



Twenty-second session

New York, 4-14 December 2023

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

1. This report is submitted by the facilitator for the budget, Ambassador Ksenija Milenković (Serbia), pursuant to the mandate given by the Bureau to the focal points for the sub-topics of budget management oversight and premises (Ambassador Jaime Moscoso Valenzuela (Chile), and Mr. Julián Camilo Silva (Colombia), respectively) within The Hague Working Group facilitation for the budget.
2. The focal points have prepared reports on their activities during 2023. These reports appear as annex I and annex II to this report.

Annex I

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

A. Introduction

1. The mandate for Budget Management Oversight (BMO) in 2023 is derived from the budget resolution adopted at the twenty-first session of the Assembly of States Parties.¹ On 21 December 2022 the Bureau approved the allocation of BMO to The Hague Working Group as a sub-topic of the budget facilitation. On 4 April 2023, the Bureau appointed Ambassador Jaime Moscoso Valenzuela (Chile) as focal point for the topic of budget management oversight.

B. Meetings and discussions

2. Six meetings were held in 2023 on the topic of BMO, on 10 May, 22 June, 13 September, 5 and 24 October, and 2 November 2023, with States Parties, the Court and representatives of the oversight bodies. The meetings were held in person with virtual participation of representatives of the oversight bodies when they could not be present physically.

3. Participants in the meetings have included representatives of various oversight bodies and relevant offices: the Chair of the Committee on Budget and Finance, Mr. Werner Druml, the Director of the Office of Internal Audit (OIA), Ms. Florence Bôle, the Head of the Independent Oversight Mechanism (IOM), Mr. Saklaine Hedaraly, and the representative of the External Auditor, Mr. Yang Chan Cho.

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

1. International Criminal Court governance oversight

5. The BMO facilitation had discussed in 2022 the Independent Expert Review (IER) recommendations allocated to it by the Comprehensive action plan of the Review Mechanism. The results of this assessment had been reflected in a separate report² submitted to the Bureau of the Assembly on 27 June 2022, pursuant to resolution ICC-ASP/20/Res.3.³

6. However, recommendation 364,⁴ which was initially allocated to the facilitation on the Review of the Work and Operational Mandate of the IOM, and which had received a positive assessment as reflected in the matrix dated 17 February 2023, remained to be discussed within the BMO facilitation. This was suggested during the IOM facilitation whereby the Court was requested, in coordination with the Director of the OIA and the Head of the IOM, to submit a document indicating developments made with regard to the effectiveness and authority of these bodies. Once the said document was submitted, the recommendation was discussed in the context of the BMO facilitation, in the meetings held on 22 June, 13 September and 5 October 2023. During the meeting held on 13 September, Mr. Nicolas Guillou was invited, in his capacity as a former member of the Group of Experts of the IER, to provide further details on the rationale for the recommendation. As a result of the fruitful discussions, the recommendation was considered to be assessed positively and was being implemented.

¹ ICC-ASP/21/Res.1, Sections I and J.

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

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

⁴ "The IOM and the OIA should be given enhanced authority and resources to be able to better carry out their functions."

7. Furthermore, in accordance with resolution ICC-ASP/20/Res.1, section I, para. 3, the BMO had an Assembly mandate to consider the report of the former External Auditor (*Cour des comptes*) on International Criminal Court Governance Oversight.⁵

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

9. Most recommendations by the External Auditor were assessed during various meetings held in 2022.⁶ However, in relation to recommendation 4 (which concerned the suppression of the Committee on Budget and Finance) there was no conclusive view on the last part of the recommendation. As such, it was suggested that discussions should continue in 2023, in conformity with the BMO Report 2022.⁷ During the meeting held on 2 November, the recommendation was discussed. With a view to informing the discussions, the Director of the Secretariat recalled resolution ICC-ASP/2/Res.3, established the Secretariat, and explained that the Assembly was the legislative body, and as such the sole decision maker to establish or terminate subsidiary bodies, posts, and approve/amend rules of procedure of such subsidiary bodies. Given that the IOM had been tasked to undertake an evaluation of the Secretariat of the Assembly,⁸ it was agreed that it would be prudent to continue the discussions in 2024 once the evaluation had been undertaken.

2. Consideration of the reports of the Audit Committee on the work of its seventeenth and eighteenth sessions

10. On 5 October 2023, the Executive Secretary of the Committee on Budget and Finance made a brief presentation on behalf of the Audit Committee on the reports on the work of the seventeenth and eighteenth sessions of the Committee.⁹ His presentation focused, *inter alia*, on the topics of the Ethics Charter, organizational manual, External audit matters, the Charter of the Audit Committee, and Financial Statements processes. On 24 October 2023, the Chair of the Committee on Budget and Finance, representing the Chair of the Audit Committee, also made a

⁵ ICC-ASP/20/6 and Add.1.

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

⁶ Recommendations 1 and 2 were assessed positively. In relation to recommendation 3 there was general agreement on the existence of a positive evolution towards increased interaction between the States Parties and the Audit Committee. The relevant recommendations read as follows:

Recommendation 1: "Given the ICC's persistent liquidity shortage, and the high level of ICC's governance oversight cost ratio compared to other International Organisations, the External Auditor recommends that no reform of the ICC Organisation as a whole, and of the governance oversight organs in particular, should lead to increased expenditure, unless equivalent decrease(s) are found and decided in other domains, and a priority should be given to reforms that can provide measurable economies"

Recommendation 2: "The External Auditor recommends to the Coordination Council (CoCo) to formally endorse, under the ex-post control of the AC, the annual internal audit program. The Audit Committee could ask for amendments, which would need in their turn to be approved and endorsed by the CoCo. The Office of Internal Audit (OIA) should report directly to the CoCo, and the CoCo with the advice of the AC, should be fully responsible for the evaluation of the Director of OIA."

Recommendation 3: "The External Auditor recommends the ASP to give through its Bureau a permanent access to the Audit Committee to a limited number of delegates as non voting members. The role of these delegates would be to serve as "focal points" to provide information to their colleagues of other delegations on the current activity of the independent Audit Committee."

Recommendation 5 was assessed negatively and reads as follows: "The External Auditor recommends merging the Office of Internal Audit and the Independent Oversight Mechanism in one Major Programme."

⁷ ICC-ASP/21/30.

⁸ See agenda and decisions of the fifth meeting of the Bureau, held on 10 May 2023.

⁹ AC/17/5 and AC/18/5. The reports of the Audit Committee are available at: https://asp.icc-cpi.int/en_menus/asp/AuditCommittee/Pages/default.aspx

presentation, with a focus on four issues: i) implementation of recommendations by the OIA; ii) the Charter of the OIA; iii) the Charter of the Audit Committee; and iv) reporting lines. The working group had an exchange of views on some of the issues contained in the reports.

3. Consideration of the Financial statements of the International Criminal Court for the year ended 31 December 2022

11. On 24 October 2023, the working group received a presentation by the representative of the External Auditor on the Financial statements of the International Criminal Court for the year ended 31 December 2022.¹⁰

4. Consideration of the Financial statements of the Trust Fund for Victims for the year ended 31 December 2022

12. On 24 October 2023, the working group received a presentation by the representative of the External Auditor on the Financial statements of the Trust Fund for Victims for the year ended 31 December 2022.¹¹

5. External Auditor's performance audit on Legal Aid

13. The working group considered the report of the External Auditor on the performance audit on Legal aid (ICC-ASP/22/38), during the fifth meeting of the facilitation held on 24 October 2023. The representative of the External Auditor presented the performance audit including the objectives and scope of the audit, the preliminary analysis, and the observations and recommendations. The Committee on Budget and Finance had received the report on the audit, had noted the deficiencies highlighted therein, and had requested a report from the Court on the implementation of the recommendations at its May 2024 session.

6. Future performance audits

14. On 10 May 2023, the working group was informed by the External Auditor of the proposed topic for the performance audit for 2023: cybersecurity. On 24 October 2023, the representative of the External Auditor indicated that the Registry had informed the External Auditor that the staff responsible for the topic were facing a very heavy workload due to the recent cyber incident at the Court. As a result, the External Auditor had decided to postpone the site visit previously scheduled for October 2023. A new date was under discussion on the basis of a provisional timeline. The objectives and scope of the audit were still to be discussed with the Court.

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

15. On 22 June 2023, the Strategic Plans (2023-2025) for the Court, the Registry, the Office of the Prosecutor, and the Trust Fund for Victims, were presented to the working group by the respective organ representatives.

8. Amendments to the Charter of the Audit Committee

16. In accordance with resolution ICC-ASP/20/Res.1, section I, para. 6; ICC-ASP/19/Res.1, section I, para. 4, and ICC-ASP/18/Res.1, section I, para. 7, the BMO facilitation had an Assembly mandate to consider the proposed amendments to the Charter of the Audit Committee

¹⁰ ICC-ASP/22/12.

¹¹ ICC-ASP/22/13.

contained in annex III to the report of the Audit Committee on the work of its tenth session,¹² taking into consideration the outcome of the evaluation undertaken by the External Auditor, the report of the Independent Expert Review,¹³ and the report of the Review Mechanism, and the positive assessment of the External Auditor's recommendation 2.

17. On 26 October 2023, draft amendments to the Charter of the Audit Committee, dated 5 May 2023, were conveyed to States Parties. On 2 November 2023, the proposed amendments were considered, but in light of the fact that some States Parties had announced the submission of some written comments and the IOM had been tasked to undertake an evaluation of the Secretariat of the Assembly,¹⁴ it was agreed that it would be prudent to continue discussions in 2024 once the evaluation had been undertaken.

C. Recommendations

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

¹² Available at: <https://asp.icc-cpi.int/AuditCommittee>.

¹³ ICC-ASP/19/16.

¹⁴ See agenda and decisions of the fifth meeting of the Bureau, held on 10 May 2023.

Appendix

Proposed resolution language for the 2024 budget of the Court

To be inserted into the budget resolution

A. Audit

The Assembly of States Parties,

Having regard to the Charter of the Audit Committee, adopted at its fourteenth session,¹ as amended,

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

Further noting the recommendations of the Committee on Budget and Finance concerning audit matters,²

Taking note of the findings and recommendations in the final report of the Independent Expert Review of the International Criminal Court and the Rome Statute system related to Internal and External Oversight Mechanisms,³ including the positive assessment given to recommendation R367⁴ and the subsequent technical deliberations on the determination of the appropriate international audit standards,

Taking note of the External Auditor final report on International Criminal Court Governance Oversight,⁵

1. *Welcomes* the reports of the Audit Committee on the work of its seventeenth and eighteenth sessions;
2. *Welcomes* the performance audit report on legal aid submitted by the External Auditor,⁶ and the conclusions and recommendations contained therein, and *notes* the request of the Committee on Budget and Finance to the Court to submit a report on the implementation of the recommendations to the Committee at its forty-fourth session;
3. *Welcomes* the initial consideration of the proposed amendments to the Charter of the Audit Committee and *requests* the Bureau through the Budget Management Oversight facilitation to continue discussions on these amendments in the first quarter of 2024, taking into account both the positive assessment of the relevant recommendation of the IER report⁷ as reflected in a separate report submitted to the Bureau of the Assembly on 27 June 2022 by the facilitation⁸, 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.⁹

¹ *Official Records ... Fourteenth session ... 2015 (ICC-ASP/14/20)*, vol. II, part B.3, annex IV.

² *Official Records ... Twenty-second session ... 2023 (ICC-ASP/22/20)*, vol. II, part B.2, paras. 99 to 103 and *Official Records ... Twenty-second session ... 2023 (ICC-ASP/22/20)*, vol. II, part B.3, paras. 299 to 306.

³ ICC-ASP/19/16.

⁴ R367. As a work unit located in the Registry, the OIA would more properly report to the Principals rather than to the Audit Committee, a subsidiary of the ASP. This would not prevent the OIA from appearing before the new budgetary control and audit body as required, and responding to its requests. The new body's role towards the OIA would be overseeing the adequacy of the framework set up for the Court's internal audit function, rather than oversight of the substance of the OIA's work.

⁵ ICC-ASP/20/6.

⁶ ICC-ASP/22/38.

⁷ R367.

⁸ <https://asp.icc-cpi.int/sites/asp/files/2022-11/2022-RM-report-progress.pdf>.

⁹ Fifth meeting of the Bureau, 10 May 2023.

B. Budget Management Oversight

The Assembly of States Parties,

1. *Notes* that the Strategic Plans of the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims are dynamic and updated on a regular basis;
2. *Notes* the Strategic Plans (2023-2025) for the Court, the Registry, the Office of the Prosecutor, and the Trust Fund for Victims and *also notes* that the Strategic Plans benefit from the views and comments States Parties make in the dialogue with the Court, the Office of the Prosecutor the Registry and the Trust Fund for Victims;
3. *Reiterates* the importance of strengthening the relationship and coherence between the strategic planning process and the budgetary process, which is crucial for the credibility and sustainability of the longer-term strategic approach;
4. *Invites* the Court, the Office of the Prosecutor, the Registry and the Trust Fund for Victims to report annually to the Assembly on the implementation of the Strategic Plans in writing, and *invites* the Court to hold annual consultations with the working groups of the Bureau in the first trimester on the implementation of its strategic plans during the previous calendar year;
5. *Recalls* the management oversight responsibility entrusted to the Assembly of States Parties and the mandates of the Audit Committee, the Committee on Budget and Finance, the External Auditor and the Independent Oversight Mechanism as well as the Office of Internal Audit, and *encourages* these bodies to further intensify their coordination in order to optimize oversight capacity and reporting, ensure an effective division of labour and avoid duplication of competence and work, in conformity with the resolution on the review of the International Criminal Court and the Rome Statute system;¹⁰
6. *Welcomes* the continuous efforts of the oversight bodies to streamline their activities and *invites* them to continue their efforts in that regard;
7. *Welcomes* the increased interaction between these bodies and States Parties, and the initiatives to continue to improve such interactions including via informal meetings;
8. *Recalls* relevant decisions of the Assembly of States Parties concerning the Secretariat of the Assembly of States Parties,¹¹ as well as the respective recommendations of the External Auditor¹² and *welcomes* efforts to further improve synergies and flexibility as regards the human resources of the Secretariat of the Assembly.

¹⁰ ICC-ASP/20/Res.3.

¹¹ ICC-ASP/2/Res.3; *Official Records ... Eighteenth session ... 2019* (ICC-ASP/18/20), vol. I, part 2, footnote 9); and ICC-ASP/18/Res.1, annex, rule 16, para. 1. See also ICC-ASP/18/INF.7, Amendments to the Rules of Procedure of the Committee on Budget and Finance, rule 16 para. 1.

¹² External Auditor: Final report on the International Criminal Court governance oversight (ICC-ASP/20/6).

Annex II

Report of the focal point for the topic of premises

A. Introduction

1. The mandate for the budget sub-topic of premises in 2023 was derived from resolution ICC-ASP/21/Res.1, which was adopted by the Assembly of States Parties at its twenty-first session. In section G, paragraph 8 of that resolution, the Assembly reaffirmed that “the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership [of the Court’s premises], via its Hague Working Group which has a facilitation on the budget, and request[ed] that a report on the topic be submitted for consideration by the twenty-second session of the Assembly”.

2. The Bureau appointed Mr. Julián Camilo Silva (Colombia) as focal point for the topic of premises on 31 May 2023.

B. Meetings and discussions

3. In 2023, The Hague Working Group (“the working group”) held two consultations on the budget sub-topic of premises: on 9 and 14 November 2023. The Court participated in these meetings.

4. The meetings provided an opportunity for the working group to consider and discuss updates from the Court on premises matters. In addition, the working group benefitted from the recommendations of the Committee on Budget and Finance (“the Committee”), as set out in the report on the work of its forty-second session.¹ The working group also received the report produced by a consulting firm (Brink) which had been tasked to carry out an additional impartial assessment of the building and perform an evaluation of replacement periods of the building components to establish the final capital replacement budget.

5. At the meeting on 9 November 2023, States Parties held consultations on the budget programme proposal for the premises for 2024, including issues related to maintenance and capital replacement and the recommendations by the Committee on Budget and Finance. The working group was informed that the report from Brink, dated 29 August 2023, is yet to be assessed by the Court, which will present its comments to the Committee on Budget and Finance at its forty-fourth session in 2024. At the end of the meeting, a technical tour of the premises of the Court took place which allowed delegates to be informed on various issues.

6. At the meeting on 14 November 2023, following up on last year’s discussions,² States Parties were informed by the Court about the technical solutions needed for delegates to access to the staff cafeteria: some structural changes would need to be made to the building, including adding and updating electronic locks, push buttons, emergency door releases, fixed cameras and card readers. These measures would be necessary, given the interconnectedness of the cafeteria with all the other different parts of the building’s restricted areas, to ensure access to staff offices would remain just for the Court’s personnel to protect confidential material. Furthermore, States Parties were informed that the emergency plan would also require to be updated to reflect the change in the segregation between public and restricted building’s areas. The Court informed States Parties that the estimated cost of such changes amounted to €282.0 thousand euros, with an estimated margin of error of plus or minus 20 per cent. While discussions were fruitful and different ideas were exchanged, there was no conclusive view and it was agreed that discussions should continue on this topic in 2024.

¹ ICC-ASP/22/25, dated 28 November 2023 (paras 183 to 191).

² ICC-ASP/21/Res.1, Section G, paragraph 7.

7. There was also a discussion on the placement of additional bicycle racks for delegates of States Parties, as the ones operating at the visitors parking lot are located at a considerable distance from the main entrance to the ICC. The Court was requested to provide technical solutions on the possibility of habilitating the delegates' badges to access the premises through its north-eastern entrance (staff entrance), so they can eventually use the staff's bicycle shed located at the staff parking lot.

Proposed budget for 2024

8. The proposed 2024 budget for Major Programme V (Premises) amounted to €2.59 million and had increased by €62.4 thousand when compared to the approved budget for 2023 of €2.53 million. This proposal was composed of two main elements: (i) preventive and corrective maintenance (recurring) and (ii) planned capital replacements (variable). It included an estimated increase of 4.1 per cent for inflation in the contract for maintenance and capital replacement as compared with the 2023 programme budget. The proposed amounts were €2,219.7 thousand for preventive and corrective maintenance and €379.7 thousand for capital replacements. An amount of €40.0 thousand, to cover the costs of the independent assessment of the building in 2023, had been discontinued in the proposed budget for 2024. The Committee on Budget and Finance had reviewed the proposed budget and recommended that the Assembly approve the requested amount of €2,599.4 thousand.³

C. Recommendations

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

³ ICC-ASP/22/25, dated 28 November 2023, para 191.

Appendix

Proposed resolution language for the 2024 budget of the Court

To be inserted into the budget resolution

Premises of the Court

The Assembly of States Parties,

Noting the recommendations of the Committee on Budget and Finance regarding maintenance and capital replacement for the premises of the Court,¹

1. *Approves* capital replacement for the premises of the Court at the level of €379.7 thousand in 2024, while underlining the need to see maintenance and capital replacement in conjunction;
2. *Reiterates* the need for the capital replacement to be fully justified and limited only to those elements which are absolutely necessary and *requests* the Court to continue to ensure that all measures are taken to achieve savings and efficiencies, including using alternatives to capital replacement whenever possible;
3. *Notes* that any capital replacement needs arising in the foreseeable future should be financed within the scope of the regular budget process, taking into account the possible need for a multi-year approach, as appropriate;
4. *Recalls* the Committee's review of estimates for capital replacement, the advice of the pro bono expert on a fully impartial evaluation of the building and the establishment of a medium- and long-term plan, as well as of possible financial and administrative mechanisms including possible alternatives to current contractual arrangements, at its resumed thirty- eighth and thirty-ninth sessions, and *invites* the Committee to continue to undertake a detailed analysis and evaluation of the proposed budget taking into account the need for prioritization;
5. *Welcomes* the impartial assessment of the building and the performance of a revaluation of replacement periods of the building components to establish the final capital replacement budget conducted by a consulting firm and *recalls* the Committee's request to the Court to present a report on its assessment of the proposed plan on the future contract set-up and the multi-year financing plan for its forty-fourth session, in April 2024;
6. *Emphasizes* the importance of availability of adequate space and unimpeded/facilitated/priority access of States Parties to the premises and within the public areas of the Court, including the conference rooms², staff cafeteria and library, *welcomes* the efforts undertaken by the Court to seek and provide appropriate solutions and *encourages* the continuation of discussions in this regard and in that spirit;
7. *Requests* the Court to prepare a detailed budget report on the security changes needed concerning the possibility of granting access to the staff cafeteria to delegates of States Parties, including different ways in which States Parties might fund such modifications. The report should be submitted for the consideration of the Assembly through the Committee on Budget and Finance at its forty-fourth session in 2024;
8. *Welcomes* the efforts of the Court to find alternatives for bicycle parking for delegates of States Parties and *encourages* further steps that may facilitate their use of the bicycle shed located at the staff parking lot, including the permits to enter the premises using the north-east gate;

¹ ICC-ASP/22/25, dated 28 November 2023 (paras. 183 to 191).

² Cluster 1.

9. *Reaffirms* that the Bureau is entrusted with the mandate concerning the governance structure and total cost of ownership, via its Hague Working Group which has a facilitation on the budget, and *requests* that a report on the topic be submitted for consideration by the twenty-third session of the Assembly.
