions on their respective mandates and reporting lines, while fully respecting the independence of the Court as a whole; ...*".²⁴

The Committee on Budget and Finance ("the CBF") examined your Note with great interest, and I will reflect on the questions that are directly related to its mandate.

B) Answers to questions directly related to the mandate of the Committee on Budget and Finance:

Question 3: Do the participants agree with the description of the present relationships between the ASP and the ICC governance oversight mechanism and their lack of transparency towards the States Parties?

Adequacy and transparency vis-à-vis States Parties

The cooperation between the CBF and States Parties on the one hand and the role and activities of the Executive Secretary on the other hand prove that the current system in place is working effectively and transparently.

Role of the Executive Secretary:

In order to provide more strategic advice to the Assembly, in 2011²⁵ the post of the "Executive Secretary to the Committee on Budget and Finance" was established to provide the CBF with technical and administrative assistance reporting directly to the Chair of the CBF.

In 2019,²⁶ the Assembly approved the amendments of the Rules of Procedures of the CBF, where the Assembly stressed, once again, that the Executive Secretary reports on substantial and technical matters directly to the Chair of the CBF. The aforementioned Assembly Resolution

²⁴ Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Eighteenth session, The Hague, 2-7 December 2019 (ICC-ASP/18/20), vol. I, Part III, ICC-ASP/18/Res.1, section I., para. 6.

²⁵ Official Records of the Assembly ... Tenth session ... 2011 (ICC-ASP/10/20), vol. II, part B.2, para. 122.

²⁶ ICC-ASP/18/Res.1.

therefore clearly defines the reporting lines. There is a clear separation between the duties of the Secretariat of the Assembly and those of the Executive Secretary and his staff for the technical subsidiary bodies of the Assembly, a set-up which is working well. In order to maintain the best working conditions for the technical subsidiary bodies this independence from the Secretariat is very important. In addition, for seamless and coherent operation, the technical subsidiary bodies need to have sufficient resources in order to deliver the tasks mandated by the Assembly.

Cooperation: CBF – States Parties/Budget Facilitator

The CBF and the Budget Facilitator have had a cooperative and effective relationship for a number of years. The CBF invites the Budget Facilitator to its sessions to discuss openly the issues and concerns some States Parties have for the CBF to consider in its sessions. As an example of good practice in terms of communication and transparency, on the first day of its autumn session, the CBF members meet with The Hague Working Group at the seat of the German Embassy to discuss the concerns of States in relation to the proposed budget that is submitted by the Court. A briefing session by the Chair of the CBF takes place on completion of the autumn session in order to share with States Parties the outcome of the session. A few weeks after the briefing session, a report is issued and shared with the States Parties. During the Assembly, the Chair of the CBF addresses the Assembly on the outcome of the two sessions of the CBF. During the year, communication may take place between the Budget Facilitator and the Chair of the CBF on different issues in particular those related to the budget process.

Question No. 5: Do the participants agree that a single straightforward reporting-line should be implemented in the ASP Secretariat on the follow-up of the activities of the Assembly, the CBF and the AC?

As explained in the response to Question 3 above, the creation of the post of the Executive Secretary allowed for the exclusive servicing of the CBF by having one person in charge of all Committee related matters. This led to an increase in overall servicing capacity and quality. In 2014, Programme 4500 “Committee on Budget and Finance” was created under Major Programme IV with a view to increasing budgetary transparency and to directly allocate the resources needed to fulfil the Committee’s work. While the Executive Secretary assists the Secretariat of the Assembly with a broad array of financial, budgetary and administrative matters in relation to Major Programme IV, Programme 4500 is clearly distinct from the Programmes of the Secretariat of the Assembly.

Few staff are assigned to service the technical committees, i.e., the CBF and the Audit Committee. Such allocation and separation in providing the services to the technical bodies are working well. The independence of the Executive Secretary was reaffirmed by the Assembly.

Maintaining two distinct reporting lines is essential for the CBF to provide the appropriate technical advice to the Assembly. It is not unusual to have two reporting lines: one on substantive matters, and a second on administrative matters. Other examples can be found in other international organizations and comparative examples do exist within the Court.

Question No. 6: Do the participants agree that a more formal structure for contacts between CBF, AC and both facilitators should be implemented?

As indicated above in question No. 3, the CBF and the Budget Facilitator have developed a cooperative and effective relationship over a number of years.

Transparency between the States Parties and the CBF is assured. The CBF would be open to more contacts if they were deemed necessary.

Question n°8: Do the participants agree to modify the rules concerning membership of CBF and AC so that the ASP can be directly represented in these committees through the facilitators.

The Budget Facilitator and the Budget Management Oversight (“the BMO”) focal point are representatives of States Parties. The purpose of the CBF and the Audit Committee as subsidiary bodies of the Assembly is to provide independent technical advice on budgetary and administrative matters. Their recommendations serve as technical input for the political discussions and decisions by States Parties. The independent character – the members of the Committees are bound to act in their personal capacity – of the experts’ analysis and recommendations have always been recognized as being of particular value to the Assembly.

The political role that the Budget Facilitator and the BMO focal point have as part of the Committees would endanger the technical role that the CBF and the AC have to fulfil. The Committees would lose their character as independent expert bodies. Also, the facilitators would lose their flexibility which is necessary during the budget negotiations at the Assembly because they would have to defend their position which would have been reached in the CBF and in the AC. There would also be different criteria for membership, where the CBF and AC members are elected by the Assembly as independent experts while facilitators are diplomatic representatives of States Parties being nominated by the Bureau.

Finally, considering the workload of the Chair/Vice-Chair of the Committees going well beyond the two meetings (of one and two weeks), the suggested roles of the Budget Facilitator and the BMO focal point also do not seem very practical.

The current set-up should be maintained and the independence of technical advice for the political consideration of the Assembly assured.

The Note rightly points out in its terms of reference that the objectives of the mission are for example assessing the performance of the current mechanism and examining to what extent it meets the needs of the States Parties. A judgement about adequacy thus requires an understanding of the efficiency and effectiveness of the current set-up. Therefore, we are looking forward to receiving the outcome of this assessment together with the results of the related examinations that were not reflected in the Note of the External Auditor.

I would like to request that this letter be annexed to your final report that will be submitted to the Assembly.

Please accept, Mr. Camoin, the assurances of my highest consideration.

Yours sincerely,

SIGNED

Werner Druml
Chairperson
Committee on Budget and Finance
Assembly of States Parties

CC: Judge Silvia Fernandez de Gurmendi, President, Assembly of States Parties

Annex IV: The Committee's comments on 15 recommendations of the Independent Expert Review

Introduction

The Assembly of the States Parties ("ASP/Assembly"), pursuant to Resolution ICC-ASP/18/Res.7, commissioned an Independent Expert Review ("IER") with an overall mandate to "identify ways to strengthen the International Criminal Court and the Rome Statute system in order to promote universal recognition of their central role in the global fight against impunity and enhance their overall functioning" starting on 1st January 2020. The IER submitted the report "Independent Expert Review of the International Criminal Court and the Rome Statute System", distributed on 09 November 2020. The Report contains 384 recommendations, both short and long-term, with varying degrees of complexity and urgency of implementation. The International Criminal Court (the Court or the ICC), pursuant to the ASP request in paragraph 5 of Resolution ICC-ASP/19/Res.7, submitted the Preliminary Analysis of the Recommendations and information on relevant activities undertaken by the Court.

The Committee on Budget and Finance ("CBF") noted that the Committee was not involved at any stage during the review by the Group of Experts and was not consulted by the Review Mechanism. It proposed to assist and take the necessary actions to allow the Committee to be part of this process in order to achieve the ultimate outcome of the process that will benefit all stakeholders. The President of the ASP proposed that the CBF submit the Committee's view to the Review Mechanism as soon as possible in order to meet the deadline by 30 April 2021. The CBF response to the IER report addresses 15 recommendations relevant to the CBF team and Budget.

1. Inter-organ consultation as a cohesive strategic vision to guide Organs in their budgetary planning

- The IER recommended (**R132**) that, in parallel with or subsequent to the elaboration of high-level assumptions, inter-organ consultations should be held on a cohesive strategic vision to guide Organs in their budget planning. Additional close consultations should be held between the OTP and Registry on these strategic priorities and the Registry's expected capacity.
- The CBF welcomes the IER recommendation and recalls that the Committee has submitted various recommendations on budget governance and related matters. At its twenty-fifth session in 2015, the Committee suggested a number of ways in which the Court could improve its budgetary process and documents to ensure clear, consistent and transparent information, and a different presentation of costs in the budget document. These suggestions were endorsed by the Assembly at its fourteenth session.
- At its twenty-sixth session in April 2016, the CBF proposed several improvements, which included taking into account the financial cost per page; dialogue between the Court and the Assembly during the budgetary process; taking into account changes to original assumptions and measurements of success; including comparable data, which is consistent and presented either as a year-on-year or a trend analysis; the budget table should reflect approved budget levels and the draft budget must include the savings, the efficiencies and the agreements that would result in a multi-year spending commitment; and human resources information, including a differentiation of established posts and the use of GTA and STA.
- At its twenty-eighth session in May 2017, the Committee recommended that two annexes be included in the 2018 proposed programme budget. One annex describes Court-wide capital investment plans, such as ICT and others, including projected costs. The other annex focuses on efficiencies and savings achieved and the projected savings for the Court.

2. **Enhance the Registrar's role to enable a more centralised budget process (in line with the One Court principle)**
 - The IER recommended (**R133**) that an enhanced role for the Registrar, in line with the Expert's recommendations in the Unified Governance section, would also enable a more centralized budget process, in line with the One Court principle. The Court should be represented by the Registrar at budget oversight meetings.
 - The CBF agrees with the IER recommendation to enhance the role of the Registrar as the Chief Administrative Officer who is responsible for the overall budget of the Court.
3. **Explore amendments to the FRR to enable the Registrar to have more flexibility in implementing CBF cuts**
 - The IER (**R134**) recommended that the Financial Regulations of the Court should be amended to enable the Registrar to make transfers across major programmes, to adapt based on workload. Similarly, ways through which the Registrar could be given more flexibility in implementing CBF/ASP decided cuts ought to be explored. Such increased flexibility should be accompanied by appropriate reporting and transparency mechanisms.
 - The CBF is concerned and not convinced by this recommendation. The CBF builds its recommendations upon assumptions, documents received from the Court and additional clarifications from different representatives of the Court. It further takes into consideration the discussions among CBF members on each agenda item in order to reach the appropriate recommendations. Those recommendations are reflected in the CBF reports, which are shared with the Court and the States Parties.
 - The CBF is willing to engage with the Court during the regular workshops conducted at spring sessions and discuss how to enhance flexibility for the Registrar.
4. **ASP endorsement of CBF most important issues for the 'standing agenda'**
 - The IER recommended (**R135**) that the CBF should make an inventory of the most important topics it considers should form its 'standing agenda', for ASP endorsement. This should result in more concise reports, issued as soon as possible after the CBF's session.
 - The Rules of Procedure of the CBF that have been approved by the Assembly explain the mechanism for preparing and sharing the agenda.
 - The CBF is willing to engage with States Parties on this recommendation.
5. **CBF report to include detailed explanations of the reasons for the recommendations as well as the Court's position**
 - The IER recommended (**R136**) that the Committee should include alongside its recommendation, sufficiently detailed explanations of its reasons, as well as the Court's position on the proposal.
 - The CBF, in its report for each agenda item, provides background information and a discussion on the reports submitted by the Court, followed by a recommendation.
 - The CBF is willing to engage in a more thorough discussion with the Court in order to achieve what is required for the CBF reports to be clearer.
6. **States Parties to meet with the CBF and the Court to share preliminary indications**
 - The IER report recommended (**R137**) that States Parties are encouraged to consider a meeting with the CBF and the Court after consulting the Court-issued budget proposal, to share preliminary indications as to questions and concerns relating to which they wish to receive the CBF's advice.

- One aspect of the CBF working methods includes engaging with States Parties at the beginning of the budget-related session – held in September each year – where half a day is allocated to this purpose. The meeting is usually held every year at the German Embassy, where States Parties attend along with the CBF members. The meeting format allows for an open dialogue where States pass on to the CBF their inputs and concerns. In addition, the Budget Facilitator addresses the CBF sessions and outlines any issues referred by the States Parties.
- As for the Court, the CBF holds an annual workshop where the Court discusses with the CBF issues related to the budget process.
- The CBF is willing to engage with States Parties and the Court in a more thorough discussion on this matter.

7. To hold additional workshops between the Court and the CBF

- The IER recommended (R138) that additional (remote) workshops between the Court and the CBF should be held, ahead of the Committee's fall session, as the main forum for dialogue between the two on the Court-issued budget proposal.
- As mentioned in point 6, the CBF conducts a workshop on a yearly basis where the Court discusses issues related to the budget process with the CBF.
- The CBF is willing to engage with States Parties and the Court in a more thorough discussion in order to achieve what is further required from the CBF.

8. Explore additional means to encourage timely and full payment of contributions in line with the practices of other international organisations

- The IER recommended (R140) that noting the concerning state of arrears and potential liquidity crisis facing the Court, the Experts recommend that the ASP explore additional means to encourage timely and in full payment of contributions by States Parties, taking into account practices from other international organizations. For example, the ASP could explore setting a lower threshold of arrears beyond which States Parties lose their voting rights or inability of States Parties in arrears to present candidates for elected officials' positions.
- The CBF welcomes any new ideas to improve the payment of contributions by States Parties. The CBF continuously addresses the issue of the Status of Contributions and States in Arrears at each of its sessions.

9. ASP to ensure that the levels of the WCP and CF are maintained at fixed levels, if not increased

- The IER recommended (R141) that, as a minimum, the ASP should ensure that the levels of the Working Capital Fund and the Contingency Fund are maintained at the fixed levels, if not increased.
- The CBF supports this recommendation and continuously monitors the level of those funds based on operational requirements.

10. Increase transparency of the organisational structure

- The IER recommended (R142) that increased transparency on the organizational structure and organigram should be introduced, with the number of full-time equivalent posts by Section and Office indicated.
- The CBF supports this recommendation and noted that the Court is willing to provide more details on this matter.

11. To maximize the potential of the ASP sessions.

- The IER recommended (**R143**) that States Parties should consider joint approaches with other international courts and tribunals housed in The Hague, such as organizing joint trainings, pooling administrative services and exploring possibilities for joint procurement to obtain more advantageous rates.
- The CBF supports this recommendation and noted that the Court had made good progress in the area of procurement.

12. To maximize the potential of ASP sessions.

- The IER recommended (**R139**) that to maximize the potential of ASP sessions, States Parties are suggested to defer to the CBF on technical budgetary details, reach consensus on the budget ahead of the ASP session, and dedicate an early slot of the session on budget, attended by specialized State representatives, before the political part of the conference, where high-level political participation can be encouraged.
- The Assembly has appointed 12 independent experts to assist it in matters related to budget, finance and administration. The CBF believes that it is efficient to rely on its expert advice without replicating the efforts of the CBF by States Parties. The final decision will rest with the States Parties.

13. Merger of the AC and CBF and change of the mandate of Committee members.

- The IER recommended (**R366**) the merger of the AC and CBF into one Organ of budgetary control and audit.
- The External Auditor, in his report on the financial statements for 2004 and 2005, recommended establishing an independent audit committee that should focus on promoting effective internal control; provide a focus to make best use of assurance resources; monitor internal and external audit outputs; assess the effectiveness of risk management and thus separate the functions of the CBF and the Audit Committee. The Assembly endorsed the External Auditor's recommendation. Moreover, the External Auditor, who was tasked with evaluating the oversight bodies of the ICC, outlined in his note when analyzing 29 International Organizations that 25 out of 29 IO (86%) have a separate Audit Committee. Therefore, the ICC follows best practice among the IO.
- In addition, the IER report did not set out the pros and cons of merging these two Committees and what would be achieved by merging two different areas of expertise, given that the CBF is mandated to look at budget, finance and administration matters, whilst the Audit Committee is mandated to look at the governance structure, risk management, ethics and values, and the internal and external audit matters.
- There is also one important substantive reason why budget preparation and audit should not be concentrated in one hand and that is conflict of interest. Otherwise, at a certain point the same persons and body that have made a proposal for the budget would then have to assess the efficiency and effectiveness of that same proposal. That would create a systemic conflict of interest.
- The CBF does not see the value and relevance of implementing this recommendation and believes that the merger of both committees would be a step backwards.
- The IER also recommended (**R366**) the extension of the mandate of CBF-Audit Committee members to a five-six years non-renewable term.
- Four current members have been serving from 9 to 18 years, the average of the other members over the last 18 years is about five years of service. A turn-over under the current rules is therefore taking place, while a limited number of long serving

members have the institutional memory, which has proven very helpful for the work of the Committee.

- The CBF is willing to engage with States Parties to discuss these issues further.

14. Transfer of the post of Executive Secretary CBF and AC to the Registry, maintaining functional independence.

- The IER (R370) made a recommendation for the ASP Secretariat to be absorbed into the Registry, it is envisaged that the Executive Secretary of the CBF and Audit Committee position, currently located in the ASP Secretariat, also be transferred to the Registry, where it would maintain its functional independence.
- R370 is based on R369 (Absorption of the SASP into the Registry). The Assembly is the only overarching body of the Court under which the three organs have found and continue to find a delicate balance. While it is up to States Parties to decide on the proposed structural change (R369), the CBF supports the recommendation to maintain the functional independence of its Executive Secretary. In addition, the CBF believes that sufficient resources should be provided to its Executive Secretary at all times in order to ensure the independent and proper functioning of the CBF and the Audit Committee.

15. Making use of the upcoming recommendations of the External Auditor to find ways to streamline and render more efficient its oversight structures

- 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. (R368).
- The CBF sent a letter to the External Auditor answering questions that were raised by the External Auditor. They relate i.e. to proposals by the External Auditor to establish a single reporting line between the Secretariat and the Assembly and to include the Budget Facilitator and the Budget Management Oversight focal point as Chair- and Vice-chairpersons in the CBF and the Audit Committee respectively:

Role of the Executive Secretary

- In order to provide more strategic advice to the Assembly, in 2011,²⁷ the post of the “Executive Secretary to the Committee on Budget and Finance” was established to provide the CBF with technical and administrative assistance reporting directly to the Chair of the CBF.
- In 2019,²⁸ the Assembly reconfirmed that the Executive Secretary reports on substantial and technical matters directly to the Chair of the CBF. There is a clear separation between the duties of the Secretariat of the Assembly and those of the Executive Secretary and his staff for the technical subsidiary bodies of the Assembly. In order to maintain the best working conditions of the technical subsidiary bodies that independence from the Secretariat is particularly important. In addition, for seamless and coherent operation, the technical subsidiary bodies need to have sufficient resources in order to deliver what was mandated by the Assembly.
- In addition, the IER (R370) made a recommendation that “it is envisaged that the Executive Secretary of the CBF and Audit Committee position, currently located in the ASP Secretariat, also be transferred to the Registry, where it would maintain its functional independence”.

²⁷ *Official Records of the Assembly ... Tenth session ... 2011* (ICC-ASP/10/20), vol. II, part B.2, para. 122.

²⁸ ICC-ASP/18/Res.1.

Cooperation: CBF – States Parties/Budget Facilitator

- The CBF and the Budget Facilitator have had a cooperative and effective relationship over number of years. The CBF receives the Budget Facilitator in its sessions to discuss openly the issues and concerns some States Parties have for the CBF to consider in its sessions. As an example of good practice in terms of communication and transparency, on the first day of its autumn session, the CBF members meet with The Hague Working Group at the seat of the German Embassy to discuss the concerns of States in relation to the proposed budget that is submitted by the Court.
- A briefing session by the Chair of the CBF takes place after the completion of the autumn session in order to share with States Parties the outcome of the session. A few weeks after the briefing session a report is issued and shared with States Parties. During the Assembly, the Chair of the CBF addresses the Assembly on the outcome of the two sessions of the CBF. During the year, communication may take place between the Budget Facilitator and the Chair of the CBF on different issues in particular those related to the budget process.
- The Budget Facilitator and the Budget Management Oversight (“the BMO”) focal point are representatives of the States Parties. The purpose of the CBF and the Audit Committee as subsidiary bodies of the Assembly is to provide independent technical advice on budgetary and administrative matters. Their recommendations serve as technical input for the political discussions and decisions by States Parties. The independent character – the members of the Committees are bound to act in their personal capacity – of the experts’ analysis and recommendations have always been recognized as being of particular value to the Assembly.
- The political role of the Budget Facilitator and the BMO focal point would jeopardize the technical role that the CBF and the AC have to fulfil if they were part of the Committees. The latter would lose their character as independent expert bodies of the Assembly. Also, the facilitators would lose their necessary flexibility during the budget negotiations at the Assembly because they would have to defend the position that has been reached in the CBF and in the AC. There also would be different criteria for membership, as the CBF and AC members are elected by the Assembly as independent experts while facilitators are diplomatic representatives of States Parties and are nominated by the Bureau.
- Finally, considering that the workload of the Chair/Vice-Chair of the Committees goes well beyond the two meetings (of one and two weeks), the suggested roles of the Budget Facilitator and the BMO focal point also do not seem very practical.
- The current set-up should be maintained to ensure the independence of technical advice for the political consideration of the Assembly.

* * *

Annex V: Geographical representation

(1) Representation of States Parties as at 31 March 2021

	2016	2021	Change	
	No. States		(%)	
Over-represented	21	22	1	4.8 (N)
In-balance	16	22	6	37.5 (P)
Under-represented	27	23	4	14.8 (P)
Non-represented	60	56	4	6.7 (P)
Non-ratified	21	21	0	0 (N)

(N): Negative (P): Positive

(2) Representation of Established Professional staff by Regional Group as at 31 March

	2016		2021		Change	
	No. Staff	(%)	No. Staff	(%)	No. Staff	(%)
Africans	56	16.9	72	16.5	16	-2.4
Asians	23	6.9	31	7.1	8	2.9
East Europeans	28	8.5	45	10.3	17	21.2
Latin America and Caribbean Countries ("GRULAC")	26	7.9	33	7.6	7	-3.8
Western Europeans and other states ("WEOG")	198	59.8	256	58.7	58	-1.8
Total staff numbers	331	100%	437	100%	106	

(3) Representation of higher grade level of Professional staff by Regional Group as at 31 March 2021

	Africans		Asians		East Europeans		GRULAC		WEOG		Total Per Grade
	No.	%	No.	%	No.	%	No.	%	No.	%	
D-1	1	11.1	1	11.1	0	0	2	22.2	5	55.6	9
P-5	8	20.0	1	2.5	2	5.0	0	0	29	72.5	40
P-4	17	20.8	6	7.3	7	8.5	6	7.3	46	56.1	82
Total of higher grades	26	19.8	8	6.1	9	6.9	8	6.1	80	61.1	131

Annex VI: Gender balance

*(1) Distribution of all professional grades by major programme as at 31 March 2021**

	2016					2021					Difference		Change (%)	
	F No.	M No.	Total No.	F %	M %	F No.	M No.	Total No.	F %	M %	F	M	F	M
Judiciary	16	17	33	48.5	51.5	17	17	34	50.0	50.0	1	0	3.1	-2.9
Office of the Prosecutor	63	81	144	43.8	56.2	105	107	212	49.5	50.5	42	26	13.0	-10.1
Registry	89	89	178	50.0	50.0	104	110	214	48.6	51.4	15	21	-2.8	2.8
Other programmes	5	7	12	41.7	58.3	9	8	17	53.0	47.0	4	1	27.1	-19.4
Grand total	173	194	367			235	242	477			62	48		

*Excluding elected officials.

*(2) Distribution by higher grade level as at 31 March 2021**

	2016 ²⁹					2021					Difference		Change (%)	
	F No.	M No.	Total No.	F %	M %	F No.	M No.	Total No.	F %	M %	F	M	F	M
D-1	1	10	11	9.1	90.9	1	8	9	11.1	88.9	0	-2	2.2	-2.2
P-5	13	20	33	39.4	60.6	10	30	40	25.0	75.0	-3	10	-36.5	23.8
P-4	24	47	71	33.8	66.2	32	50	82	39.0	61.0	8	3	15.4	-7.9

Other grades	135	117	252			192	154	346			57	37		
Total	173	194	367			235	242	477³⁰			62	48		

*Excluding elected officials.

²⁹ Data is as of 31 July 2016.

³⁰ This total excludes 19 USA and 2 ASG.

Annex VII: List of documents

<i>CBF document symbol</i>	<i>Title</i>	<i>ASP document symbol (if converted)</i>
CBF/36/1/Rev.1	Provisional agenda for the thirty-sixth session	
CBF/36/2	Response of the Secretariat of the Trust Fund for Victims on the use of the Incidental Programme related Costs (IPC) provision	
CBF/36/3	Response of the Secretariat of the Trust Fund for Victims to the request concerning the external auditing firm for implementing partners	
CBF/36/4	Report of the Court on Cost Ratios	
CBF/36/7	Report of the Court on the possibility of opening negotiations with a view to reducing the interest rate on the loan provided for the construction of the permanent premises	
CBF/36/8	Report on the performance of the Court's legal aid system in 2020	
CBF/36/9	Report of the Court on its assessment of alternative arrangements to further integrate maintenance and capital replacements	
CBF/36/10	Report on activities and programme performance of the International Criminal Court for the year 2020	
CBF/36/11	Report of the Court on the proposal to introduce the National Professional Officer category of posts	
CBF/36/12	Report on Budget Performance of the International Criminal Court as at 31 March 2021	
CBF/36/13	Report of the Court on Human Resources Management	
CBF/36/14	Progress Report for 2019 and 2020 on the implementation of the Registry Strategic Plan (2019-2021)	
CBF/36/15	First report of the Court on specific matters related to Human Resources Management: Classification of Posts in the 2022 Proposed Programme Budget	
