



## Assembly of States Parties

Distr.: General  
07 May 2024

Original: English

**Audit Committee**  
**Nineteenth session**  
The Hague, 04 - 06 March 2024

### **Report of the Audit Committee on the work of its nineteenth session**

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\* Reissued for technical reasons

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## Executive Summary

1. This report summarises the findings and recommendations of the nineteenth session of the Audit Committee (“AC”) of the International Criminal Court, held in The Hague from 4 to 6 March 2024. During its session, the AC focused on: (a) Ethics; (b) Organizational Manual; (c) Oversight of internal audit matters; (d) Oversight of external audit matters; (e) Risk management; and (e) Other relevant matters. The AC made key observations and recommendations based on this work, with its key observations grouped under the aforementioned headings.
2. In light of the **serious cybersecurity incident** targeted at the Court in the last quarter of 2023, and other recent incidents, including disinformation campaigns and criminal proceedings initiated against certain officials, the AC recognised that the Court is facing a heightened risk profile and underscored the urgency of addressing these challenges. To bolster the Court’s resilience, the AC advised prioritising relevant previously issued recommendations, linking them closely to the Court’s strategic risks, and taking decisive action to implement them effectively. Moreover, the AC recommended that adequate funding and resources should be made available expeditiously to support the Court’s security initiatives, hence enabling necessary measures to mitigate both current and potential risks to be put in place in a timely fashion.
3. Under **Ethics**, the AC acknowledged that all staff have been involved in the process of formulating the values system, however, it had taken longer than anticipated. In terms of next steps, the AC reiterated that having an Ethics Charter is a fundamental and critical aspect of the internal governance system. Consequently, the AC emphasised the urgency of completing this process and looked forward to receiving an initial draft of the Ethics Charter and a plan to implement it during its twentieth session in July 2024. The AC was also given an update on the work of the **Ombuds** during 2023 and looked forward to receiving his activity report.
4. Under the topic of **Organizational Manual**, the AC acknowledged that the organisational manual is a dynamic document and serves as an important reference document for the different stakeholders of the Court. The AC observed that the updated version had incorporated the recommendations issued during its eighteenth session, and reiterated its emphasis on the critical importance of the Court regularly and continuously updating the information it contains.
5. As part of its **Oversight of internal audit matters**: (i) The AC recommended that the Director of the OIA identify relevant benchmarks to assess and enhance efficiency in resource allocation for individual audit assignments. Given the complexity of the Court’s work, some assignments have significant staff resources allocated to them, and comparing them against similar organisations can provide valuable insights. (ii) The AC acknowledged the concerns expressed by the OIA about the delays in obtaining information, and the impact of the auditees’ limited availability and conflicting engagements on the achievement of the yearly work plan. For its part, the Court faces constraints in responding due to conflicting engagements and deadlines for various stakeholders. (iii) Noting the high incidence of unimplemented audit recommendations, including high risk recommendations, the AC urged a strong focus from the Court’s leadership to address this issue. The AC recommended that the Court cluster all recommendations from different stakeholders to facilitate the identification of potential “root causes” and prioritise them for implementation, thus reinforcing a culture of accountability and responsibility toward risk issues. Emphasising the importance of “Tone at the Top”, the AC further recommended that the status of outstanding recommendations be regularly reviewed and followed up on by CoCo. (iv) The AC has taken note of the External Quality Assessment report and will continue deliberating its results. (v) On the matter of rejected recommendations or those that no longer fall within the original executor’s purview, the AC advised the OIA to redirect them to appropriate channels for further consideration and action. The AC also cautioned against closing outstanding recommendations unless the risk has truly disappeared; instead, it recommended that they are revised and recategorised.
6. On the topic of **Oversight of external audit matters**, (i) the AC acknowledged the External Auditor’s concerns about the timing of key steps and the parties involved in approving financial statements. The External Auditor believes that certain practices may threaten independence, contravene regulations, and be inconsistent with the Court’s governance. Noting these general concerns, the AC continued to believe that on the specific issue of a

final meeting between the External Auditor and the AC to ensure that the External Auditor had received all relevant inputs and perspectives prior to signing off their audit opinion would not constitute an attempt to influence findings or the External Auditor's work or opinion. Rather, it is consistent with the notion of open communication between professional parties, and in line with good practice. (ii) In addition, the AC was updated on the status of implementation of the External Auditor's recommendations and work plan for 2024. (iii) Finally, the AC discussed the reappointment of the External Auditor.

7. Furthermore, under **Risk management**, the AC commended the Court on the improvements to its risk management and internal control processes, and the constant development of its risk register and relevant mitigating actions. The AC underlined the fact that the process may benefit from a more dynamic approach and improved management mitigation and monitoring, which the AC will continue to monitor regularly.

8. Finally, the AC took note of the discussions conducted under the Budget Management Oversight facilitation of the Assembly and decided to continue **reviewing and updating its Charter** in accordance with established standards.

## I. Introduction

1. The Audit Committee (“AC”) of the International Criminal Court (“Court”) held its nineteenth session in The Hague from 4 to 6 March 2024.
2. This report summarises the main comments and recommendations made by the AC at its nineteenth session. The documentation considered by the AC is listed in Annex I to this report.
3. The report of the AC is submitted to the Assembly through the Committee on Budget and Finance (“CBF”) and shared with the Management of the Court, the Office of Internal Audit (“OIA”), the External Auditor, and the Independent Oversight Mechanism (“IOM”), for the purposes of information and to follow-up on recommendations. The report of the AC is available on the AC webpage via the following link: [https://asp.icc-cpi.int/en\\_menus/asp/AuditCommittee/Pages/default.aspx](https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx).

## II. Procedural matters related to the nineteenth session

### 1. Election of officers

4. At its first meeting,<sup>1</sup> the AC elected by consensus, Mr Fayezul Choudhury (Bangladesh) as Chairperson and Mr. Werner Druml (Austria) as Vice-Chairperson for 2024, in accordance with Part F of its Charter.

#### *Attendance and services for the nineteenth session*

5. The AC held six meetings during its nineteenth session. The session was attended by the following members:
  - (a) Mr Fayezul Choudhury (Bangladesh);
  - (b) Mr Werner Druml (Austria);
  - (c) Mr Aiman Ibrahim Hija (Australia);
  - (d) Mr Daniel McDonnell (United Kingdom); and
  - (e) Mrs Clarissa van Heerden (South Africa).
6. The Executive Secretary to the Committee on Budget and Finance, Mr Fakhri Dajani, acted as the Secretary to the Audit Committee and, together with his team, provided substantive and logistical servicing and support.

### 2. Adoption of the agenda

7. The AC adopted the following agenda for its nineteenth session:
  - 1) Opening of the session
    - (a) Election of officers
    - (b) Adoption of the agenda and organization of work
    - (c) Participation of observers
    - (d) Welcoming remarks by the President of the Court
  - 2) Ethics
    - (a) Final report on the Court-wide Ethics Charter
  - 3) Organizational Manual
    - (a) Update on the Organizational Manual
  - 4) Oversight of internal Audit matters
    - (a) Implementation of the 2023 Internal Audit Plan (Q3 & Q4)

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<sup>1</sup> Charter of the Audit Committee, para. 14.

- (b) 2024 draft Internal Audit plan
    - i. Implementation status (Q1)
    - ii. Planning criteria
  - (c) Statement of Independence and Objectivity
  - (d) Audit reports of the Office of Internal Audit:
    - i. Audit of Outsourced IT Environment
    - ii. Audit on the administrative and financial controls within the Direction of Judicial Services of the Registry
    - iii. Audit of the systems backup and restore management process
  - (e) Annual OIA report on the implementation of audit recommendations in 2023
  - (f) Report of the Audit related activities of OIA in 2023
  - (g) Court's report on the implementation of the internal audit recommendations in 2023
  - (h) Report of the Court on the action plan for implementation of the former external auditor's recommendation
  - (i) Update on the Charter of the Office of Internal Audit
  - (j) Update on the Audit Committee Charter
- 5) Oversight of External audit matters
- (a) Briefing by the External Auditor on the work performed
  - (b) Follow up on recommendations of the External Auditor
  - (c) Performance audits
    - i. Update status on the Performance audits
  - (d) Financial statements
    - i. Approval process of the financial statements
    - ii. Update on the recognition of liability at the Financial Statements of the Trust Fund for Victims
  - (e) Others
- 6) Risk management
- (a) Eleventh update report on risk management of the Court
    - i. Presentation by PwC
  - (b) OIA Report on risk management of the International Criminal Court
- 7) Other matters
- (a) Work plan of the twentieth session of the Audit Committee
  - (b) Briefing by the Registrar
  - (c) Briefing by the Director, Secretariat of the Trust Fund for Victims
  - (d) Briefing by the Ombuds

### **3. Participation of observers**

8. The President of the Court, Judge Piotr Hofmański, delivered the welcoming remarks on behalf of the Court. The Director of the Division of Management Services presented various reports submitted by the Court, and the Director of the OIA summarised the main findings and recommendations of the internal audit reports. The Director of International Audits with the Board of Audit and Inspection of Korea ("BAI") addressed the Committee via WebEx. The Registrar, the Director of the Secretariat of the Trust Fund for Victims and the Ombuds addressed the Committee in closed sessions.

9. The AC wished to thank all the observers for their presentations, which provided important contextual background for the deliberations of the Committee.

### III. Cybersecurity incident

10. In view of the serious cybersecurity incident directed against the Court in the last quarter of 2023 and its potential significance, the AC paid particular attention to this issue, and commended management for its quick response to the crisis in terms of operational actions and in terms of timely communication to the governance bodies, including the Chair of the AC.

11. Given the sensitivity of the subject matter, the AC received an in-camera briefing from the Registrar on the nature, scope and remedial actions taken to address this issue. Going forward, the AC will receive regular updates to remain informed about the measures taken to mitigate this risk and its impact.

#### **COMMENTS**

12. The AC noted the heightened risk profile faced by the Court, evident through recent incidents such as the cyberattack, disinformation campaigns, and the initiation of criminal proceedings against some of its officials.<sup>2</sup> In light of these developments, the AC strongly encouraged the Court to prioritise its previously issued recommendations, connecting them with the Court's strategic risks and taking decisive actions to address them effectively. Implementing these recommendations will contribute to the Court's overall resilience.

13. The AC also noted that the External Auditor will be conducting a performance audit on cybersecurity within the Court. It encouraged fostering close cooperation to ensure alignment of scope and effective communication between teams working on cyber issues. By doing so, the work of the External Auditor can mutually reinforce and enhance the Court's cybersecurity efforts.

14. **The Audit Committee recommended that the Court's initiatives on security receive expeditious and adequate funding and resources, thus enabling necessary measures to mitigate both current and potential risks to be put in place in a timely fashion.**

### IV. Consideration of issues on the agenda at the nineteenth session

#### **Ethics**

##### **1. Final report of the Court-wide Ethics Charter**

15. At its fourth session in 2017, in line with the "One-Court principle", the AC emphasised the need to unite all staff working for the Court around the same values, while at the same time acknowledging that it was reasonable to maintain the existing codes of conduct for specific professions that will be in line with the Court-wide Ethics Charter.<sup>3</sup>

16. At its seventeenth session in December 2018,<sup>4</sup> the Assembly took note of the External Auditor's recommendation that the Court develop and publish an ethics charter.

17. At its eighteenth session,<sup>5</sup> the Audit Committee requested that the Court submit the adopted Court-wide Ethics Charter at its nineteenth session in March 2024.

18. The AC had before it the "Update on the development of a Court-wide Ethics Charter."<sup>6</sup>

<sup>2</sup> [Measures taken following the unprecedented cyber-attack on the ICC | International Criminal Court \(icc-cpi.int\)](#)

<sup>3</sup> ICC-ASP/16/15, Annex V, Annual report of the Audit Committee for 2017, para. 36

<sup>4</sup> ICC-ASP/17/Res.4, Section M, para. 6.

<sup>5</sup> AC/18/5, para. 13.

<sup>6</sup> AC/19/18.

**COMMENTS**

19. The Audit Committee recognised that all staff were involved in the process of developing the values system but noted that the task had taken longer than expected to complete. The Committee reiterated its earlier view that the development of the Ethics Charter is a fundamental and critical component of the internal governance system, which may constitute a potential high risk for the Court. The Audit Committee emphasised the need for it to be processed as a matter of urgency.

20. **The Audit Committee looked forward to receiving an initial draft of the Ethics Charter, as well as a draft plan for implementation, by its twentieth session in July 2024.**

**Organizational Manual****1. Update on the Organizational Manual**

21. At its seventeenth session,<sup>7</sup> the Audit Committee considered the Organizational Manual of the Court. Subsequently, it requested that the Court include a reference as a footnote to cover the roles and responsibilities of the CBF, and the establishment of the post of the Executive Secretary to the Committee on Budget and Finance on page 72 for the purposes of completeness and looked forward to receiving the updated version at its nineteenth session in March 2024.

22. The AC had before it the “Report of the Court on its organizational manual”.<sup>8</sup>

**COMMENTS**

23. The AC acknowledged that the organizational manual is a living and dynamic document. It also observed that the updated version had incorporated the recommendations that it had issued at its eighteenth session.

24. The organizational manual serves as a significant document for the different stakeholders of the Court. The AC emphasised the critical importance for the Court regularly to update the information contained therein.

**Oversight of internal audit matters****1. Implementation of the 2023 Internal Audit Plan (Q3 & Q4)**

25. The AC considered the “Status of Implementation of the 2023 Internal Audit Plan” for the third<sup>9</sup> and the fourth quarters.<sup>10</sup>

**COMMENTS**

26. The AC noted that by the end of the fourth quarter of 2023, the OIA had completed seven out of eight audit assignments, of which three were carried over from 2022, and two out of three advisory services assignments.

27. The AC also noted that one of the audit assignments was postponed to 2024 to coincide with the audit planned by the External Auditor on cybersecurity.

**2. Work Plan of the Office of Internal Audit for 2024**

28. The AC had before it the “Work Plan of the Office of Internal Audit for 2024”<sup>11</sup> and observed that the work plan contained eight audit assignments and two advisory services.

<sup>7</sup> AC/17/5, para. 22.

<sup>8</sup> AC/19/6.

<sup>9</sup> AC/19/4.

<sup>10</sup> AC/19/9.

<sup>11</sup> AC/19/12.

29. The AC considered the planning criteria of the 2024 draft Internal Audit Plan.

#### **COMMENT**

30. **Given the complexity of the Court’s work and the significant staff resources allocated to some audit assignments, the Audit Committee recommended that the Director of the Office of Internal Audit identify relevant benchmarks that would serve to better assess and achieve efficiency in the allocation of resources to individual audit assignments against comparable organisations.**

### **3. Statement on Independence and Objectivity**

31. The AC considered the “Statement on Independence and Objectivity of the Office of Internal Audit”.

#### **COMMENTS**

32. The AC noted the concerns expressed by the Director of the OIA regarding the increasing delays in obtaining information and the limited availability of auditees during the performance of engagements. The AC also noted that the OIA had highlighted the fact that delays have further increased, which severely affected the organisation of the auditors’ work, as well as the overall achievement of the yearly work plan.

33. In response, the Court explained that cooperation between the different organs has improved but conflicting engagements and deadlines involving various stakeholders<sup>12</sup> imposed limitations and constraints on staff and their ability to respond to all requests.

### **4. External Quality Assessment of the OIA**

34. According to Standard 1312 of the Institute of Internal Auditors (IIA), an external quality assessment “*must be conducted at least once every five years by a qualified, independent assessor or assessment team from outside the organization*”.<sup>13</sup>

35. The IIA Netherlands Quality Assessments performed an external quality assessment of the internal audit function of the ICC. The assessment evaluated the compliance of internal audit functions with generally accepted standards for the professional practices of internal auditing as issued by the IIA.<sup>14</sup>

#### **COMMENT**

36. The AC duly acknowledged receipt of the report regarding the external quality assessment of the internal audit function. It intends to deliberate on the findings both before and during its twentieth session in July 2024, seeking additional information as needed.

### **5. Audit reports of the Office of Internal Audit**

37. The OIA submitted three internal audit reports:

#### *i. Audit of Outsourced IT Environment*

38. The audit was part of the approved 2023 annual audit plan and its overall audit objective was to review the control mechanisms that the IT organisation has put in place to guarantee the effective management of its relationships with external suppliers. The audit issued two medium-risk recommendations that have been accepted by management.

#### **COMMENT**

39. The AC commended the audit and took note of the recommendations therein.

<sup>12</sup> Queries from States Parties, CBF, AC, External Auditors, OIA, and IER recommendations.

<sup>13</sup> Implementation Guide 1312, [ig1312-2016-12.pdf \(theiia.org\)](https://www.theiia.org/ig1312-2016-12.pdf).

<sup>14</sup> AC/19/19-CONF, page 3.

ii. *Audit on the administrative and financial controls within the Direction of Judicial Services of the Registry*

40. The audit was part of the audit plan of 2023, and its overall objective was to assess the extent to which administrative and financial procedures conducted for personnel (unapproved GTA, STA and consultants), procurement, official travels, and the use of Miscellaneous Obligor Documents comply with the established policies, procedures, and the Financial Regulations and Rules of the Court. The audit scope covered the period between January 2021 and March 2023. No audit recommendation was issued in this report.

**COMMENT**

41. The AC took note of the report and the observations arising therein.

iii. *Audit of the system backup and restore management process*

42. The audit was part of the approved 2023 annual audit plan and its overall audit objective was to assess the effectiveness of the control mechanisms put in place by the Information Management Services Section to ensure that any information considered sensitive/critical to the Court's routine operations is properly backed up and retrievable should the need arise. The audit issued three recommendations, all accepted by management, two of which are medium-risk and one high-risk.

**COMMENT**

43. The AC took note of the report and the high risks it highlights. It urged management to address the identified issues and prioritise the implementation of the recommendations as a matter of urgency.

**6. Annual OIA report on the implementation of audit recommendations in 2023**

44. The AC considered the "Report of the Office of Internal Audit Implementation of audit recommendations: Situation as at 31/12/2023".<sup>15</sup> The period under consideration for the implementation rate in this report is 1 January 2023 to 31 December 2023.

45. The OIA reported that, as of 1 January 2023, 76 audit recommendations were open from the 20 audit reports issued between 2017 and 2022, and, as of 31 December 2023, 85 audit recommendations were "Open" from 22 audit reports issued between 2019 and December 2023.

**COMMENTS**

46. The AC noted that the implementation rate for recommendations is low. Furthermore, the AC was informed by the Court that recommendations were not addressed due to resource constraints and competing priorities hindering the implementation of the recommendations.

47. Notwithstanding the answer provided by the Court, the fact remains that a significant number of audit recommendations, many of which are at high to medium risk level, remain unimplemented for a considerable period of time, which imposes additional institutional risk to the organisation.

48. **The Audit Committee recommended that the Court cluster all recommendations from different stakeholders to facilitate the identification of potential "root causes", and prioritise them for implementation, thus reinforcing a culture of accountability and responsibility toward risk issues. Emphasising the importance of "Tone at the Top", the Audit Committee further recommended that the status of outstanding recommendations be regularly reviewed and followed-up on by CoCo.**

49. The AC also observed that certain recommendations, previously issued by the OIA and subsequently rejected by management, had been omitted from the follow-up log. The rationale provided was that those recommendations no longer fell within the purview of the original executor.

<sup>15</sup> AC/19/11.

50. **Instead of eliminating those rejected recommendations, the Audit Committee recommended that the Office of Internal Audit effectively redirect the rejected recommendations to the appropriate channels for further consideration and action.**

## **7. Report of the Audit related activities of OIA in 2023**

51. The AC considered the “Report of the audit related activities of the Office of Internal Audit in 2023”,<sup>16</sup> which covered the period from 1 January 2023 until 31 December 2023.

52. The OIA reported that as of 1 January 2022, 57 audit recommendations were “In Progress”, from 18 audit reports issued between 2017 and 2021. In 2022, seven internal audit reports were issued, generating an additional 42 recommendations (33 of those had their implementation plan developed; and nine were not accepted by management). As of 31 December 2022, 76 audit recommendations were “In Progress”, from 20 audit reports issued between 2017 and December 2022.

53. The OIA issued 27 recommendations in 2023, of which 24 had their implementation plan developed; one was not accepted by Management; and two had their risks accepted by Management. The OIA concluded four audit assignments carried over from 2022; three audit assignments from 2023 (submitted within the indicated period of the report), and two of the three advisory engagements planned in 2023. One audit assignment pertaining to cyberattacks was postponed until 2024 to align with other planned activities on the matter. One advisory service remains in progress.

54. The OIA initiated the follow-up for the implementation of internal audit recommendations in March and in October 2023, and completed the process in May and in December 2023 respectively. The OIA has conducted several quality assurance and improvement activities according to its QAIP, which included on-going reviews and periodic self-assessments.

### **COMMENT**

55. The AC took note of the report and observations arising therein.

## **Court’s report on the implementation of the internal audit recommendations in 2023**

56. The AC considered the “Report of the Court on the implementation of internal audit recommendations as of 31 December 2023”.<sup>17</sup>

57. In 2023, the Court worked on the 76 open internal audit recommendations issued in previous years. In 2023, the OIA issued 27 recommendations to the Court (13 to the OTP and 14 to the Registry), one of which was not accepted. By year-end, the number of open recommendations had been reduced to 61, representing a decrease of 20 per cent, with an implementation rate of 18 per cent.

### **COMMENT**

58. The AC took note of the efforts by the Court to implement internal audit recommendations but, as reflected in paragraphs 46-48 above, reiterated its position that a clear signal by senior management regarding the importance of implementing internal audit recommendations has a direct impact on the priority afforded to them by managers responsible for implementing them.

<sup>16</sup> AC/19/15.

<sup>17</sup> AC/19/10.

## **Report of the Court on the action plan for implementation of the former external auditor's recommendation**

59. At its fifteenth session,<sup>18</sup> the AC considered the audit report on the administrative management of the departments of the Presidency and the Office of the Prosecutor conducted by the former external auditor, and it recommended that the Court provide an update at its seventeenth session on the implementation of the single recommendation.

60. At its seventeenth session,<sup>19</sup> the AC reiterated its request to receive an update by the Court on the implementation of the former External Auditor's recommendation at its nineteenth session in March 2024.

61. The AC had before it the "Report of the Court on the implementation of the recommendations of the former External Auditor".<sup>20</sup>

### **COMMENTS**

62. The AC took note of the update on the status of the four remaining recommendations of the former external auditor (*Cour des comptes*) that were still open at the time of the seventeenth session of the Audit Committee, namely one recommendation concerning the audit of the need for a sustainable interface with the Registry's support services, designating Business Partners within Major Programmes I and II.

63. The AC noted that the Court had communicated to the current External Auditor the status of implementation of the recommendation.

## **Update on the Charter of the Office of Internal Audit**

64. At its eighteenth session,<sup>21</sup> the Committee considered the draft Charter of the OIA and recommended that the distinction between consulting and advisory services within the Charter be further clarified and also requested that it be updated at its nineteenth session.

65. The AC considered the "Update on the adoption of the OIA Charter"<sup>22</sup> and the "Charter of the Office of Internal Audit".<sup>23</sup>

### **COMMENTS**

66. The AC took note of the amended Charter of the Office of Internal Audit as approved by the CoCo, and further noted that the OIA Internal Audit Charter will be kept up to date on a regular basis, and that any changes are submitted to the Heads of Organs for approval after consulting the AC.

67. The AC decided to revisit the OIA Charter regularly and would do so at its twenty-first session in 2025.

## **Update on the Audit Committee Charter**

68. At its twenty-second session,<sup>24</sup> the Assembly welcomed the initial consideration of the proposed amendments to the Charter of the Audit Committee and requested that the Bureau through the Budget Management Oversight facilitation continue discussions on these amendments during the first quarter of 2024, taking into account both the positive assessment of the relevant recommendation of the Independent Expert Review report,<sup>25</sup> as reflected in a separate report submitted to the Bureau of the Assembly on 27 June

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<sup>18</sup> *Report of the Audit Committee on the work of its seventeenth session*, AC/17/5, para. 68.

<sup>19</sup> AC/17/5, para. 73.

<sup>20</sup> AC/19/7.

<sup>21</sup> *Report of the Audit Committee on the work of its eighteenth session*, AC/18/5, paras. 40 and 41.

<sup>22</sup> AC/19/17.

<sup>23</sup> AC/19/13.

<sup>24</sup> ICC-ASP/22/Res.4, I. Audit, para. 3.

<sup>25</sup> R367.

2022 by the facilitation,<sup>26</sup> and the subsequent technical deliberations on the determination of the appropriate international audit standards, as well as the outcome of the evaluation of the Secretariat to be conducted by the Independent Oversight Mechanism.<sup>27</sup>

#### **COMMENT**

69. The AC took note of the discussions held by the Budget Management Oversight facilitation of the Assembly and decided to continue reviewing its Charter and updating it in accordance with the standards.

### **Oversight of External audit matters**

#### **1. Briefing by the External Auditor on the work planned for 2024**

70. The representative of the External Auditor presented the workplan for 2024. The work plan included the audit of the financial statements of the Court and the financial statements for the Trust Fund for Victims for the year ended 2023.

#### **COMMENTS**

71. The AC took note of the work plan of the External Auditor for 2024.

72. **The AC noted also that the briefing did not include matters that would customarily be expected in a communication by the External Auditor as per International Standard on Auditing 260 (*Communication with those charged with governance*) and requested that the External Auditor address them in future communications.**

#### **2. Follow up on recommendations of the External Auditor**

73. At its eighteenth session,<sup>28</sup> the AC noted the outstanding recommendations of the External Auditor and recommended that the External Auditor brief it on the status of implementation at its nineteenth session in March 2024.

74. The BAI provided an overall view of the status of recommendations made both by the former external auditor and by the BAI. The former external auditor had issued 44 recommendations in total in the period 2017-2021, of which 39 (or 89 per cent) had been implemented,<sup>29</sup> four (or nine per cent) had been partially implemented,<sup>30</sup> and one (or two per cent) had not been implemented, as of 31<sup>st</sup> January 2024.<sup>31</sup>

75. The BAI had made 32 recommendations in the period of 2022-2023, of which seven (or 22 per cent) had been implemented, 12 (or 37 per cent) had been partially implemented and 13 (or 41 per cent) had not been implemented, as of 31 January 2024.

#### **COMMENT**

76. The AC took note of the update by the External Auditor and will continue to follow up on the implementation status of the recommendations.

#### **3. Performance audits**

##### *i. Update status on the performance audits*

77. The External Auditor updated the Committee on the status of the performance audits.

<sup>26</sup> <https://asp.icc-cpi.int/sites/asp/files/2022-11/2022-RM-report-progress.pdf>.

<sup>27</sup> Fifth meeting of the Bureau, 10 May 2023.

<sup>28</sup> AC/18/5, para. 68.

<sup>29</sup> Implemented: If the recommendation has been fully implemented with complete submission of evidence.

<sup>30</sup> Partially implemented: If the implementation of the recommendation is planned and underway.

<sup>31</sup> "Not implemented": under consideration, pending or without sufficient evidence submitted.

78. As noted earlier in paragraph 13, the Committee urged careful coordination with the Court and the OIA in the cybersecurity performance audit in order to ensure added value and avoid duplication.

#### **4. Financial statements**

##### *i. Approval process of the financial statements*

79. At its eighteenth session,<sup>32</sup> the Audit Committee conveyed to the External Auditor that it would continue the discussion on the approval process of the financial statements during the course of the next audit cycle.

#### **COMMENT**

80. The AC acknowledged the External Auditor's concerns about the timing of key steps and the parties involved in approving financial statements. The External Auditor believes that certain practices may threaten independence, contravene regulations, and be inconsistent with the Court's governance. Noting these general concerns, the AC continued to believe that on the specific issue of a final meeting of the External Auditor with the AC to ensure that the External Auditor had received all the relevant inputs and perspectives prior to signing off their audit opinion would not constitute an attempt to influence findings or the External Auditor's work or opinion. Rather, it is consistent with the notion of open communication between professional parties, and in line with good practice.

##### *ii. Update on the recognition of liability at the Financial Statements of the Trust Fund for Victims*

81. The Committee discussed the recognition of liability and provisions of the Financial Statements of the Trust Fund for Victims.

82. At its eighteenth session,<sup>33</sup> the Audit Committee urged Management to continue discussions with the External Auditor on this matter (Recognition of liability) during the next financial statement preparation cycle.

83. The External Auditor informed the AC that they had submitted their final opinion on the matter to the TFV in July 2023. The TFV had requested a consulting paper from the Korea Institute of Public Finance during the interim audit, which the External Auditor had submitted to the TFV. The External Auditor had requested additional materials regarding provisions for the additional review. The External Auditor was informed that the Court would submit its comments on the consultation paper to the External Auditor shortly.

84. The External Auditor stated that their position on the recognition of provisions remains unchanged, and that they intended to continue the efforts to assist the Court and the TFV to better understand the provision. The External Auditor proposed to conduct additional reviews if the Court presents new evidence or practices.

#### **COMMENT**

85. The AC noted the events since its last meeting and will continue discussions with management and the External Auditor on this matter both prior to and during its twentieth session in July 2024.

#### **5. Nomination of the External Auditor**

86. In accordance with its Charter,<sup>34</sup> the AC is mandated to make recommendations to the Assembly concerning the appointment of the External Auditor.

87. At its eleventh session in 2020, the Audit Committee recommended that the Assembly appoint the Board of Audit and Inspection ("BAI") of the Republic of Korea as the External Auditor of the Court for the financial years 2021-2024.

88. During its nineteenth session, the Audit Committee discussed the performance and the extension of the contract of the External Auditor (see Annex I for details).

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<sup>32</sup> AC/18/5, para. 52.

<sup>33</sup> *Ibid.*, para. 60.

<sup>34</sup> AC Charter, para. 60.

**COMMENT**

89. **The Audit Committee recommended that the Assembly approve the renewal of the contract for audit services awarded to the current Board of Audit and Inspection of the Republic of Korea as the External Auditor of the Court for the financial years 2025-2028, with the expectation that there would be constructive discussions between the Court, the Board of Audit and Inspection of the Republic of Korea, and the Audit Committee on the issues identified.**

**V. Risk management****1. Eleventh update report on risk management at the Court**

90. Since the establishment of the AC in 2015, the Court has provided the AC with annual reports on risk management. In 2023, in line with the promulgation of the Court's strategic plans for 2023-2025, progress was achieved in the field of risk management. A series of workshops by the external consultant PricewaterhouseCoopers (PwC) were delivered Court-wide and managers were trained to develop their sections' and offices' risk registers at the operational level, while aligning them with the strategic goals outlined in the strategic plans.

91. The Court reported that a total of 36 risk registers including 146 risks had been finalised and submitted by various sections/offices from most major programmes, up until the date of submission of the report on 18 December 2023. The OIA reviewed all the submitted risk registers and provided advice, which risk owners took into consideration and adjusted as needed. However, the Court extended the deadline to receive the remaining risk registers to mid-December 2023. Once all the elements are compiled and consolidated by the end of the first quarter of 2024, the Risk Management Committee (RMC) will consider the submitted risk registers and will cluster and consolidate them as appropriate, thus developing a new and updated strategic risk register of the Court.

92. The Committee considered the "Eleventh update report on risk management at the Court".<sup>35</sup>

**COMMENTS**

93. The AC commended the Court on the efforts undertaken to update the risk register while keeping the AC informed about decisions and risks.

94. **The Audit Committee looked forward to receiving a copy of the risk register at its twentieth session in July 2024, as well as an update on the status of implementation of mitigating actions.**

*i. Presentation by PwC*

95. A consultant from PwC delivered a presentation to the Committee on the ongoing engagements of the Court, in application of International Standard ISO 31000 taken into consideration in the Court's Risk Management framework.

96. PwC provides support to the Court in the risk management initiatives, assessing the current risk management framework of the Court according to ISO 31000. Most recently, it assisted by facilitating the workshops for the operational risk assessments in 2023 and is collaborating with the Court on consolidating the outcome of those exercises.

**COMMENTS**

97. The AC took note of the information provided by the external consultant and by the Court on the development of the risk management profile at the Court and requested that the Court continue to update it on risk management issues.

98. The AC underlined that the process probably needs to be more dynamic in an environment such as the Court, and that there seems to be a missing piece in terms of active management mitigation and monitoring.

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<sup>35</sup> AC/19/8.

## 2. OIA Report on risk management by the International Criminal Court

99. In accordance with the Charter of the Audit Committee,<sup>36</sup> the OIA shall produce a report on the implementation and maintenance of an integrated and appropriate risk management process within the Court. In compliance with the requirements of Professional Standard 2000 of the IIA, the person responsible for the internal audit must provide assurance on risk management.

100. The Committee considered the “Report on risk management by the International Criminal Court”.<sup>37</sup> The OIA referred to the COSO framework, “*Enterprise Risk Management - Integrating with strategy and performance*”, to analyse the Court’s integrated risk management framework and reviewed the Court’s culture, resources and practice in terms of risk management based on the framework’s five components, and their 20 principles.

101. As at January 2024, the OIA was of the view that most of the 20 principles required to implement an integrated risk management system are either present or functional at the Court. However, these elements do not operate in an inter-related and iterative way. Formal risk management is not included when formulating business objectives, in performance monitoring or in the oversight systems.

### COMMENT

102. The AC took note of the very useful discussion and will continue to follow up with the OIA and Court on the development of the risk culture.

## VI. Other matters

### 1. Work plan of the twentieth session of the Audit Committee

103. The AC decided to focus on the following matters during its twentieth session: management reports, ethics; oversight of internal audit matters; oversight of external audit matters, risk management; follow-up on previous recommendations; report of the Ombuds; and presentation on the budget process.

104. The Twentieth session will take place at the seat of the Court from 29 to 31 July 2024.

### 2. Briefing by the Registrar

105. The AC received an in-camera briefing from the Registrar updating the Committee on various operational issues.

### 3. Briefing by the Director, Secretariat of the Trust Fund for Victims

106. The AC received an in-camera briefing from the Executive Director of the Trust Fund for Victims on the matter of provisions and the steps undertaken on this matter.

### COMMENT

107. The AC will continue to follow-up with all stakeholders on this matter.

### 4. Briefing by the Ombuds

108. The AC received an in-camera briefing from the Ombuds, where he informed the Committee about the plan and work done during 2023 and that he is in process of finalising an activity report.

### COMMENT

109. The AC took note of the work of the Ombuds during 2023 and looked forward to receiving his activity report prior to its twentieth session in July 2024.

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<sup>36</sup> Terms of reference of the AC, Para L .2. d.

<sup>37</sup> AC/19/14.

## Annex I: Nomination of the External Auditor

1. In accordance with its Charter, paragraph 60, the Audit Committee shall make recommendations to the competent organ concerning the nomination of the External Auditor.

2. At its eleventh session in 2020, the Audit Committee recommended that the Assembly appoint the Board of Audit and Inspection (“BAI”) of the Republic of Korea as the External Auditor of the Court for the financial years 2021-2024.

3. On 3 June 2021, a contract was signed by the Court and the representative of the BAI to provide the following audit services:

- i. Financial statements of the International Criminal Court;
- ii. Financial statements of the Trust Fund for Victims; and
- iii. Performance audit (up to two assignments).

4. In order for the Assembly to approve the next term of contract 2025-2028, at its nineteenth session the Audit Committee reviewed the performance of the External Auditor on the financial audits and performance audits conducted during the current contract. As part of its review, the Committee sought feedback from Court staff who had regular interaction with the External Auditors during the audit process, as well as systematically reviewing the quality of the audit from the Committee’s perspective.

5. The Committee’s overall assessment was that while the External Auditors were adequately discharging their responsibilities, improvements were warranted in certain areas, specifically:

**i. Language and Communication:**

The Audit Committee underscored the importance of effective communication and language proficiency while undertaking audit processes. The External Auditor's proficiency in the working language of the Court is vital for undertaking complex discussions on financial and systems issues with clarity and precision. The External Auditor needs to pay due regard to this aspect when building its audit team.

**ii. Planning of audit assignments and timelines:**

6. The Audit Committee emphasised the need for careful planning of audit assignments and adherence to timelines. The External Auditor is expected to work closely with management to develop a dynamic and proactive approach to planning and execution to facilitate an efficient and effective audit process while minimising the disruption to the day-to-day work of staff with whom they interact.

**iii. Maintaining continuity within the Audit team:**

7. Continuity of staff within the audit team maintains institutional memory and enhances familiarity with the institution's operations and financial landscape. Not only does this contribute to a more insightful and comprehensive audit process but more importantly, it reduces the demand on Court staff to have to explain financial processes anew on a recurring basis. The Audit Committee encourages continuity in terms of members of the audit team, and for this to be confirmed during the audit planning process.

**iv. Communications with the Audit Committee**

8. The Audit Committee has highlighted the importance of following generally accepted practice with regard to the Committee’s role prior to the External Auditor signing off their audit opinion and expects the External Auditor’s cooperation in this regard.

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## Annex II: List of documents

### Title

Audit of the Outsourced IT Environments*
Audit of administrative and financial controls within the Division of Judicial Services*
Status of implementation of the 2023 Audit Plan as per 29th September 2023 *
Report of the Court on its organizational manual
Report of the Court on the implementation of the recommendations of the former External Auditor
Eleventh update report on risk management at the Court
Status of implementation of the 2023 Audit Plan as per 31 <sup>st</sup> December 2023*
Report of the Court on the implementation of internal audit recommendations as of 31 December 2023
Report of the Office of Internal Audit implementation of audit recommendations: situation as at 31/12/2023*
Work Plan of the Office of Internal Audit for 2024*
Charter of the Office of Internal Audit version 7 October 2023*
OIA Report on risk management by the International Criminal Court, January 2024
Report on the audit related activities of the Office of Internal Audit in 2023*
Audit of the system backup and restore management process*
Update on the adoption of the OIA Charter*
Update on the development of a Court-wide Ethics Charter
Final report of the Quality Assessment of the Office of Internal Audit*

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\* Sharing of OIA reports: At its sixth session,<sup>38</sup> the Assembly requested that “the Registrar take such appropriate steps as necessary, to ensure access at the Court to the information contained in any particular report prepared by the OIA to any State Party if so requested, and in so doing, take appropriate measures to safeguard confidential or personal information”. All requests for information must be channelled through the Registrar.

\*\* Reports can be checked with the Court.

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<sup>38</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Sixth session, New York, 30 November – 14 December 2007, (ICC-ASP/6/20), vol. I, part II.C, para. 4.*