

**Twenty-fourth session**

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PERFORMANCE AUDIT REPORT ON TRUST FUNDS*Table of Contents*

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List of Abbreviations and Acronyms

AI	Administrative Instruction
APB	Approved Programme Budget
ASP	Assembly of States Parties
BAI	Board of Audit and Inspection (Republic of Korea)
BMO	Budget Management Oversight
BS	Budget Section
CAR	Central African Republic
CBF	Committee on Budget and Finance
CILC	Centre for International Legal Cooperation
DEO	Division of External Operations
DJS	Division of Judicial Services
DMS	Division of Management Services
DS	Detention Section
DSA	Daily Subsistence Allowance
EOSS	External Operations and Support Section
EU	European Union
FPCS	Financial Planning and Control Section
FRR	Financial Regulations and Rules
FS	Finance Section
GSS	General Services Section
GTA	General Temporary Assistance
HRS	Human Resources Section
ICC	International Criminal Court
IMSS	Information Management Services Section
IO	Implementing Office
IOR	Immediate Office of the Registrar
ISSAI	International Standards of Supreme Audit Institutions
JPO	Junior Professional Officer
KPI	Key Performance Indicator
KRSJI	Kosovo Relocated Specialist Judicial Institution
LDC	Least Developed Countries
MOU	Memorandum of Understanding
OIF	Organisation Internationale de la Francophonie
OTP	Office of the Prosecutor
PIOS	Public Information and Outreach Section
PPB	Proposed Programme Budget
PSC	Programme Support Costs
REG	Registry

RLO	Registry Legal Office
SAP	Systems, Applications, and Products (Financial System)
SASP	Secretariat of the Assembly of States Parties
STA	Short-Term Assistance
STEC	Sponsored Travel to External Conferences
TF	Trust Fund
TFV	Trust Fund for Victims
TOR	Terms of Reference
TPSF	SAP Code of Programme Support Fund (Special Account)
UN DIOS	United Nations Department of Internal Oversight Services
UNBoA	United Nations Board of Auditors
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
VWS	Victims and Witnesses Section

I. Executive Summary

This report presents the results of the performance audit conducted by the Board of Audit and Inspection (BAI) of the Republic of Korea on the management of trust funds at the International Criminal Court (ICC, hereinafter referred to as “the Court”). The objective of the audit was to assess whether the trust funds were being managed efficiently and appropriately, in order to provide relevant information to support States Parties in their decision-making on voluntary contributions and in exercising proper oversight of the trust funds. The External Auditor focused in particular on the appropriateness of the procedures for establishing trust funds, the validity of cost planning and execution, the transparency of reporting to States Parties, and the existence of monitoring and evaluation mechanisms. Based on these areas of focus, the External Auditor presents the audit findings and recommendations as follows.

Establishment of Trust Funds

With regard to the establishment of trust funds, the audit examined (i) whether each fund was established in line with its intended purpose and character, (ii) whether appropriate measures were in place to safeguard the independence of the Court when accepting contributions, and (iii) whether financial implications on the regular budget were properly considered when establishing trust funds.

It was noted that the General Trust Fund (T000) has been operated without a clearly defined purpose, and has been used for various functions such as covering one-off expenditures or temporarily holding contributions intended for another trust fund pending finalizing establishment. In some cases, contributions were held on a long-term basis where the purpose was either unspecified or no longer applicable.

Regarding the safeguarding of the Court’s independence, the framework in place for ensuring independence when accepting contributions was found to lack consistency. Donor declarations were not obtained in some cases, and the scope and content of independence-related clauses in agreements varied depending on the donor. In addition, the Court had not established clear criteria to assess in advance whether a contribution could affect its independence.

In addition, there were no established criteria to assess the financial implications of the establishment of trust funds on the regular budget. In most cases, the rationale for such assessments was not clearly documented, as the establishment proposal does not require justification when no financial implications are identified. Furthermore, some funds that were initially assessed as having no financial impact were later supported by regular budget resources during implementation.

Budgeting and Implementation of Trust Funds

The audit examined (i) whether cost planning was adequately prepared and financial information on trust funds was properly shared during the budget deliberation process; (ii) whether there were instances of overlapping use of trust fund and regular budget resources; and (iii) whether the calculation and allocation of Programme Support Costs (PSC) were carried out appropriately.

Some trust funds did not establish cost plans for all or part of their contributions due to reasons such as the small size of the fund or difficulties in cost forecasting. In addition, during the approval process of the Proposed Programme Budget (PPB) by the Assembly of States Parties (ASP), information on resources linked to trust funds was not sufficiently provided, making it difficult to comprehensively assess the overall resource situation and to conduct accurate budget deliberations.

With respect to implementation, there were instances where certain trust fund programme expenditures were initially charged to the regular budget, and later reclassified to the relevant trust fund.

In relation to PSC, the Court had not established clear criteria or review procedures to assess the financial implications on the regular budget when applying waivers or reductions. In addition, PSC was mainly applied to employee benefit expenses in three supporting sections, without a formal policy governing its allocation. As a result, PSC was not sufficiently distributed to other sections that were substantively involved in trust fund activities. Consequently, unutilized PSC balances have continued to be carried forward, with the amount steadily increasing over time.

Reporting, Evaluation, and Closure

Finally, the audit examined (i) whether key financial and operational information was systematically reported, (ii) whether a performance evaluation framework using Key Performance Indicators (KPIs) was in place, and (iii) whether the treatment of unspent balances after the completion of trust fund activities was appropriate.

Regarding reporting, information on newly established and closed trust funds was not clearly distinguished, and changes were difficult to track without referring to prior-year reports. In one instance, an extra-budgetary resource that was not a trust fund was nonetheless reported as a trust fund in the Court's financial statements. Moreover, the annual *Report on Activities and Programme Performance of the ICC* (hereinafter "Programme Performance Report") did not include detailed financial information by fund, including PSC, thereby limiting the ability of States Parties to comprehensively assess the activities and financial operations of each fund.

With respect to evaluation, some trust funds were subject to KPI-based performance assessments in accordance with donor requirements or internal standards of implementing offices. To enhance the efficiency and cost-effectiveness of trust fund management, this performance evaluation framework needed to be extended to all trust funds.

As for the treatment of unspent balances, one trust fund that concluded its activities in 2018 still retained a remaining balance as of 31 December 2024. Due to the absence of response from one of the donors, the fund has remained open for six years since the completion of its activities.

II. Objectives and Scope of Audit

1. Pursuant to the ASP decision dated 16 December 2020, the BAI has been serving in the capacity of the External Auditor of the ICC since the financial year 2021.
2. At the Budget Management Oversight (BMO) meeting on 5 September 2024, the States Parties concurred with the proposal to designate the Court's trust fund as the focus of the next performance audit. Following the submission of its Cybersecurity audit report to the Committee on Budget and Finance (CBF) on 4 September 2024, the External Auditor presented the objectives and scope of the forthcoming performance audit on the trust funds, and informed the BMO that the audit results would be submitted in June 2025.
3. The External Auditor carried out the preliminary on-site audit from 4 to 14 November 2024. The Terms of Reference and a notification letter were sent to the Registrar on 28 April 2025, and the final on-site audit was conducted from 12 to 29 May 2025.
4. The objective of the audit was to assess whether the management of the trust funds was efficient and appropriate, in order to provide relevant information for States Parties' decision-making on voluntary contributions and for due oversight of the trust funds.
5. The audit was carried out in accordance with the International Standards of Supreme Audit Institutions (ISSAI) and regulation 12 of the Financial Regulations and Rules (FRR), including the additional terms of reference governing the audit of the ICC, as disclosed in annex 6(c) of the FRR.
6. The audit was aimed at the following detailed objectives, among other things:
 - (a) Whether the establishment procedure of the trust funds is appropriate, including a review of its impact on the independence of the Court and its financial implications on the regular budget;
 - (b) Whether cost planning and budgetary control of the trust funds are adequate, and expenditures, including PSC, are properly executed;
 - (c) Whether the operations of the trust funds are reported to the States Parties in a transparent manner, and whether there is a monitoring and evaluation system in place;
7. The audit covered the trust funds that existed within the Court as of 2024, as well as those that had existed in the past. In particular, a total of 21 trust funds were analyzed, as listed in annex schedule 7 of the Court's financial statements for 2023 and 2024.
8. The following tasks were carried out during the audit, among other things:
 - (a) Comparative analysis of the Court's regulations on trust funds with those of other international organizations, including a review of relevant audit results of the United Nations Board of Auditors (UNBoA) and other oversight bodies, as well as best practices;
 - (b) Application of a step-by-step checklist (consisting of 60 questions across 21 areas) developed based on the Court's internal regulatory framework and international standards;
 - (c) In-depth review of governance throughout the entire process of establishment, implementation, reporting, and evaluation of trust funds;
 - (d) Review and analysis of relevant documents and conducting structured interviews with trust fund managers to assess practical application and compliance.
9. Observations and recommendations were discussed with approximately 30 staff members across six divisions involved in the management of the trust funds: the Judiciary;

the Office of the Prosecutor (OTP); three divisions of the Registry — the Division of Management Services (DMS), the Division of Judicial Services (DJS), and the Division of External Operations (DEO); and the Secretariat of the Assembly of States Parties (SASP). To facilitate the discussions, the observations and preliminary audit findings were summarized and shared with the relevant staff during the final on-site audit.

10. The draft audit report was submitted to the Court on 16 June 2025, and the final version was completed after incorporating the Court's comments.

11. The following six auditors of the BAI participated in this performance audit: Mr. CHO Yangchan (Director, Division of Audit on International Organizations), Mr. LEE Sungjin (Head of Team), Ms. BAEK Kyungmin and Ms. KO Yunyoung (Senior Auditors), and Mr. PARK Sanghyeok and Mr. KIM Jongwook (Auditors).

III. List of Recommendations

12. The priority of each recommendation was assessed based on two factors: impact (the potential consequences) and likelihood (the probability of misstatement or error).

- (a) High Risk: A level of risk assigned to weaknesses that have a considerable impact and require immediate action.
- (b) Medium Risk: A level of risk assigned to weaknesses that have a moderate impact and require corrective action in the short term.
- (c) Low Risk: A level of risk assigned to weaknesses that have limited impact and may be addressed over the long term.

Table 1: List of Recommendations and Their Level of Risk

Recommendations	Level of risk
1. Establishment of Trust Funds	
1.1. Purposes and Nature of Trust Fund Establishment	
Recommendation 1. The External Auditor recommends that the Court improve the management of trust funds by clearly redefining the purpose of the General Trust Fund (T000) in line with its current operational practices, and ensure that any future trust funds are established and managed with a clearly defined purpose from the outset.	Low
1.2. Independence Safeguards and evaluation Criteria	
Recommendation 2. The External Auditor recommends that the Court implement the following measures:	
1) Establish a standardized procedure whereby all donors, at the time of trust fund establishment, are required either to submit a declaration explicitly stating that the contribution does not affect the independence of the Court, or to include consistent independence safeguard clause in the contribution agreements concluded with the donors;	Medium
2) Review the independence safeguard clause in the Court's standard agreement template to ensure that the scope of such safeguards does not vary across trust funds or donors, and, if necessary, expand its coverage so that it applies to all activities funded through the trust funds;	
3) Develop formal criteria to enable the Registrar to make consistent determinations as to whether a proposed contribution may affect the independence of the Court at the time of acceptance.	

Recommendations	Level of risk
1.3. Financial Implications for Regular Budget	
Recommendation 3. The External Auditor recommends that the Court implement the following measures to enhance the objectivity and transparency of financial implication assessments of trust funds for the regular budget:	
<ol style="list-style-type: none"> 1) Establish clear criteria to enable consistent assessment of financial implications for the regular budget; 2) Revise the trust fund establishment proposal form, based on the above criteria, to require that the rationale for a “no financial implications” assessment be explicitly documented; 3) Establish internal control mechanisms to prevent additional use of the regular budget during trust fund operations, and, in cases where financial implication is unavoidable, implement procedures for retrospective reporting to the ASP. 	High
2. Budgeting and Implementation of Trust Funds	
2.1. Cost Plans and Budgetary Controls	
Recommendation 4. The External Auditor recommends that the Court ensure thorough preparation and management of trust fund cost plans to prevent any instances where cost plans are not established without reasonable justification.	Low
Recommendation 5. The External Auditor recommends that the Court establish measures to ensure that financial information on trust funds is adequately provided during the review process of the <i>Proposed Programme Budget</i> (PPB), enabling the ASP to make more comprehensive and accurate assessments when deliberating and approving the PPB.	High
2.2. Distinction between Trust Fund and Regular Budget Expenditures	
Recommendation 6. The External Auditor recommends that the Court implement internal control measures to help ensure that, except in unavoidable circumstances, programme expenditures related to trust funds are charged directly to the respective trust fund contributions, rather than relying on the regular budget.	Medium
2.3. Programme Support Costs (PSC)	
Recommendation 7. The External Auditor recommends that the Court establish clear and objective criteria for the application of PSC waivers or reductions, including procedures for analyzing the financial implications for the regular budget.	High
Recommendation 8. The External Auditor recommends that the Court establish a PSC management system, including reasonable allocation criteria consistent with the definition of PSC, to ensure that indirect costs arising from trust funds are not passed on to the regular budget.	High
3. Reporting, Evaluation, and Closure	
3.1. Reporting Framework for Financial and Operational Information	
Recommendation 9. The External Auditor recommends that the Court implement the following measures regarding reporting on trust funds:	
<ol style="list-style-type: none"> 1) Enhance the visibility of newly established and closed trust funds in the financial statements and the <i>Report on Activities and Programme Performance of the ICC</i> by clearly distinguishing them from ongoing funds—for example, by marking them or listing them under separate headings—so that such changes can be easily identified 	High

Recommendations	Level of risk
without the need to compare with previous reports;	
2) Clearly distinguish extrabudgetary accounts that are not trust funds from trust funds in reporting;	
3) Include detailed account information by trust fund and PSC in the <i>Report on Activities and Programme Performance of the ICC</i> to enable States Parties to gain a more comprehensive understanding of the financial and operational status of each fund.	
3.2. KPI-Based Performance Evaluation	
Recommendation 10. The External Auditor recommends that, in order to enhance the efficiency and cost-effectiveness of trust fund management, the Court expand the use of existing trust fund cases where Key Performance Indicators (KPIs) are already applied.	Medium
3.3. Management of Unspent Balances after Closure	
Recommendation 11. The External Auditor recommends the Court to consider including, in future agreements, provisions that clarify the handling of unspent balances after the operational period, particularly where donor consultation proves difficult, to facilitate the effective closure of trust funds.	Low

IV. Introduction

1. Overview of ICC Trust Funds

13. A trust fund is an account established for a specific purpose to finance activities aligned with the Court’s goals and policies, used to record and manage the receipt and expenditure of voluntary contributions. “Voluntary contributions” include donations in cash or in kind, as well as pledges to provide such donations. The voluntary contributions that finance trust funds must be in compliance with Article 116 of the *Rome Statute* and the criteria adopted by the ASP. Only contributions that satisfy these requirements may be accepted by the Registrar (Financial Regulation 7.2).

14. Trust funds serve several important functions. First, they complement the regular budget by providing flexible financial resources for specific activities or new initiatives that are difficult to fund through the regular budget. Second, they support programs with defined objectives—such as capacity building, technical assistance, enhanced cooperation, and victim support—based on the strategic priorities of the Court, thereby functioning as tools for supporting the realization of its long-term policy goals. Third, by encouraging voluntary participation from “Governments, international organizations, individuals, corporations, and other entities¹”, trust funds contribute to the diversification of the Court’s financial base and ultimately enhance its financial sustainability.²

15. All trust funds are governed by a set of regulatory instruments that define the roles and responsibilities of key stakeholders, including the Court, donors, the ASP, and the CBF. The following table provides an overview of the primary legal and administrative texts applicable to the establishment and management of trust funds.

¹ As mentioned in Article 116 of the *Rome Statute*.

² The significance of trust funds is often highlighted in the operational documents of various international organizations. For example, the United Nations High Commissioner for Human Rights (UNHCR) defines trust funds as a means to supplement regular budget resources, while the World Bank describes them as a mechanism for mobilizing and allocating resources for strategic development priorities and a means of strengthening partnerships through collaboration with diverse stakeholders.

Table 2: Regulatory Framework of ICC Trust Funds

Regulations and rules	Contents
<i>Rome Statute</i> , Article 116	Authorizes the Court to receive voluntary contributions.
Resolution ICC-ASP/1/Res.11 of 3 September 2002	Establishes the criteria referenced in Article 116 of the <i>Rome Statute</i> .
Financial Regulations and Rules in general, and regulations 6.5, 7.1 and 10.1 in particular	Govern the establishment, administration, and financial management of trust funds.
Presidential Directive (ICC/PRES/D/G/2020/002): Guidelines on the Establishment of Trust Funds (hereinafter referred to as “TF Guideline”)	Sets out the policies and procedures for the establishment of trust funds.
Administrative Instruction (ICC/AI/2004/005): Establishment of Trust Funds by the Registrar (hereinafter referred to as “AI/2004/005”)	Defines the Registrar’s responsibilities and procedures for creating trust funds.
Agreements between the ICC and the donor(s)	Specify the individual objectives, criteria, and conditions for each trust fund.
Staff Regulations and Rules	Regulate the recruitment and employment of personnel funded by trust funds or PSC.

Source: Data submitted by the Court

16. The Court’s trust funds are established either by the ASP or by the Registrar (TF Guideline 5.2). Upon establishment of a trust fund, the Registrar is required to designate an implementing office for the fund (TF Guideline 5.5). For this audit, the External Auditor has organized the establishing authority, implementing office, and operational period of the total 21 trust funds listed in annex schedule 7 of the Court’s financial statements for 2023 and 2024, as shown in the table below.

Table 3: Overview of the 21 Trust Funds Covered by the Audit¹⁾

No.	SAP code	Trust fund	Establishing authority	Implementing office	Operational period
1	T008	Building Legal Expertise and Fostering Cooperation	Registrar	REG/EOSS	2019-2020
2	T009	Building Legal Expertise and Fostering Cooperation	Registrar	REG/EOSS	2020-2024
3	T010	Building Legal Expertise and Fostering Cooperation	Registrar	REG/EOSS	2022-2025
4	T103	French Language and OIF	Registrar	Judiciary	2020+
5	T208	Cooperation ICC-KRSJI	Registrar	OTP	2020+
6	T209	Cooperation ICC-CILC	Registrar	OTP	2020+
7	T210	Technological Enhancement and Specialized Capacity	Registrar	OTP	2022-2027

No.	SAP code	Trust fund	Establishing authority	Implementing office	Operational period
8	T211	Geographical Diversity	Registrar	OTP	2023-2028
9	T212	OTP Cooperation and Complementarity	Registrar	OTP	2024-2028
10	T301	20 th Anniversary of the Rome Statute	Registrar	REG/PIOS	2018
11	T302 ²⁾	ICC Country Office CAR – Access to Justice Program	Registrar	REG/PIOS	2022+
12	T303	Development of Interns and Visiting Professionals	Registrar	REG/HRS	2017+
13	T305	Special Fund for Security	Registrar	REG/IO,IMSS	2023-2025
14	T306	Access to Justice Project of the Country Office, Uganda	Registrar	REG/PIOS	2024-2025
15	T307	Special Fund for Relocations	Registrar	REG/VWS	2010+
16	T309	Family Visits for Indigent Detainees	ASP	REG/DS	2011+
17	T310	Junior Professional Officer Programme	Registrar	REG/HRS	2015+
18	T400	Least Developed Countries (LDC)	ASP	SASP	2004+
19	T402	LDC Travel – Nominations of Judges	Registrar	SASP	2020+
20	T000	General Trust Fund	Registrar	Activity-dependent ³⁾	2002+
21	STEC	Sponsored Travel to External Conferences	Registrar	Sections that travel	2018+

Note:

- 1) The full names of abbreviations and acronyms are listed at the beginning of this report.
- 2) The T302 fund is established and closed repeatedly using the base SAP code “T302” with year-specific subcodes (e.g., T302-2022, T302-2023), and was first created in 2019. In this audit, these are treated as a single fund. As the audit covers only the funds listed in the 2023 and 2024 financial statements, the operational period is indicated as starting from 2022.
- 3) For the General Trust Fund (T000), the implementing office is not fixed and varies depending on the specific activities undertaken.

Source: Data submitted by the Court

2. Operational Framework of ICC Trust Funds

17. The TF Guideline sets out the procedures for the establishment, implementation, and closure of trust funds. These procedures include preliminary discussions with prospective donors, fund establishment and conclusion of agreements, preparation of cost plans, collection, custody and investment of funds, expenditure approval, implementation control, financial and performance reporting, and closure. These processes are broadly categorized

into three phases: ❶ Establishment, ❷ Budgeting and Implementation, and ❸ Report, Evaluation and Closure.

Figure 1: Overview of Trust Fund Operational Procedures

❶ Establishment	<ul style="list-style-type: none"> • Preliminary activities: discussions with prospective donors • Establishment of fund • Acceptance of pledges • Conclusion of agreements
❷ Budgeting and Implementation	<ul style="list-style-type: none"> • Custody, and investment of voluntary contributions • Preparation of a cost plan • Authorization of expenditure • Implementation control
❸ Report, Evaluation and Closure	<ul style="list-style-type: none"> • Financial and substantive reporting • Monitoring and evaluation • Balance settlement • Closure

Source: External Auditor on the basis of data provided by the Court

2.1. Establishment

18. The Court’s trust funds may be established either by the Registrar or by the ASP.

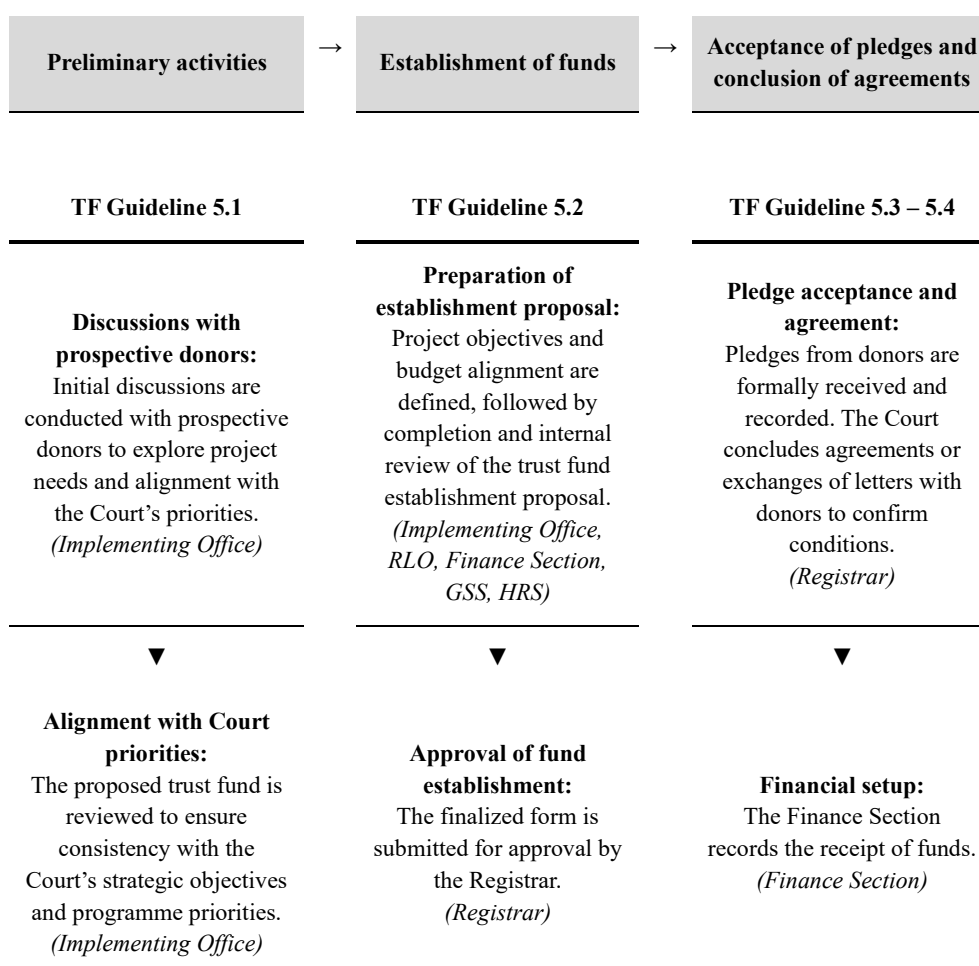
19. In the case of trust funds established by the Registrar, the process involves the following steps: first, preliminary activities such as consultations with prospective donors are conducted. Subsequently, the fund shall be established in accordance with the procedures and criteria set out in the TF Guideline and AI/2004/005. In general, trust funds are proposed for projects aligned with the Court’s policies and strategic priorities. The required information is to be completed in a standardized form, titled *Proposal to Establish a Trust Fund* (hereinafter referred to as “the establishment proposal”), and submitted for approval by the Registrar.

20. The establishment proposal form includes key information such as the objective of the trust fund, the donor, its relationship with the regular budget (specifying the relevant programme and sub-programme), and the estimated funding amount. In particular, an assessment of the direct and indirect financial implications for the regular budget is mandatory. In addition, in accordance with paragraph 2.1 of AI/2004/005, the proposal must include a declaration by the donor stating that the contributions are not intended to affect the independence of the Court.

21. During the preparation of the establishment proposal, prior consultations are held with the Registry Legal Office (RLO) for legal validity review of the donation agreement. Additionally, the assessment of the financial implications on the regular budget is performed by the implementing office, and the Finance Section participates in consultations to review this assessment as well as to ensure that the terms and conditions of such trust funds are

consistent with the Court’s regulatory framework. Beyond these, other sections, such as the General Services Section (GSS) and the Human Resources Section (HRS), are also involved in these preparatory processes. This is followed by the formal acceptance of the donor’s pledge, the conclusion of the agreement³, the receipt of the contribution, and other subsequent procedures.

Figure 2: Overview of Establishment Process of Trust Funds



Source: External Auditor on the basis of data provided by the Court

22. Trust funds established by the ASP may also involve preliminary activities, such as consultations with prospective donors, prior to their formal establishment. Once established, these trust funds are subject to the same rules and standards as those established by the Registrar, and are managed in the same way throughout the implementation process. However, formal and procedural differences exist within the ❶ “Establishment” phase, specifically in the step concerning the “Establishment of Fund.”

23. Specifically, when a trust fund is established by the ASP, the terms of reference of the fund are set out in the ASP resolution or in the documentation referred to in the resolution. A proposal or draft resolution recommending that the ASP should establish a trust fund shall be accompanied by a report from the Registrar on the administrative and financial implications of the proposal. A statement regarding the direct or indirect financial implications for the regular budget, if any, is to be included in the report (TF Guideline 5.2(a)).

³ Or other form of written instrument.

2.2. Budgeting and Implementation

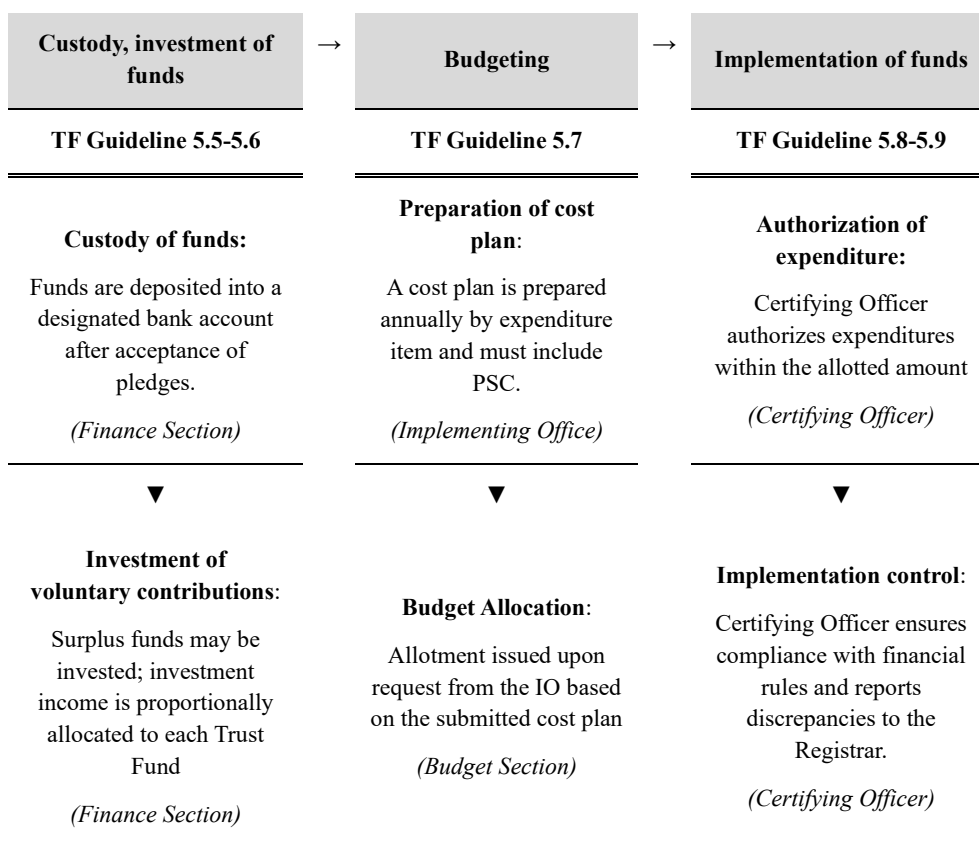
24. Paragraphs 5.6 to 5.9 of the TF Guideline set out the procedures for the collection, custody, and investment of voluntary contributions, as well as the preparation of cost plans, spending authority, and implementation control related to trust funds.

25. Once a pledge has been accepted, the received funds are deposited into a designated bank account. Where appropriate, surplus funds may be pooled for investment purposes by the Registrar in accordance with Financial Regulation 9.1 and Rules 109.1 and 109.4(c). As stipulated, “the resulting income shall be credited to each fund,” with interest allocated in proportion to the amounts invested from each trust fund.

26. The implementing office is required to prepare a cost plan as a prerequisite for implementation. The cost plan is divided by calendar year and structured by programme or project, according to object of expenditure or budget line. All cost plans for trust funds must include provision for PSC.

27. Once contributions have reached a certain threshold, the Registrar or his duly authorized delegate allocates an expenditure limit, within which the designated Certifying Officer exercises spending authority. During the actual implementation phase, expenditures are managed in accordance with the financial rules and procedures. The Certifying Officer is responsible for verifying the consistency of expenditures with the approved limit and intended purpose, and must report to the Registrar if any inconsistencies are identified.

Figure 3: Overview of Trust Fund Budgeting and Implementation Process



Source: External Auditor on the basis of data provided by the Court

2.3. Reporting and Closure

28. When a trust fund is established by the Registrar, this must be reported to the Presidency and the CBF, and subsequently to the ASP (Financial Regulation 6.5).⁴

29. In addition, during the operation of a trust fund, financial and substantive reports may be provided to donors in accordance with paragraph 6 of ICC/AI/2004/005.

30. Financial reporting for all trust funds includes information on income, expenditure, assets, and liabilities, and is prepared annually by the Finance Section. Where specified in donor agreements, separate financial reports may be submitted to donors, provided such reporting does not affect the independence of the Court. The Court presents trust fund-related income, expenditures, transfers, and carry-forward amounts in annex schedule 7 of its annual financial statements, with the purpose of each trust fund described therein. In addition, the Court reports on the implementation status of trust funds in its annual Programme Performance Report submitted to the ASP.

31. Substantive reporting is carried out annually or upon request, with the implementing office preparing a report on the actual activities undertaken under each trust fund. These reports may be provided to donors, provided they do not affect the independence of the Court.

32. According to paragraph 5.12 of the TF Guideline, a trust fund may be closed only by the authority that established it or as required in its terms of reference. Trust funds established by the ASP may be closed by a decision of the ASP, while those established under the authority of the Registrar may be terminated in accordance with the trust fund agreement or for such reasons and at such times as the Registrar or their delegate considers appropriate, following consultation with the donor(s). Upon closure, any remaining balance is to be handled in accordance with the terms of the trust fund agreement. Between 2015 and 2024, a total of 25 new trust funds were established, while 12 were closed.⁵

3. Financial Overview of ICC Trust Funds

33. In addition to its regular budget, the Court supplements its financial needs related to judicial activities through various purpose-specific trust funds. This section analyzes the financial status of trust funds over the past five years (2020–2024), focusing on fund-specific financial flows and annual trends in revenue and expenses. This analysis provides a clearer understanding of the financial structure and implementation patterns of the trust funds and may serve as a basis for future financial planning and operational improvements.

3.1. Financial Flows

34. Over the past five years (2020–2024), annual contributions received for trust funds have soared from €1,416 thousand in 2020 to approximately €22,146 thousand in 2023, representing a 15.6-fold increase. This trend was also the case in 2024, with a bit of drop to €15,409 thousand.

35. During the same period, expenditures also grew significantly, nearly doubling each year after 2021: from €1,197 thousand in 2021 to €3,660 thousand in 2022, €6,038 thousand in 2023, and €13,369 thousand in 2024 – with an average annual growth rate of 88%.

36. The carry-forward balance also showed a consistent upward trend, expanding from €2,063 thousand in 2020 to €26,035 thousand by the end of 2024. The table below illustrates these financial trends.⁶

⁴ In the case of trust funds established by the ASP, there is no separate provision requiring reporting at the time of establishment. However, as the fund is established directly by the ASP, no additional reporting to the ASP is necessary.

⁵ The detailed status of trust funds established and closed over the past 10 years (2015–2024) is provided in Appendix 1.

⁶ For the annual financial flows of each audited trust fund, please refer to the Appendix 2.

Table 4: Annual Financial Overview of the Trust Fund (2020–2024, in thousand euros)

Financial year	Balance brought forward	Contribution recorded	Expenses	Donor refunds	Balance carried forward
2020	2,097	1,416	1,153	298	2,063
2021	2,063	2,042	1,197	0	2,908
2022	2,908	8,689	3,660	2	7,935
2023	7,935	22,146	6,038	5	24,039
2024	24,039	15,409	13,369	44	26,035

Source: External Auditor on the basis of data provided by the Court

3.2. Revenue

37. Over the past five years (2020–2024), the proportion of trust fund contributions in the Court’s total income was only 1.0% (€1,416 thousand) in 2020, but increased significantly each year—reaching 5.4% (€8,689 thousand) in 2022 and 11.6% (€22,146 thousand) in 2023. Although the proportion slightly declined in 2024, it still accounted for 7.8% (€15,409 thousand).

38. During the same period, the Court’s total revenue grew moderately from €146,021 thousand in 2020 to €198,171 thousand in 2024, representing an increase of approximately 1.36 times. In contrast, revenue from trust funds grew by roughly 11 times, indicating the increasing role of trust funds as a source of funding.

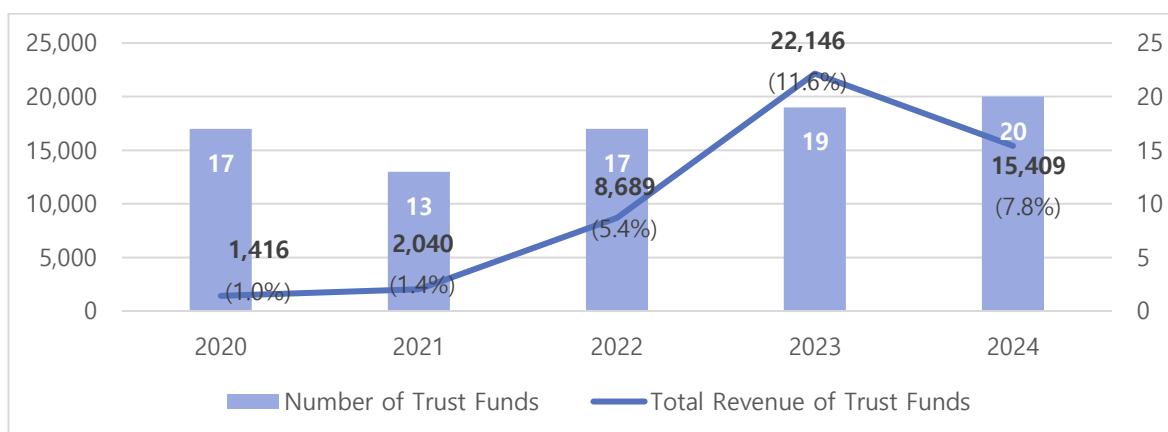
Table 5: Composition of ICC Revenue by Segment (2020–2024, in thousands of euros)

Financial year	2020	2021	2022	2023	2024	Total
Total revenue	146,021	144,484	159,886	191,127	198,171	839,689
General	144,605	142,444	151,197	168,981	182,762	789,989
Ratio	99.0%	98.6%	94.6%	88.4%	92.2%	94.1%
Trust fund	1,416	2,040	8,689	22,146	15,409	49,700
Ratio	1.0%	1.4%	5.4%	11.6%	7.8%	5.9%

Source: External Auditor on the basis of data provided by the Court

39. In addition, the number of trust funds reported in annex schedule 7 of the financial statements decreased from 17 in 2020 to 13 in 2021, but then steadily increased, reaching 20 in 2024. The graph below visually presents the changes over the past five years in both the amount of trust fund revenue and its proportion of total revenue, as well as the number of trust funds reported in annex schedule 7 of the financial statements.

**Figure 4: Total Revenue and the Number of Trust Funds
(2020–2024, in thousand euros)**

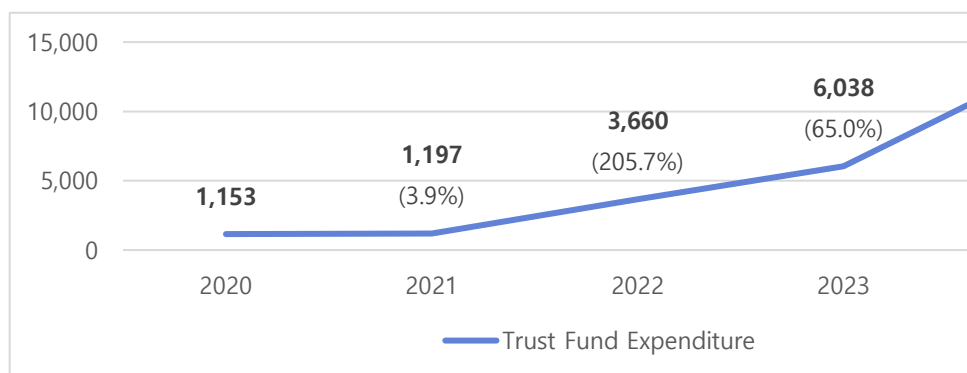


Source: External Auditor on the basis of data provided by the Court

3.3. Expenditure

40. Over the past five years (2020–2024), total expenditures from the Court’s trust funds—as reported in annex schedule 7 of the financial statements—have shown a marked upward trend, increasing from €1,153 thousand in 2020 to €13,369 thousand in 2024, representing an approximately 11.6-fold increase. Notably, the scale of expenditures surged from 2022 onwards, following the establishment of large-scale funds such as the Technological Enhancement and Specialized Capacity fund (T210). In 2022, expenditures increased by approximately three times (▲205.7%) compared to 2021, followed by a 65.0% increase in 2023 and a further 121.5% increase in 2024. This sharp year-on-year growth indicates that funding of activities through trust funds has increased and expanded in scale.

Figure 5: Total Expenditure of the ICC Trust Funds (2020–2024, in thousand euros)



Note: Figures in parentheses indicate the year-on-year growth rate.

Source: External Auditor on the basis of data provided by the Court

41. The largest expenditure category over the five-year period was employee benefit expenses, amounting to a total of €10,324 thousand, which accounted for 40.6% of overall spending. This was followed by contractual services at €5,919 thousand (23.3%) and supplies and materials at €4,029 thousand (15.9%). Together, these three categories represented approximately 80% of total expenses.

Table 6: Trust Fund Expenses by Budget Item (2020–2024, in thousand euros)

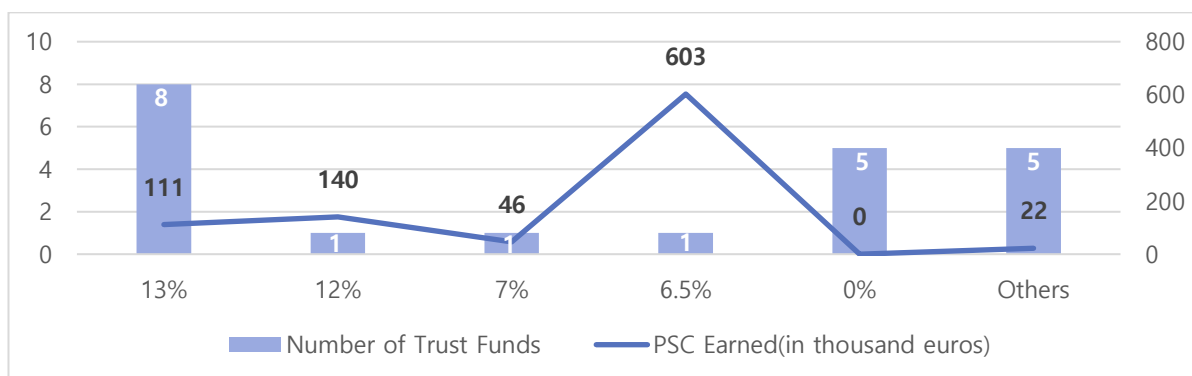
Budget item	2020	2021	2022	2023	2024	Total	
						Amount	Ratio
Total expenses	1,153	1,197	3,660	6,038	13,369	25,417	100.00%
Employee benefit expenses	566	681	917	2,457	5,703	10,324	40.6%
Travel and hospitality	92	26	518	555	652	1,843	7.3%
Contractual services	359	325	996	1,381	2,858	5,919	23.3%
Counsel fees	-	-	-	-	-	0	0.0%
Operating expenses	468	148	534	140	459	1,749	6.9%
Supplies and materials	10	18	140	1,129	2,732	4,029	15.9%
Depreciation and amortization	-	-	27	119	190	336	1.3%
Impairment	-	-	-	-	-	0	0.0%
Financial expenses	(2)	2	-	10	(8)	2	0.0%
Unclassified(*)	(340)	(3)	528	247	783	1,215	4.8%

Note: Unclassified items refer to expenses that cannot be categorized under a specific budget item.

Source: External Auditor on the basis of data provided by the Court

42. Meanwhile, to ensure that the administrative and technical support costs incurred in the implementation of trust funds do not place a burden on the regular budget, the Court recovers PSC as a percentage of each trust fund's direct expenditures. The standard PSC rate is set at 13%, and may be adjusted with the approval of the Registrar (TF Guideline 6.1).

43. As of 31 December 2024, 8 trust funds had applied the standard PSC rate, while 13 funds operated under exceptional rates. The composition of these funds and PSC earned by each PSC rate category are illustrated in the graph below.

Figure 6: Number of Trust Funds and PSC Earned by PSC Rate (as of 31 December 2024)

Note: "Others" includes five trust funds (T000, T009, T010, T307, T212) with donor-specific PSC rates as well as accounting adjustments.

Source: External Auditor on the basis of data provided by the Court

44. As of 2024, the PSC rates applied to the 21 trust funds and the cumulative PSC earned as of 31 December 2024 are shown below. The trust fund with the highest amount of PSC earned was the Technological Enhancement and Specialized Capacity fund (T210), with over €800,000 recovered, accounting for the largest share of total PSC. This was followed by the Junior Professional Officer Programme fund (T310) with approximately €490,000, and the Special Fund for Relocations (T307) with around €140,000.

**Table 7: Cumulative PSC Earned by Trust Funds
(from Fund Inception to 31 December 2024, in euros)**

SAP code	Trust fund ¹⁾	Trust fund validity period	PSC rate	Cumulative direct costs	PSC earned ²⁾
T008	Building Legal Expertise and Fostering Cooperation	2019-2020	7%	518,743	36,312
T009	Building Legal Expertise and Fostering Cooperation	2020+	7%, 13%	1,073,520	85,645
T010	Building Legal Expertise and Fostering Cooperation	2022-2025	7%, 13%	1,908,633	136,288
T103	French Language and OIF	2020+	0%	51,045	0
T208	Cooperation ICC-KRSJI	2020+	13%	853	111
T209	Cooperation ICC-CILC	2022-2023	0%	32,608	0
T210	Technological Enhancement and Specialized Capacity	2022-2027	6.5%	13,621,092	885,371
T211	Geographical Diversity	2023-2028	13%	0	0
T212	OTP Cooperation and Complementarity	2024-2028	7%, 13%	99,489	8,240
T301	20 th Anniversary of the Rome Statute	2018	0%	37,848	0
T302	ICC Country Office CAR – Access to Justice Program	2022+	13%	47,851	6,221
T303	Development of Interns and Visiting Professionals	2017+	7% → 13% ³⁾	466,528	46,302
T305	Special Fund for Security	2023-2025	13%	385,213	50,078
T306	Access to Justice Project of the Country Office, Uganda	2024-2025	13%	113,800	14,794
T307	Special Fund for Relocations	2010+	0%, 10%, 13%	1,871,897	142,079
T309	Family Visits for Indigent Detainees	2011+	0%	385,159	0
T310	Junior Professional Officer Programme	2015+	12%	4,140,664	496,880
T400	Least Developed Countries (LDC)	2004+	13%	1,120,709	119,324
T402	LDC Travel – Nominations of Judges	2020+	13%	0	0
T000	General Trust Fund	2002+	0%, 13%	806,779	8,954
STEC	Sponsored Travel to External Conferences	2018+	0%	173,195	0

Note:

- 1) The above table does not include Trust Funds closed during 2004-2022.
- 2) For some trust funds, the applicable PSC rate may have changed during the implementation period or varied by donor. Therefore, the simple multiplication of the cumulative direct costs and the PSC rate may not match the PSC earned.
- 3) For the T303 fund, a PSC rate of 7% was applied from 2017 to 2018, and 13% has been applied from 2019 to the present.

Source: Data submitted by the Court

45. PSC earned amounts are credited to the “Programme Support Fund Special Account” (SAP code: TPSF). This account is primarily used to cover the employee benefit expenses and related expenses of temporary staff supporting trust fund activities. Any unspent PSC balance is carried forward to the next financial year. As of 1 January 2024, the balance carried forward from previous years was approximately €450,706. During the year, €922,519 in PSC was earned, and expenditures amounted to €374,503. Consequently, the year-end balance on 31 December 2024 stood at €998,726.

V. Observations and Recommendations

1. Establishment of Trust Funds

1.1. Purpose and Nature of Trust Fund Establishment

46. As of year-end, the Court reports, through schedule 7 of the financial statements, information such as annual revenue, expenditure, and carry-over amounts for each trust fund. For 2023 and 2024, a total of 21 trust funds⁷ were reported.

47. According to paragraph 5.2 of the TF Guideline, the Registrar shall ensure that the purpose of a trust fund is clearly defined when establishing such a fund. In addition, under Financial Regulation 7.4, voluntary contributions in respect of which no purpose is specified shall be treated as miscellaneous income and reported as “gifts” in the accounts of the financial period.

48. Accordingly, the External Auditor reviewed the establishment proposals, Terms of Reference (TORs) and agreements of all 21 trust funds listed in the financial statements for 2023 and 2024 to verify whether the purpose of each fund had been clearly defined. The auditor also assessed whether the income recorded for each fund was consistent with the nature of voluntary contributions.

49. As a result, it was found that 20 out of 21 trust funds had clearly defined purposes as set out in their respective TORs or related documents, and the income recorded for these funds qualified as voluntary contributions, thereby meeting the conditions for the establishment of a trust fund. However, as outlined below, the General Trust Fund (T000) did not have a defined purpose, which is inconsistent with the standard requirements for trust funds.

50. The Court established the T000 fund in 2002, and it has since remained operational to date. According to the disclosures in schedule 7 of the ICC financial statements, the fund was established without a defined purpose. No separate establishment proposal or TOR could be identified for this fund.⁸

51. An analysis of the implementation and management records of the T000 fund over the past ten years showed that the fund has been used for four main purposes: (a) supplementing costs of events funded by the regular budget, (b) covering one-off expenditures, (c) temporarily holding funds prior to formalizing establishment of a dedicated trust fund, and (d) temporarily holding contributions not earmarked by the donor for a specific purpose.

⁷ Although the Sponsored Travel to External Conferences fund (STEC) account was included among the 21 trust funds, as disclosed in schedule 7 of the financial statements, it does not qualify as a trust fund under the applicable regulations. It was therefore excluded from analysis in certain thematic areas.

⁸ The Court was unable to confirm whether the establishment proposal or TOR for the General Trust Fund (T000) were never created due to the length of time since the fund's inception, or whether such documents were lost or discarded during the course of recordkeeping. The Court explained that the T000 fund is used as an account to record financial transactions related to one-off or short-term voluntary contributions, referring to it as a general-purpose trust fund.

Table 8: Analysis of the Use of the General Trust Fund (2014-2024, in euros)

Category	Year	Balance brought forward	Contribution	Expenses	Interest	Transfer	Donor refunds	Balance carried forward
(d)	2014	13,752	49,030	388	(582)	-	-	61,812
(d)	2015	61,812	39,496	1	188	825	-	100,670
(b), (c), (d)	2016	100,670	27,000	28,144 ¹⁾	55	39,497	-	60,084
(b), (d)	2017	60,084	-	-	-	-	49,415	10,669
(d)	2018	10,669	-	-	-	-	-	10,669
(d)	2019	10,669	-	-	-	-	-	10,669
(b), (d)	2020	10,669	2,094	2,094 ²⁾	-	-	-	10,669
(d)	2021	10,669	-	-	-	-	-	10,669
(a), (d)	2022	10,669	341,160	341,160 ³⁾	40	-	-	10,709
(d)	2023	10,709	-	-	398	-	-	11,107
(a), (d)	2024	11,107	300,000	300,000 ⁴⁾	4,195	-	-	15,302
Total		-	758,780	671,787	4,294	40,322	49,415	-

Note: Implementation details of the expenses are listed below.

1) €28,144 = Opening ceremony of the ICC premises (€27,000) + moot court competition (€1,144)

2) €2,094: Installation of a wall-mounted glass vitrine at the Court's headquarters

3) €341,160: Reservation of the World Forum for the ASP event

4) €300,000: Reservation of the World Forum for the ASP event

Source: External Auditor on the basis of data submitted by the Court

(a) To Supplement Events Funded by the Regular Budget (€641,160, 84% of Total Expenses in the Past 10 Years)

52. For the ASP sessions held in 2022 and 2024, the Court received additional contributions through the T000 fund and expended them to cover part of the venue-rental costs, in addition to the funds allocated from the regular budget.⁹ As the host country, the donor state had supported the venue-rental costs for ASP sessions from 2013 to 2022 through in-kind contributions (such as direct payments).¹⁰ However, starting in 2022, in order to enhance administrative efficiency and the visibility of its contribution, the host country made its contribution by donating the venue-rental costs to the T000 fund for implementation.¹¹

(b) To Cover One-Off Expenditures (€79,653, 11% of Total Expenses in the Past 10 Years)

53. The Court raised and expended contributions through the T000 fund to cover one-off expenditures, including the 2014 Communication Project (€49,415), the inauguration ceremony of the Court's premises in 2016 (€27,000), the organization of a moot-court competition (€1,144), and the installation of a wall-mounted glass vitrine at the Court's headquarters in 2020 (€2,094).

⁹ The Court has traditionally funded ASP session costs through its regular budget. However, to address States Parties' concerns regarding the quality of ASP venues and to improve services, it was agreed that the host country at the time would support the venue's rental costs when the ASP is held.

¹⁰ Disclosed as contributions in kind under note 15.5 of the financial statements for 2016 and 2018–2021.

¹¹ In 2022, a contribution agreement was concluded between the Court and relevant entities of the host country concerning the above-mentioned contribution.

(c) Temporary Holding Funds Prior to Formalizing Establishment of a Dedicated Trust Fund (€39,497, 5% of Total Expenses in the Past 10 Years)

54. In 2015, the Court received a contribution of €39,497 from a donor for the Development of Interns and Visiting Professionals (T303) fund. However, as the fund had not yet been established at that time, the contribution was temporarily held in the T000 fund. After the T303 fund was established in 2016, the amount was transferred accordingly.

(d) Long-term temporary holding of contributions not earmarked by the donor for a specific purpose. (€59,579)

55. In 2014, the Court received a contribution of €49,030 from a donor for the Communication Project. However, after the project was cancelled and the original purpose of the contribution was no longer applicable, the Court retained the funds without incurring any related expenses for approximately 10 years.¹² In addition, the Court received a contribution of €10,549 from another donor in 2009 without a specified purpose, and has retained the amount under the T000 fund without spending it for approximately 15 years.¹³

56. As a result, the T000 fund, having been established without a specific purpose and operated for various uses, did not comply with paragraph 5.2 of the TF Guideline, which requires that the purpose of a trust fund be clearly defined.¹⁴

Finding: The General Trust Fund (T000) has been operated without a clearly defined purpose and has been used for a variety of functions, including supplementing the regular budget, covering one-off expenditures, and temporarily holding contributions intended for another trust fund pending its establishment. In some cases, contributions were held on a long-term basis where the purpose was either unspecified or no longer applicable.

Recommendation 1: The External Auditor recommends that the Court improve the management of trust funds by clearly redefining the purpose of the General Trust Fund (T000) in line with its current operational practices, and ensure that any future trust funds are established and managed with a clearly defined purpose from the outset.

¹² In March 2025, a contribution from the donor was reassigned to another trust fund under an agreement concluded with the donor to support the project “Strengthening Resilience Against Misinformation Campaigns.” Notably, this contribution had initially been marked for return to the donor in schedule 7 of the 2017 financial statements; however, the funds were not actually returned. Since 2020, the contribution has been recorded in schedule 6 as payable to the donor. Unlike schedule 7, which reports revenues and expenses, schedule 6 presents receivables and payables to donors, and its format was expanded in 2020. In 2024, the contribution was repurposed through an agreement with the donor, and the formal amendment to the agreement was signed in 2025. (The amount was recorded as a liability prior to the formalization of the agreement.) In addition, schedule 7 of the 2024 financial statements states that the funds will be allocated to a newly established trust fund.

¹³ The Court indicated that the contribution of €10,579 will be subject to future consultation between Public Information and Outreach Section (PIOS) and the donor to determine its intended purpose.

¹⁴ Example of a proposed improvement: Given that contributions to the T000 fund over the past three years have been exclusively raised to support the organization of ASP sessions, the purpose of the fund could be redefined to focus specifically on financing ASP events, and the fund subsequently operated in accordance with this revised objective.

1.2. Independence Safeguards and Evaluation Criteria

1.2.1. Independence Safeguards¹⁵

57. The Court has taken measures to ensure that voluntary contributions to trust funds do not affect its independence, including the incorporation of independence safeguard clauses in donor agreements.

58. According to paragraph 2.1 of AI/2004/005, the originating office shall complete Part I of the trust fund establishment proposal and it should include a declaration by the donor that the contributions are not intended to affect the independence of the Court.

59. This requirement stems from a decision of the ASP (ICC-ASP/1/Res.11), which requests that governments, international organizations, individuals, corporations, and other entities providing voluntary contributions to the Court include a declaration ensuring that such contributions do not affect the independence of the Court.¹⁶

60. In addition, over the past five years (2020–2024), the financial scale of the Court’s trust funds has increased more than tenfold—from €1.42 million in 2020 to €15.41 million in 2024. In light of this growth, governance bodies such as the CBF have consistently emphasized that trust funds must be used solely at the discretion of the Court, in order to ensure that voluntary contributions do not infringe its independence.

Report of the CBF on the Work of its 38th Session (ICC-ASP/21/5/Add.1, 21 July 2022)

B. Voluntary contributions

7. The Registry stressed that these voluntary contributions should not infringe the independence of either the OTP or the Court. Therefore, it was emphasized that the funds were to be used solely at the discretion of the OTP and that the use of donations could not be earmarked by contributors. [...]

10. The Committee encouraged the Court to make sure that the governance processes around the funds are appropriate and effective, whilst maintaining the independence of the Court and reinforcing the One-Court principle.

61. For reference, United Nations High Commissioner for Refugee (UNHCR) requires donors to sign a declaration confirming that their contributions will not influence UNHCR’s activities, as a condition for concluding contribution agreements. This signed declaration is then attached to the agreement to safeguard against donor interference or influence. Similarly, United Nations Development Programme (UNDP) obtains a self-certification from donors, in which they pledge not to engage in any activities that could pose financial, operational, reputational, or other undue risks to UNDP, and this certification must be signed by the donor.

¹⁵ The External Auditor conducted a procedure-focused review of the measures implemented by the ICC to safeguard its independence with respect to contributions to the trust funds. However, the auditor did not examine whether there have been any actual cases of impairment to the ICC’s independence.

¹⁶ Regarding the meaning of “does not affect the independence of the Court,” the RLO has interpreted this broadly to encompass all aspects of the Court’s activities and operations, specifically including the independence of the prosecution and investigations.

UNHCR Code of Conduct Template

I agree to:

- [...]
- Respect and promote the fundamental human rights of all, without discrimination of any kind and irrespective of social or legal status, race, ethnicity, nationality, religion, gender, sexual orientation, age, marital status, political affiliation or disability.
- Refrain from any involvement in criminal or unethical activities, activities that contravene human rights, or activities that compromise the image and interests of UNHCR or the United Nations.
- [...]
- Never abuse authority, position or influence in the implementation of the Agreement by withholding protection, humanitarian assistance or services to beneficiaries or potential beneficiaries.
- [...]
- Uphold the highest standards of efficiency, competence, integrity and transparency in the provision of protection, goods and services under the Agreement.
- Perform duties and conduct private affairs in a manner that avoid conflicts of interest.

Signed by
(place)

(name)

(date)

Source: United Nations Partner Portal

62. Therefore, in line with the relevant resolution of the ASP and the applicable administrative instructions, it is advisable that the Court, when establishing a trust fund, either obtains a written declaration from the donor explicitly stating that the contribution does not affect the independence of the Court, or ensures that the agreement concluded with the donor includes clear and consistent clauses reflecting the intent of these provisions. Such clauses should guarantee that the donor's contribution does not interfere with or influence the Court's core functions, including its judicial and prosecutorial activities.

(a) Absence of a separate declaration from the donor explicitly affirming the safeguard of independence

63. The external auditor conducted a review limited to the procedural and formal aspects of the measures implemented by the Court to safeguard its independence in relation to donations to trust funds, based on the relevant regulations and common practices of international organizations. It should be emphasized that the review did not include any substantive assessment of whether the Court's independence had been affected in practice. Accordingly, no finding was made as to whether the Court's independence had actually been affected.

64. A review of the relevant declarations and agreements (including contribution letters) for a sample of 30 agreements—selected based on the top 20% of contributions among the 21 trust funds listed in the financial statements for 2023 and 2024—revealed that the Court did not obtain separate declarations from donors explicitly affirming the Court's independence. However, among the 30 agreements reviewed (or contribution letters in cases where no formal agreement was in place), 13 included a clause in which the donor explicitly affirmed the Court's independence. In the remaining 17 cases, such a clause was not included on the grounds that the donors were already deemed to be in compliance with the relevant resolution of the ASP and the applicable regulations governing trust funds, and therefore a separate declaration was considered unnecessary.

Table 9: Inclusion Status of Clauses Safeguarding Independence in Trust Fund Agreements

Clauses safeguarding independence	No. of agreements	Reason for absence of independence clause
Inclusion	13	-
Non-inclusion	15	A separate declaration was deemed unnecessary as the donors were considered to be in compliance with the resolutions of the Assembly of States Parties and the applicable trust fund regulations.
	1	Only a letter from donor exists, and the letter was authored by the donor authorities
	1	A new template is currently being developed, and the provision is expected to be included in future agreements.
Total	30	-

Source: External Auditor on the basis of data submitted by the Court

(b) Lack of Consistency in the Scope of Independence Safeguards across Trust Funds

65. In addition, a review of the agreement template developed and used by the Court over the past several years revealed that the relevant clause requiring donors to respect the Court's independence was limited to the context of reporting related to trust funds.¹⁷

Template of the Contribution Agreement of the ICC

3.3 The reporting obligations of the Court under this Agreement shall be subject to, and conditioned by, (a) the independence of the Court; (b) the confidentiality of the activities of the Court, including any associated deliverables, in whatever shape or form; and (c) the need to fully protect and adequately safeguard the individuals and/or legal entities interacting with the Court in the performance of the activities funded with the Contribution.

66. Accordingly, the External Auditor reviewed the clauses related to the independence safeguards in the agreements where such clauses were included. As shown in the table below, the scope of the independence safeguards varied across agreements. Some donors affirmed respect for the Court's internal systems such as accounting, internal controls, and audit; others limited the safeguard to non-interference in the Court's reporting activities to the donor; some specified non-interference in the implementation of the trust fund's objectives; while others included broader assurances of independence covering the Court and the OTP as a whole.¹⁸

¹⁷ According to the RLO's interpretation of this provision, it is intended to ensure that the content of reports submitted to donors is carefully considered so that the disclosure of information regarding activities funded by voluntary contributions does not undermine the Court's programs or institutional mandate, and is not used in any way to affect the independence of the Court.

¹⁸ In response, the Court explained that: 1) certain provisions of the agreement template may be adjusted during consultations with donors; 2) donors may require the use of their own agreement templates—for example, in the case of the Building Legal Expertise and Fostering Cooperation fund (T008), a donor requires that agreements follow its standard template, making modifications impossible; and 3) contribution letters are sometimes treated as agreements, with their content prepared at the donors' discretion, resulting in varying scopes of independence guarantees.

Table 10: Scope of Independence Safeguards in Trust Fund Agreements

SAP code	Trust fund	No.	Independence safeguard clause	Scope of the clause	Template
T010	Building Legal Expertise and Fostering Cooperation	1	In the performance of the activities, the Organisation shall a) apply its own accounting, internal control and audit systems which have been positively assessed in the ex-ante pillar assessment, [...] c) apply its own rules and procedures for exclusion from access to funding, as assessed in the ex-ante pillar assessment [...]	The Court's own accounting, internal control, and audit systems	Donor's template
T210	Technological Enhancement and Specialized Capacity	2	The reporting obligations of the Court under this Memorandum of Understanding will be subject to, and conditioned by, (a) the independence of the Court, and in particular of the Office of the Prosecutor [...]	Financial and substantive reporting to the donor concerning the trust fund	ICC template
		3	You are well aware that strict respect for the independence of the Court and the Prosecutor is fundamental for (the donor). That is why (the donor) insists that this contribution, while intended to address the increased workload of your office, is not earmarked for any particular situation. Indeed, no situation, no community of victims can be seen as favored to the detriment of others. This concerns the credibility of the institution and of the entire system for combating impunity established by the Rome Statute. We are both fully aware of this.	Independence of the Court and the OTP as a whole	Use of contribution letter
		4	The ICC shall carry out the Activities in accordance with the document "Technology for Accountability – Funding Proposal", attached as Annex II as well as the budget included in the funding proposal, attached as Annex IV, or as may otherwise be agreed in writing between the Ministry and the ICC with full respect for OTP's prosecutorial independence.	OTP's prosecutorial independence	Modified version of the ICC template
T310	Junior Professional Officer Programme	5	The final decision regarding the assignment of JPOs will rest with the ICC after consultation with the Government of (the donor state), whose views will be taken into account whenever possible; [...]	Final decision-making authority over JPO assignments	Use of fund-specific MOU template

Source: External Auditor on the basis of data submitted by the Court

67. In light of the limited scope of the independence safeguard clause in the Court's agreement template and the lack of consistency in the scope of such safeguards across existing agreements, the External Auditor considers that improvements are needed to ensure

that, in the future, donors provide sufficient assurances to guarantee non-interference with the Court's overall activities.¹⁹

1.2.2. Evaluation Criteria for Independence

68. When a voluntary contribution is proposed by a donor, the Court assesses whether the contribution may affect its independence.

69. According to the resolution of the ASP (ICC-ASP/1/Res.11), "the Registrar shall assure himself/herself that any offered contribution (a) will not affect the independence of the Court and (b) will fulfil any criteria the ASP may establish." In accordance with this resolution, the Registrar of the Court formally accepts a contribution and concludes a written arrangement with the donor only if it is determined that the proposed contribution does not affect the independence of the Court.

70. Therefore, in order to ensure that the Registrar's assessment regarding the safeguarding of the Court's independence is conducted in a systematic manner during the process of establishing a trust fund, it is necessary to articulate and formalize the criteria for such assessment in a clear and structured manner.

71. The Court has interpreted the notion of "whether the contribution may affect the independence of the Court" as encompassing, among other aspects, the independence of the OTP and the autonomy of its investigations. It is understood that all voluntary contributions are accepted only after assessing whether they exert any influence on the Court or its functions, or impose any conditions or restrictions, and only if it is determined that there are no issues affecting the Court's independence.

72. However, as the Court does not maintain specific guidelines for assessing safeguards to independence, the scope of such safeguards has been applied inconsistently across trust funds and agreements. For instance, while some agreements include clauses in which the donor affirms the Court's internal accounting, internal control, and audit systems, or expressly guarantees the independence of the Court and the OTP as a whole, others limit the safeguard to the Court's reporting obligations to the donor, or prohibit donor interference solely in the implementation of the trust fund's objectives. Nonetheless, the Registrar has determined that acceptance of voluntary contributions does not affect the independence of the Court, and the trust funds have been administered on that basis.

73. Therefore, in order to enable the Registrar to assess, at the time of establishing a trust fund, whether a proposed contribution may potentially affect the independence of the Court, it is necessary for the Court to develop specific and clearly defined criteria—such as those illustrated below—for assessing independence. This would help ensure that the safeguarding of independence is determined in a more objective and consistent manner.

¹⁹ The Court has explained that the agreements concluded with donors are based on the outcome of negotiations between the parties, and therefore the wording of the provisions should reflect a common understanding. It was further noted that donors often request the use of their own template agreements without major or material changes. In the view of the external auditor, however, it is reasonable to expect that the Court can, based on the authority provided by the relevant ASP resolutions and regulatory framework, engage with donors during the negotiation process to request the inclusion of provisions safeguarding the Court's independence. Accordingly, it is expected that future agreements will include sufficient negotiation to ensure that such elements are appropriately reflected.

Table 11: Illustrative Criteria for Assessing the Safeguarding of Independence²⁰

Assessment items	Assessment description	Decision standards	Risk level
1. Whether conditions are imposed	Are there any explicit or implicit conditions attached to the contribution?	If the contribution imposes conditions that may affect the independence of the Court, it shall not be accepted.	Medium to High
2. Potential to influence activities or policy decisions	Does the contribution include provisions that may allow the donor to influence specific investigations, policies, staffing decisions, or the strategic direction of activities?	If the contribution includes provisions that allow the donor to influence specific investigations, policy or staffing decisions, or the direction of a project, it shall not be accepted.	Very High
3. Transparency of financial flows	Do the procedures for the receipt, disbursement, and reporting of the contribution align with the Court's regulations?	The contribution may only be accepted if it is consistent with the Court's legal framework, including the FRR.	Low
4. Potential conflict of interest of the donor	Is the donor a party to a situation under the jurisdiction of the Court, a State under its jurisdiction, or otherwise an interested party?	If the donor is a direct stakeholder in a situation under the jurisdiction of the Court, the contribution shall not be accepted.	Very High
5. Whether the donor requires evaluation or oversight	Does the donor require separate evaluation or audit?	The contribution shall be accepted only if it falls within the scope of paragraph 5.11 ²¹ of the TF Guideline.	Medium

Source: External Auditor

²⁰ The assessment criteria presented in the table (including risk levels) are examples provided by the External Auditor only; the Court needs to develop its own assessment criteria autonomously through a court-wide consultation process.

²¹ “[a]ll International Criminal Court Trust Funds are subject to audit by the Court's external auditor and by the Office of Internal Audit, under Financial Regulation 10 and Rule 110.1. No other additional or special audit arrangements shall be made with donor, unless the Presidency, after having sought the concurrence of the Prosecutor in respect of matters of mutual concern, considers it to be in the interests of the Court to permit such arrangements.”

Finding: The following findings 1), 2), and 3) are based on a procedural and formal review of the measures put in place by the Court to safeguard its independence. They do not indicate that any actual impairment of the Court’s independence has been identified.

- 1) Donor declarations had not been submitted, and in some cases, neither the agreements nor the letters submitted by donors contained clauses safeguarding the Court’s independence.
- 2) The independence safeguard clauses in the Court’s agreement template were found to be limited in scope, and the extent of safeguards varied across donors and agreements. The reviewed clauses included affirming the Court’s internal systems of accounting, internal control, and audit; limiting the safeguard to the Court’s reporting activities to the donor; ensuring non-interference in the implementation of trust fund objectives; and broader assurances covering the independence of the Court and the OTP as a whole. These clauses were inconsistent and lacked uniformity.
- 3) The Court has not established specific or objective criteria to assess whether a proposed contribution may affect its independence during the process of establishing trust funds and accepting contributions.

Recommendation 2: The External Auditor recommends that the Court implement the following measures:

- 1) Establish a standardized procedure whereby all donors, at the time of trust fund establishment, are required either to submit a declaration explicitly stating that the contribution does not affect the independence of the Court, or to include consistent independence safeguard clause in the contribution agreements concluded with the donors;
- 2) Review the independence safeguard clause in the Court’s standard agreement template to ensure that the scope of such safeguards does not vary across trust funds or donors, and, if necessary, expand its coverage so that it applies to all activities funded through the trust funds;
- 3) Develop formal criteria to enable the Registrar to make consistent determinations as to whether a proposed contribution may affect the independence of the Court at the time of acceptance.

1.3. Financial Implications for Regular Budget

74. The Court reviews the financial implications for the regular budget when establishing a trust fund. As part of this process, the implementing office must indicate in PART II – EXPLANATORY MEMORANDUM of the trust fund establishment proposal whether the establishment of the fund has a financial implication for the regular budget by selecting either “Yes” or “No.” If “Yes” is selected, a detailed explanation is required.

Proposal to Establish a Trust Fund of the ICC**PART II-EXPLANATORY MEMORANDUM**

Donor(s):

Estimated amount and currency:

Purpose of Trust Fund:

Relationship to regular budget (specify programme and sub-programme):

Relationship to other approved or proposed trust funds:

Financial implications for regular budget: ☐ No ☐ Yes (Attach an explanation)

Anticipated start date and duration:

Trust Fund SAP code (as confirmed by FS):

Please attach to the form a detailed description of the proposed trust fund, its purpose, donor(s), a copy of the proposed agreement with the donor(s) and income and expenditure estimates.

75. Of the 21 trust funds listed in the financial statements for 2023 and 2024, 19 were established by the Registrar and 2 by the ASP. Among the 19 funds established by the Registrar, only 2—the Cooperation ICC-CILC fund (T209) and the Special Fund for Security (T305)—were indicated in their establishment proposals as having financial implications for the regular budget, while the remaining 17 were deemed not to have such implications. The 2 funds established by the ASP²² were also assessed as having no financial implications for the regular budget.

Table 12: Assessment of Financial Implications for the Regular Budget by Establishing Authority

Establishing authority	Number of funds	Financial implications for the regular budget (as assessed by the Court)	
		Yes	No
Registrar	19	2	17
ASP	2	0	2
Total	21	2	19

Source: External Auditor on the basis of data provided by the Court

1.3.1. Criteria for Financial Implication Assessment

76. According to the CBF/33/6, “regular budget funds are fundamental resources reserved for the implementation of the Court’s programmes and institutional mandates and may not be used in any manner to support activities funded by voluntary contributions. The Registrar cannot ordinarily accept a voluntary contribution if it involves any additional financial liability for the organization. In other words, activities funded by voluntary contributions cannot entail any expenditure under the Court’s regular budget.” Furthermore, according to Financial Regulation 7.2, “acceptance of contributions which directly or indirectly involve additional financial liability for the Court shall require the prior consent of the ASP.”

²² Family Visits for Indigent Detainees (T309), Least Developed Countries (T400)

77. Therefore, the Court should establish clear and specific evaluation criteria to systematically assess the financial implications of trust funds on the regular budget, and all trust funds need to be consistently reviewed according to these criteria.

78. However, during this audit, when verifying whether the Court has established concrete criteria for assessing the financial implications for the regular budget at the time of trust fund establishment, no definitive evidence of such criteria was found.

79. Accordingly, during this audit, the External Auditor assessed the financial implications of trust funds on the regular budget, considering (i) the impact phase and (ii) the likelihood of occurrence. The results revealed inconsistencies in judgments regarding the financial implications for the regular budget, even among trust funds with similar implementation structures. This suggests that there may be room for improvement in the way financial implication assessments are conducted.

Table 13: Classification of Financial Implications by Impact Phase and Likelihood (Example)

Impact Phase Likelihood	During fund operation	After fund closure
High	<ul style="list-style-type: none"> ▪ DSA difference (UN vs. ICC) absorbed by regular budget (T209 fund) ▪ Partial use of the regular budget for trust fund activities (T010 fund) 	-
Medium	-	<ul style="list-style-type: none"> ▪ Ongoing Maintenance costs for equipment and facilities (T210, T305 funds)
Low	-	-

Note: Trust funds that have been confirmed by the ICC as having financial implications for the regular budget (T209, T305), as well as those requiring reclassification due to financial implications (T010, T210), are indicated in accordance with these criteria.

Source: External Auditor

80. The implementing office of the Special Fund for Security (T305) determined that there is a financial implication on the regular budget (“Yes”), as ongoing system maintenance (e.g., patch management) required for high-risk project operations is expected to continue to incur costs under the regular budget even after the fund’s closure. In contrast, despite the fact that the Technological Enhancement and Specialized Capacity fund (T210) involves the adoption of the investigative software (Microsoft RelativityOne), which may lead to significant maintenance costs charged to the regular budget after the fund’s closure, it was assessed as having no financial implications (“No”).²³

1.3.2. Documentation and Management of Assessments

81. According to Financial Regulation 7.2 and related provisions, the Court reviews whether the establishment of a trust fund creates additional financial obligations for the regular budget. Therefore, to enhance the legitimacy and transparency of the financial implication assessment conducted at the time of trust fund establishment, it is advisable to

²³ This issue was similarly highlighted in the financial audit for the financial year 2023, where it was also recommended that internal control procedures be established to address potential financial implications on the regular budget.

record and manage the review details and specific supporting evidence so that they can be verified retrospectively.

82. The Court's trust fund establishment proposal form requires that the financial implications be indicated as either "Yes" or "No." However, if "Yes" is selected, an additional explanation must be provided, whereas if "No" is selected, only the result is recorded without any justification. As a result, when the financial implication field is marked as "No," there is typically no need to provide an accompanying explanation or review documentation, which makes it difficult to verify the adequacy of the financial implication assessment and leads to a lack of transparency in the decision-making process.

Table 14: Financial Implications and Explanations in Establishment Proposals

Category	Number of funds
Financial implication identified (marked "Yes")	2
No financial implication (marked "No")	16
Assessment basis explained	2
Assessment basis needs clarification	2
Assessment basis not provided	12
Establishment proposal not available	3
Total	21

Source: External Auditor on the basis of data provided by the Court

1.3.3. Internal Controls to Prevent Regular Budget Use

83. According to Financial Regulation 7.2, acceptance of contributions which involve additional financial liability for the Court shall require the prior consent of the ASP. Therefore, internal control measures must be established to ensure that the regular budget is not used during the implementation of trust fund activities.

84. However, during the audit period, a review of 292 travel expense transactions executed in 2023 under trust funds revealed 3 cases where additional expenditures from the regular budget were made alongside travel funded by the Building Legal Expertise and Fostering Cooperation fund (T010). This indicates deficiencies in internal controls to prevent the use of the regular budget.

Table 15: Regular Budget Implementation alongside T010 Fund Activities

Trip no.	Period (duration)	Total cost	Regular budget portion and details ²⁴	Trust fund portion and details
TER 49176	10-17 Nov. 2023 (7 days)	€7,635	€5,077 (Airfare business class €2,974.91 + €2,046.70 +extra 40% DSA €55.48)	€2,558 (Airfare €844.82+€1,286.77 + airfare handling fee €8×2 + 100% DSA €410.77)
TER 48959	11-23 Nov. 2023 (12 days)	€5,625	€4,111 (Airfare business class €3,730.83 + 60% DSA €343.82 + 60% terminal expenses €36)	€1,514 (Airfare €1,252.66 + airfare handling fee €8 + 40% DSA €229.22 + 40% terminal expenses €24)
TER 48541	11-16 June 2023 (5 days)	€6,777	€454 (Extra 40% DSA)	€6,323 (Airfare + airfare handling fee + DSA + 40% terminal expenses + transportation)

Note: The three trips mentioned above each corresponded to a single trip number, with airfare, daily subsistence

²⁴ In accordance with sections 5.6 and 6.2 of the Court's travel SOP, elected officials are entitled to a 40% higher daily subsistence allowance (DSA) and business class air travel

allowance (DSA), and other expenses charged partially to both the trust fund and the regular budget.

Source: External Auditor on the basis of data provided by the Court

Finding: Regarding the financial implications of trust fund establishment on the regular budget, the following key issues were identified:

- 1) There were no specific criteria for assessing financial implications.
- 2) The current establishment proposal form does not require explaining the rationale when there are no financial implications.
- 3) Although a fund was assessed as having “no financial implications” at the time of establishment, additional use of the regular budget occurred during its operation.

Recommendation 3: The External Auditor recommends that the Court implement the following measures to enhance the objectivity and transparency of financial implication assessments of trust funds for the regular budget:

- 1) Establish clear criteria to enable consistent assessment of financial implications for the regular budget;
- 2) Revise the trust fund establishment proposal form, based on the above criteria, to require that the rationale for a “no financial implications” assessment be explicitly documented;
- 3) Establish internal control mechanisms to prevent additional use of the regular budget during trust fund operations, and, in cases where financial implication is unavoidable, implement procedures for retrospective reporting to the ASP.

2. Budgeting and Implementation of Trust Funds

2.1. Cost Plans and Budgetary Controls

2.1.1. Preparation of Cost Plans

85. The Court prepares cost plans for trust funds, which are schedules of estimated expenditures for a programme or project by object of expenditure or budget line, subdivided by the calendar year (TF Guideline 2.7).

86. According to paragraph 5.7 of the TF Guideline, the implementing office is required to prepare cost plans for all trust funds. Given that trust funds, unlike the regular budget, have unpredictable timing and amounts of contributions, the preparation of detailed annual cost plans is essential for multi-year operations to ensure stable resource allocation and consistent project implementation.

87. Accordingly, the External Auditor reviewed the cost plan preparation status for 17 out of the 21 trust funds.²⁵ The review found that 12 trust funds had annual cost plans covering all contributions, while 4 funds had cost plans prepared only for certain donors rather than the total contributions. One fund had no cost plan prepared at all.

²⁵ Four funds (T208, T209, T402, and STEC) did not prepare cost plans but were excluded from the analysis as their lack of cost plans was deemed reasonable. The Cooperation ICC-KRSJI fund (T208) and the Cooperation ICC-CILC fund (T209) operate on a reimbursement basis, reducing the need for cost plans. The LDC Travel – Nominations of Judges fund (T402) supports the judicial nomination process held on a three-year cycle (2023, 2026, etc.), and no funds were needed in 2023, so no cost plan was prepared. The Sponsored Travel to External Conferences fund (STEC) is not a trust fund, and therefore the relevant provisions do not apply.

Table 16: Status of Cost Plan Preparation for ICC Trust Funds

Status	Number of funds	Trust funds
Fully prepared	12	① Building Legal Expertise and Fostering Cooperation (T008) ② French Language and OIF (T103) ③ Technological Enhancement and Specialized Capacity (T210) ④ 20 th Anniversary Rome Statute (T301) ⑤ ICC Country Office CAR – Access to Justice Program (T302) ⑥ Development of Interns and Visiting Professionals (T303) ⑦ Special Fund for Security (T305) ⑧ Access to Justice Project of the Country Office, Uganda (T306) ⑨ Special Fund for Relocations (T307) ⑩ Junior Professional Officer Programme (T310) ⑪ Least Developed Countries (T400) ⑫ General Trust Fund (T000)
Partially prepared	4	① Building Legal Expertise and Fostering Cooperation (T009) ② Building Legal Expertise and Fostering Cooperation (T010) ③ OTP Cooperation and Complementarity (T212) ④ Family Visits for Indigent Detainees (T309)
Not prepared	1	① Geographical Diversity (T211)
Total	17	

Source: External Auditor on the basis of data provided by the Court

88. Among the funds classified as “Partially Prepared”, the Building Legal Expertise and Fostering Cooperation funds (T009, T010) prepared cost plans only for one donor’s contributions in accordance with contractual conditions. For contributions from other donors such as the Trust Fund for Victims (TFV), no separate plans were made, citing reasons such as the small size of the donations or the absence of specified expenditure deadlines.

89. The OTP Cooperation and Complementarity fund (T212) initially operated without a cost plan due to the small size of early contributions (€27,000 from three donors). Only after securing a relatively large additional contribution of €200,000 from another donor did the fund prepare a cost plan that includes unspent contributions up to 2025.

90. The Family Visits for Indigent Detainees fund (T309), established in 2011, did not prepare a cost plan — except for one donor’s contribution²⁶ — due to the difficulty in forecasting costs, as family visits are arranged based on need and available resources.

91. The Geographical Diversity fund (T211), classified as “Not Prepared”, was established in October 2023 to provide financial support when developing or transitioning States Parties to the *Rome Statute* second their personnel to the OTP. In the same year, the T211 fund received a total of €702,570 in contributions from two donors. However, no cost

²⁶ For one donor’s contribution, a specific family visit schedule had already been confirmed at the time of the pledge, allowing for the preparation of a cost plan tailored to that schedule.

plan has been prepared to date, as specific secondment schedules have not yet been confirmed.²⁷

92. As a result, some trust funds were not operated effectively. For example, the Family Visits for Indigent Detainees fund (T309) operated without a cost plan for the majority of its contributions²⁸, which led to fluctuations in the level of family visits provided depending on the annual inflow of donations. In some years, funding shortages restricted family visits to a minimum level, while in other years, substantial balances were carried forward, indicating persistent imbalances in fund management.

**Table 17: Annual Fund Movements and Visitor Statistics of T309 Fund
(2011–2024, in euros)**

Financial year	Summary of fund movements in the financial statements					Visitors			Visits
	Balance brought forward	Contribution recorded	Financial /other revenue	Expenditure	Balance carried forward	Total	Adults	Children	
2011	-	170,000	470	25,897	144,573	15	6	9	6
2012	144,573	-	377	50,229	94,721	16	3	13	3
2013	94,721	-	358	52,460	43,355	20	6	14	6
2014	43,425	10,000	241	34,227	19,439	18	6	12	7
2015	19,439	-	59	9,625	9,873	3	1	2	1
2016	9,873	34,750	9	11,555	33,077	4	2	2	2
2017	33,077	20,300	-	28,074	25,303	14	4	10	4
2018	25,303	11,362	1,044	22,051	15,658	10	3	7	3
2019	15,658	20,596	-	18,945	17,309	5	2	3	1
2020	17,309	39,274	-	2,984	53,599	4	1	3	1
2021	53,599	35,300	-	16,936	71,963	4	3	1	2
2022	71,963	134,549	-	52,070	154,442	14	8	6	6
2023	154,442	82,336	-	54,360	182,418	17	10	7	7
2024	182,418	58,620	-	7,354	233,684	4	3	1	2
Total	-	617,087	2,558	386,767	-	148	58	90	51

Source: External Auditor on the basis of data provided by the Court

93. Specifically in 2011, a contribution of €170,000 was received, maintaining a carry-forward balance of approximately €140,000 and supporting 15 visitors through 6 visits. In contrast, no contributions were received in 2015, causing the carry-forward balance to drop below €10,000, with only 3 visitors and 1 visit supported that year. Subsequently, between 2022 and 2023, relatively large contributions were received from several donors, increasing the carry-forward balance to over €150,000. During this period, the number of visitors rose to 14–17, with 6–7 visits supported.

²⁷ The OTP explained that this fund operates under a new modality for deploying national experts, requiring additional time to prepare the relevant documents and forms. Recruitment processes are currently underway, and some candidates have been selected while consultations with the releasing entities have begun; however, finalizing the related documents has taken more time than anticipated. Given that the fund has been established for over a year and a substantial amount of contributions has been secured, there is a pressing need to expedite the preparation of the cost plan.

²⁸ The implementing office, the Detention Section (DS), explained that the fund operates in a case by case manner based on individual detainee requests and resource availability, making it difficult to predict the timing and scope of visits and thus limiting the preparation of detailed cost plans. While the DS has managed the fund annually based on a minimal wish list, this approach has limitations in terms of long-term implementation management and minimizing volatility.

94. In the absence of consistent cost planning, fund expenditures have shown high volatility, reflecting their responsiveness to fluctuations in donation income. Moreover, since this fund became eligible to receive regular budget support in the event of depletion starting in 2024, there is a need to develop a more systematic cost plan to ensure future trust fund operations do not rely on the regular budget. While it is understandable that fully predicting the number of family visits or the required budget is difficult, it is essential to achieve the fund's original objectives reliably through substantive and detailed planning.

Finding: Some trust funds did not prepare cost plans for all or part of their contributions due to reasons such as small fund size, absence of expenditure deadlines, and difficulty in cost forecasting. As a result, there were cases of operational imbalances, including fund depletion in certain years and excessive carry-forwards in others.

Recommendation 4: The External Auditor recommends that the Court ensure thorough preparation and management of trust fund cost plans to prevent any instances where cost plans are not established without reasonable justification.

2.1.2. Budget Information for the Next Financial Year

95. The Court prepares the PPB for the upcoming financial year and submits it to the ASP for approval.

96. Pursuant to Financial Regulations 3.4 and 3.5, the Registrar shall submit the PPB for the following financial period to the CBF no later than 45 days before its budget review meeting. At the same time, the PPB shall also be submitted to the States Parties. The CBF shall consider the PPB and submit its comments and recommendations to the ASP, which shall then consider the budget and take a decision on it.

97. According to Financial Regulation 3.2, the PPB shall cover income and expenditures for the financial period to which they relate. Financial Rule 103.3 specifies that the PPB shall contain: (a) the Court's financial framework of the Court, followed by (i) a detailed statement of resources by part, section, and where applicable, programme support. [...] ²⁹; (ii) a statement of estimated income, including income classified as miscellaneous in accordance with regulation 7.1; (b) the budget proposals, with detailed budget narratives as set out in regulation 3.3 ³⁰; (c) relevant tables and figures on budget estimates and posts. Financial Regulation 7.1 defines "miscellaneous income" as income other than assessed contributions, UN contributions, and voluntary contributions.

98. Meanwhile, trust funds, such as the Technological Enhancement and Specialized Capacity fund (T210) and the Special Fund for Security (T305), serve a complementary role by partially covering the costs required for the Court's activities and are closely linked to those funded under the regular budget. Therefore, a comprehensive review of the Court's overall resources during the ASP's consideration of the PPB may become difficult if sufficient information on the financial support and activities of these trust funds is not provided in the PPB. While it is recognized that trust funds differ from the regular budget in terms of function and budget cycle, and that voluntary contributions are generally less predictable than assessed contributions, trust funds are typically established with a cost plan,

²⁹ For purposes of comparison, the expenditures for the previous financial period and the revised appropriations for the current financial period shall be indicated alongside the resource estimates for the forthcoming financial period.

³⁰ The budget narrative should include information and annexes that may be requested by the ASP, as well as any additional annexes or explanatory statements that the Registrar may deem necessary or useful.

and the regular budget framework also allows for multi-year budget projections when needed. Therefore, providing information related to trust funds into the PPB is not unfeasible.

99. In this context, it is advisable to provide sufficient information on trust funds during the review and approval process of the regular budget, so that resource allocation decisions can be made efficiently based on more comprehensive and well-informed considerations. The format in which such information is provided does not necessarily have to follow the structure used for regular budget resources.³¹

100. Furthermore, at its 33rd session in 2019, the CBF recommended that the Court establish an appropriate format (e.g., financial account format) to include information³² related to trust fund balances in the PPB. At the 38th session in 2022, considering the relatively high contributions to the OTP trust fund³³ and its supplementary role to the regular budget, the CBF requested that the 2023 PPB include expenditure plans for the trust funds.³⁴

Report of the CBF on the Work of Its 33rd Session (ICC-ASP/18/15, 2019)

215. The Committee took note of Court's position and the information included in the financial statements of the Court for 2018. Furthermore, the Committee recommended the Court for the informational purposes find an adequate format (e.g. the one used in the financial accounts) to present information regarding the balance of trust funds, as well as extra budgetary commitments in the 2021 Proposed Programme Budget. It should show the funds available for a specific budget year, the implementing office and the agreed overhead to be charged against each fund.

Report of the CBF on the Work of Its 38th Session (ICC-ASP/21/5/Add.1, 2022)

11. Given the relatively high endowment of the Office of the Prosecutor Trust Fund and its complementarity to the budget, the Committee requested that the Court provide a spending plan for the Trust Fund in the context of the 2023 Proposed Programme Budget.

101. Therefore, it is appropriate for the Court to provide sufficient and adequate information on trust funds within the PPB, so that the CBF and the ASP can comprehensively review the Court's overall financial resources and activity plans, taking into account extrabudgetary resources when deliberating and approving on the regular budget for the upcoming year.³⁵

102. Accordingly, the External Auditor reviewed the PPB for the 2024 financial year, as reported to the 22nd ASP in 2023, to verify whether it included information on the financial resources and activities of trust funds.

103. Upon reviewing the PPB, it was found that for some trust funds, information such as the allocation of resources between the regular budget and trust funds and 2024 estimated income statements including travel expenses was provided.³⁶ However, for other trust funds,

³¹ For example, in the 2024 PPB, information related to the General Trust Fund (T000) was provided in paragraph 882 in a narrative format. In the case of the Special Fund for Security (T305), the budget information of the T305 trust fund is expected to be included as an annex to the PPB from 2026 for reference purposes. As such, the manner in which trust fund information is presented in the PPB can vary.

³² Indirect costs to be charged per fund, executing departments, and the available fund amounts for specific budget years should be clearly presented for each fund.

³³ The Technological Enhancement and Specialized Capacity fund (T210)

³⁴ The Court addressed this matter through the preparation of the report CBF/41/17 – *Report of the Court on the OTP Trust Fund and the National Experts seconded to the Office of the Prosecutor*, dated 4 May 2023. Annex 2 of this report presented the cost plans of the trust fund by priority area.

³⁵ This information can be utilized to gain a comprehensive understanding of the relationship and complementarities between the regular budget and trust funds.

³⁶ Case 1: Regarding funds contributed to the General Trust Fund (T000) for the ASP session venue costs, the Court requested €338,000 under the regular budget in the 2024 PPB to cover the operation of the ASP session, while specifying voluntary contributions amounting to €300,000 expected from a state party. The ASP approved the

despite serving as a source of funding for the Court's activities—either by being linked to regular-budget operations or by supplementing them—and therefore needing to be considered together with the regular budget, financial information was not sufficiently or adequately included in the PPB.

(a) Non-Disclosure of GTA Positions Supported by Trust Funds in the PPB

104. The Court conducts an annual Court-wide review of each General Temporary Assistances (GTA) position during the preparation of the PPB, based on established criteria such as relevance and continued need. Following this assessment, the Court determines whether the position is filled or vacant and takes corresponding budgetary decisions, including whether to recruit new staff or extend existing contracts. However, as of the end of December 2024, the Court had budgeted and expended salaries for a total of seven GTAs funded by trust funds; however, this information was not included in the 2024 PPB.

Table 18: List of GTAs Funded by Trust Funds (as of 31 December 2024)

SAP code	Staffing	Department	Grade	Functional title
T010	1	Registry-EC Grant Team	P-2	Associate Programme Officer
T210	4	OTP-Gender and Children Unit	P-3	Legal Officer
		OTP-Unified Team B1	G-4	Analysis Assistant
		OTP-Integrated Services	P-2	Associate Protection Strategies Officer
		OTP-Programme B1	P-3	Investigator
TPSF	2	Registry - JPO Coordination Team	G-5	Human Resources Assistant
		OTP-External Affairs Unit	P-2	Associate External Relations Officer

Source: Data submitted by the Court

(b) Non-Disclosure of Staff Reassigned to Trust Funds from Budget Estimates

105. In the case of one established post and two GTA positions included in the 2024 regular budget, the staff members were initially assigned to positions funded by the regular budget (or trust funds), but during the year were reassigned to positions funded by trust funds (or the regular budget), as shown in the table below. As a result, the funding source for their salaries changed, and the original positions remained vacant for a certain period. However, the information on the salaries paid through trust funds following the reassignments was not reflected in the proposed programme budget. Consequently, the portion of the regular budget allocated for these salaries during the periods covered by trust funds remained unutilized.³⁷

requested regular budget amount in full.

Case 2: The Least-Developed Countries Trust fund (T400) also provides an estimated income statements, offering information on the estimated travel expenses of beneficiaries expected in 2024.

³⁷ According to the explanation provided by the Budget Section, when a staff member whose payroll is funded by the regular budget is assigned to activities under a trust fund during the year and receives payroll from the trust fund for those activities, no payroll is charged to the regular budget for that period. In other words, there are no instances in which a staff member receives payroll from both the regular budget and a trust fund simultaneously. The Budget Section emphasized that, in such cases, the position remains vacant under the regular budget, which ultimately results in savings. It further explained that when a position becomes vacant due to a mid-year staff reassignment, it is difficult to predict at the time of budget preparation when the position will be filled.

Table 19: Changes in Funding Source for Personnel Costs due to Position Reassignments (2024)

Funding	Section	Payroll period			
		Regular budget	Source change	Trust fund	
Established post	Immediate Office of the Registrar	Jan.-June 2024	→	T305	June-Dec. 2024
GTA	JPO Coordination Team	Jan.-Feb. 2024	→	T010	Mar.-Dec. 2024
				T310	Mar.-July 2024
				TPSF	Mar.-Dec. 2024 (excluding June and July)
	OTP Unified Team	June-Dec. 2024	←	T310	Jan.-July 2024

Source: External Auditor on the basis of data submitted by the Court

(c) Non-Disclosure of the Transition of Staff Previously Funded by the Regular Budget to Trust Funds

106. Within Programme 2300 (Investigation Division), the Gender and Children Unit's staffing costs initially included one Victims Expert (P-4), three Associate Victims Experts (P-2), and one Legal Officer (P-3) budgeted under the regular budget. However, starting in 2024, all positions except for the P-4 were planned to be funded through the Technological Enhancement and Specialized Capacity fund (T210). Despite this, these changes were not reflected in the 2024 PPB.³⁸

(d) Non-Disclosure of Travel Information for Activities Similar to Those Funded by the Regular Budget

107. In 2024, under Programme 1100 (The Presidency), the Court budgeted €175,000 in the PPB for official travel expenses of judges, the Presidency, and staff of the Chambers attending key external events representing the Court. The ASP approved €111,900, of which €89,800 was expended. Additionally, in 2024, the Court incurred €19,153 in travel expenses through the Building Legal Expertise and Fostering Cooperation fund (T010) for activities with similar purposes, such as events aimed at enhancing cooperation among States and promoting universality.³⁹

Proposed Programme Budget for 2023 of the ICC

118. The Presidency's travel funds are required for all official travel by judges and by staff of the Presidency and Chambers, including the President, the Vice-Presidents and other judges, to represent the Court at important external events.

³⁸ The 2025 PPB reflects that positions such as Senior Coordinator (P-5) and Legal Officer (P-3) are supported through trust funds.

³⁹ In 2023, under Programme 1100 (The Presidency) in the PPB, €75,200 was allocated for judges' official travel expenses related to attending major external events, including the Presidency and staff of the Chambers. The ASP approved this amount as proposed, and the final expenditure amounted to €77,800. Additionally, €16,780 was expended from trust funds for judges' travel expenses serving similar purposes during the same year.

**Table 20: Judges' Travel Expenditure – Regular Budget vs. Trust Fund
(2023-2024, in euros)**

Financial year	Regular budget			Trust fund	Total expenditures
	PPB	APB ¹⁾	Expenditures	Expenditures ²⁾	
2023	75,200	75,200	77,800	16,780	94,580
2024	175,000	111,900	89,800	19,153	108,953

Note:

1) Approved Programme Budget

2) Travel expenses sponsored through the STEC fund are excluded.

Source: Data submitted by the Court

108. However, although the Court also incurred travel expenses for judges' participation in external events through trust funds as described above, these travel plans were neither included in the 2023 and 2024 PPBs nor reported to the CBF or the ASP. As a result, the ASP was unable to comprehensively consider travel plans funded through trust funds during budget deliberations related to judges' travel.

1.5.3 Description of the target group(s) and final beneficiaries and estimated number

i. SETs (**Seminars, Events and Trainings**) for fostering cooperation, universality, sharing expertise and building national capacity

SETs for fostering cooperation, universality, sharing expertise and building national capacity are designed to address the needs of up to 300 government representatives (Ministers, national legal and judicial counsellors and advisers etc.), legal professionals/experts (e.g. technical and/or legal experts, Counsel [in particular those admitted to the List of Counsel], lawyers, **judges**, prosecutors, members of legal teams before the Court, specific demographic groups etc.) as well as officials from IO/ROs, CSOs, NGOs and other organizations deemed important for the Court's cooperation efforts (e.g. UN and its specialised agencies, EU, OIF, African Union, Arab League).

Source: Data submitted by the Court

Table 21: Travel Expense Plan as Stated in the Cost Plan of T010 Fund

Annex III.1 Budget for the Action ¹	Updated Budget: Year 2 ²			
Costs	Unit ¹³	# of units	Unit value (in EUR)	Total Cost (in EUR) ³
1. Human Resources¹⁴	-	-	-	-
1.1 Salaries (gross salaries including social security charges and other related costs, local staff)⁴	-	-	-	-
1.1.1 Events Assistant	Per month	12	4,933	59,196
1.1.2 Administrative Assistant	Per month	12	4,771	57,252
1.2 Salaries (gross salaries including social security charges and other related costs, expat/int. staff)	-	-	-	-
1.2.1 Programme Manager	Per month	12	8,795	105,542
1.2.2 HR Staff member for recruitment for Legal Professionals Programme (20% of salary)	Per month	12	1,500	18,000

Annex III.1 Budget for the Action ¹		Updated Budget: Year 2 ²		
Costs	Unit ¹³	# of units	Unit value (in EUR)	Total Cost (in EUR) ³
1.3 Per diems for missions/travel⁵	-	-	-	-
1.3.1 ICC Officials	Per diem	80	270	21,600
1.3.2 Participants, including Court experts, legal experts/practitioners, speakers, trainers and interpreters	Per diem	220	270	59,400
1.3.3 Participants / Counsel / Legal Professionals, including from National Bar Associations	Per person	30	600	18,000
1.3.4 Legal Professionals Programme (*)	Per person	48	1,500	72,000
Subtotal Human Resources				410,990
2. Travel⁶	-	-	-	-
2.1. International travel	-	-	-	-
2.1.1 ICC Elected Officials & High-Level State Representatives	Per flight	3	3,500	10,500
2.1.2 Court Officials	Per flight	25	1,500	37,500
2.1.3 Participants, including legal experts / practitioners, speakers, trainers, interpreters	Per flight	75	1,500	112,500
2.1.4 Participants / Counsel / Legal Professionals from National Bar Associations	Per person	30	1,400	42,000
2.1.5 Legal Professionals	Per flight	8	2,000	16,000
Subtotal Travel				218,500

Source: Data submitted by the Court

Finding: Due to insufficient provision of trust fund information that is linked or related to the regular budget at the time of the ASP's approval of the Court's PPB, there are limitations in comprehensively understanding the overall resource situation and conducting a more accurate review of the PPB.

Recommendation 5: The External Auditor recommends that the Court establish measures to ensure that financial information on trust funds is adequately provided during the review process of the *Proposed Programme Budget* (PPB), enabling the ASP to make more comprehensive and accurate assessments when deliberating and approving the PPB.

2.2. Distinction Between Trust Fund and Regular Budget Expenditures

109. According to Financial Regulation 11.3, appropriate separate accounts shall be maintained for all trust funds, and according to Financial Rule 111.2 the programme budget accounts and all trust funds are designated as principal accounts. Therefore, the ICC is expected to maintain separate accounts for the programme budget and trust funds.

110. Furthermore, Financial Regulation 4.1 stipulates that the appropriations adopted by the ASP shall constitute an authorization for the Registrar to incur obligations and make payments for the purposes of which the appropriations were adopted and up to the amounts adopted.

111. In addition, paragraph 5.8 of the TF Guideline provides that under Financial Rules 110.2 and 110.3, spending requires written authorization from the Registrar or delegate, issued as allotments after sufficient contributions are received.

112. Accordingly, the Court maintains separate accounts⁴⁰ for the regular budget and trust funds. Except in unavoidable circumstances, regular budget expenditures are expected to be made for their approved purposes, while trust fund expenditures should rely on contributions designated for each respective fund.

113. A review of the sources of funding for expenditures related to the 21 trust funds listed in the financial statements for 2023 and 2024 indicated that, in 9 cases (3 in 2023 and 6 in 2024), programme expenditures were initially financed not by contributions from the respective trust funds but rather from the regular budget or other available resources.⁴¹ A total of €1,322,222⁴² was initially charged to the regular budget or other fund resources, but was subsequently reclassified⁴³ as funded retrospectively from the income of the respective trust funds.

**Table 22: Reclassified Amounts Compared to Total Expenditures by Fund
(2023-2024, in euros)**

Financial year	SAP code	Balance brought forward	Revenue	Expenses (A)	Balance carried forward	Reclassified amount (B)	Reclassified/ Total exp. (B / A)
2023	T307	1,662,070	142,072	96,000	1,708,142	96,000	100%
	T010	35	893,427	890,529	2,933	29,686	3%
	T210	5,036,476	18,522,692	3,923,397	19,635,771	47,568	1%
Subtotal		6,698,581	19,558,191	4,909,926	21,346,846	173,254	4%
2024	T307	1,708,142	657,722	236,673	2,129,191	215,197	91%
	T306	0	137,610	137,610	0	105,703	77%
	T302	0	27,282	22,503	4,779	7,394	33%
	T212	0	313,651	107,808	205,843	12,167	11%
	T210	19,635,771	8,382,712	9,885,626	18,132,857	808,033	8%
	T009	142,228	3,694	29,200	116,722	474	2%
Subtotal		21,486,141	9,522,671	10,419,420	20,589,392	1,148,968	11%
Total		28,184,722	29,080,862	15,329,346	41,936,238	1,322,222	9%

Source: Data submitted by the Court

⁴⁰ The Court manages its regular budget under the code 'ICC2024' and trust funds under codes such as 'T000' and 'T010' in its SAP system.

⁴¹ There were instances where sources other than the regular budget were used, such as €2,241 from the Contingency Fund being used for the Access to Justice Project of the Country Office, Uganda fund (T306) programme, and €474 from the Building Legal Expertise and Fostering Cooperation fund (T010) being used for the Building Legal Expertise and Fostering Cooperation fund (T009) programme.

⁴² The Court explained the reason for the reclassification in the Technological Enhancement and Specialized Capacity fund (T210) for 2024 as follows: there were two steps during the year. First, a recharge from the trust fund to the regular budget occurred. Second, a recharge from the regular budget back to the trust fund followed. This amount reflects the year-end reclassification to the trust fund, resulting in a net reclassification effect of zero.

⁴³ Amounts initially executed using the regular budget or other funds were later reclassified as expenditures from the relevant trust fund using its contributions.

114. In particular, the Special Fund for Relocations (T307) had a carry-forward balance of €1,662,070 from the previous year into 2023. Despite this available balance, 100% of the programme expenditures for 2023 (€96,000) were initially executed using the regular budget. These expenditures were only reclassified to the trust fund at the end of the year (on 23 November, 15 December, and 31 December 2023).

115. Similarly, in 2024, although the fund had a carry-forward balance of €1,708,142 from 2023, 91% of the programme expenditures (€215,197 out of €236,673) were initially executed using the regular budget and subsequently reclassified to the trust fund only at the end of the year (on 15 October and 2 December 2024).

116. While contributions were available within the fund, programme expenditures were initially charged to the regular budget without clear justification and reclassified only at the end of the year. This practice may weaken the intended distinction between regular budget and trust fund accounts. Consistent application of the separate accounting requirement is therefore necessary to ensure sound financial management⁴⁴ and avoid misallocations.

Finding: A review identified nine instances (three in 2023 and six in 2024) where the Court initially charged programme expenditures to the regular budget or other funds, rather than using contributions from the respective trust funds. These expenditures were subsequently reclassified to the appropriate trust funds at a later stage.

Recommendation 6: The External Auditor recommends that the Court implement internal control measures to help ensure that, except in unavoidable circumstances, programme expenditures related to trust funds are charged directly to the respective trust fund contributions, rather than relying on the regular budget.

2.3. Programme Support Costs (PSC)

117. According to paragraph 2.8 of the TF Guideline, PSC is defined as administrative and technical costs incurred in the implementation of programmes and projects financed from extrabudgetary resources, including trust funds.

118. According to paragraph 6.1 of the TF Guideline, reimbursement for PSC shall be provided for in respect of all activities financed from trust funds. This requirement is intended to prevent support costs incurred during the implementation of trust fund activities from being charged to the regular budget. The amount of the reimbursement shall be calculated at 13% of the expenditures recorded in any financial period or any other standard percentage rate set by the Court.

119. The Court recovers PSC from each trust fund and credits it to the “Programme Support Fund Special Account” (SAP code: “TPSF”). These funds are used to cover the salaries and related expenses of temporary personnel supporting trust fund activities, with any remaining balance carried forward to the following financial year.

120. As of 31 December 2024, PSC earned was €923 thousand, representing approximately 7.4% of total direct costs of about €12,446 thousand, which is 5.6 percentage points lower than the standard rate.

⁴⁴ If programme expenditures are first charged to the regular budget and are not subsequently reclassified to the relevant trust fund, there is a risk that trust-fund programme costs will ultimately be financed from the regular budget. Consequently, separate accounts are expected to be strictly maintained in accordance with Financial Regulation 11.3 and related provisions.

Table 23: PSC earned and Their Proportion to Direct Costs (2020-2024, in euros)

Financial Year	2020	2021	2022	2023	2024	Total
Direct cost (A)	1,068,760	1,105,654	3,025,744	5,626,888	12,446,132	23,273,178
PSC earned (B)	84,141	91,780	232,384	410,616	922,519	1,741,440
Ratio (B/A)	7.9%	8.3%	7.7%	7.3%	7.4%	7.5%

Note: PSC earned numbers are as including accrued amounts and interest

Source: External Auditor on the basis of data submitted by the Court

2.3.1. Criteria for PSC Rate Waivers or Reductions

121. According to paragraph 6.1 of the TF Guideline, the standard PSC rate for each trust fund is set at 13% of direct trust fund expenditures, and adjustments to the PSC rate require the approval of the Registrar. Meanwhile, Financial Regulation 7.2 stipulates that acceptance of voluntary contributions which directly or indirectly involve additional financial liability for the Court shall require the prior consent of the ASP.

122. For reference, in its 2022 report titled *Audit of Management of Indirect Support Costs (ISC)*, the UN highlighted the absence of clear guidelines regarding the common practice of applying ISC rates below the standard level, as well as the lack of criteria and procedures for assessing the financial impact of such reductions. Consequently, the UN recommended that relevant regulations be enhanced to require the inclusion and presentation of a financial impact analysis when ISC rates are waived or reduced, in order to guide informed decision-making on whether non-programme budget activities constitute a financial burden on the programme budget.

Audit of Management of Indirect Support Cost (UN Department of Internal Oversight Services, 2022)

Recommendation 2. Finance Department should enhance Budget Technical Instruction (BTI) to include the requirement to conduct and present the financial impact analysis as part of justification to waive or reduce ISC rate to guide informed decision making as to whether non-programme budget activities constitute a financial burden to the programme budget.

123. When applying a PSC rate lower than the standard rate, the reduced portion may be passed on as a burden to the regular budget. Therefore, it is appropriate for the Registrar to establish review criteria—including conditions for applying PSC rate waivers or reductions and their financial implications—and to approve PSC rate adjustments only after assessing the necessity and validity of such adjustments based on these criteria.

124. During this audit, the PSC rates of 21 funds listed in the financial statements for 2023 and 2024 were reviewed. As of 31 December 2024, 8 trust funds applied the standard PSC rate of 13%, while 13 funds had reduced or waived PSC rates with the approval of the Registrar.

**Table 24: Overview of PSC Rate Applications
(as of 31 December 2024, in thousand euros)**

Category	Total	Standard rate (13%)	Exceptional rates						Adjustments ²⁾
				0%	6.5%	7%	12%	Others ¹⁾	
Number of funds	21	8	13	5	1	1	1	5	-
Ratio	100%	38.1%	61.9%	23.8%	4.8%	4.8%	4.8%	23.8%	-
PSC earned	922	111	828	0	603	46	140	39	-17
Ratio	100%	12.0%	89.8%	0.0%	65.4%	5.0%	15.2%	4.2%	-1.8%
SAP code	-	T208, T211, T302, T303, T305, T306, T400, T402	-	T103, T209, T301, T309, STEC	T210	T008	T310	T000, T009, T010, T212, T307	-

Note:

1) "Others" refers to cases where different PSC rates were applied depending on the donor.

2) Total adjustments (€-16,548.07) = T006 adjustments (€29.44) + year-end net balance accrual (€16,577.51)

Source: External Auditor on the basis of data submitted by the Court

125. Accordingly, the External Auditor reviewed whether the Court had established criteria for applying waivers or reductions of PSC rates. In addition, for the 12 trust funds with adjusted PSC rates (excluding the STEC fund from the total of 13), the auditor examined whether, at the time of the Registrar's approval of the waivers or reductions, an analysis of the financial implications for the regular budget had been conducted based on established criteria, and whether the results of such analysis were documented and presented as justification for the adjustments.

126. The review found that the Court had not established specific criteria—such as standards for analyzing the financial implications on the regular budget—for applying waivers or reductions of PSC rates. Among the 12 trust funds with adjusted PSC rates, 2 were subject to external oversight, as the waivers or reductions were reported to the CBF or ASP.⁴⁵ However, 6 funds applied waived or reduced PSC rates based on agreements with donors without reviewing their financial implications for the regular budget, and no separate waiver or reduction documents were identified. The remaining 4 funds were granted full PSC waivers (0%) based on the Court's internal assessment, citing the characteristics of the funds—such as small contribution amounts, one-off events, or cooperation-related activities—as justification, but without a separate analysis of the financial implications.

(a) PSC Waivers or Reductions Based on Donor Agreements (6 Cases)

127. Contributions from a donor to the Building Legal Expertise and Fostering Cooperation funds (T008, T009, T010) are governed by Article 3.2 of the relevant agreement, which provides that: "The remuneration of the Organisation by the Contracting Authority for the activities to be implemented under this Agreement shall be 7% of the final amount of eligible direct costs of the Action to be reimbursed by the Contracting Authority." The donor applies

⁴⁵ The Technological Enhancement and Specialized Capacity fund (T210) applied a 6.5% PSC rate, which is 50% of the standard rate of 13%, and the rationale for this adjustment was reported to the CBF. The Junior Professional Officer Programme fund (T310) applied a 12% PSC rate, with the scope of the associated overhead costs explained and approved by the ASP.

the same 7% rate to other international organizations, including the UN, as a standard condition. Accordingly, the Court accepted this condition and applied a 7% PSC rate, without conducting a separate analysis of the financial implications.

128. As described above, a total of six trust funds, including the T008 fund, applied reduced or waived PSC rates based on the conditions set out in agreements concluded with donors. These agreements specified only the PSC rates, but no separate analysis of the financial implications on the Court's regular budget was conducted in the process, nor was there a separate document stating the reasons for the waivers or reductions.

Table 25: Trust Funds (Contributions) with PSC Waivers or Reductions Based on Donor Agreements

No	Code	Trust fund	PSC rate	PSC-related provisions in the agreements						
1	T000	General Trust Fund(*)	0%	“6. The Minister’s contribution will cover only the programme activities that have actually taken place and will be based on the actual costs incurred.[...]”						
2	T008	Building Legal Expertise and Fostering Cooperation, 2019-2020	7%	“Remuneration 3.2 The remuneration of the Organisation by the Contracting Authority for the activities to be implemented under this Agreement shall be 7% of the final amount of eligible direct costs of the Action to be reimbursed by the Contracting Authority.”						
3	T009	Building Legal Expertise and Fostering Cooperation, 2020-2024								
4	T010	Building Legal Expertise and Fostering Cooperation, 2022-2025								
5	T212	OTP Cooperation and Complementarity	7%	<div>The estimated budget included as an annex to the agreement contains a 7% indirect cost under the item “ICC administration fee.”</div> <table><tr><th>Description</th><th>Unit cost</th><th>Total cost</th></tr><tr><td>ICC administrative fee</td><td>7%</td><td>€ 6,542</td></tr></table>	Description	Unit cost	Total cost	ICC administrative fee	7%	€ 6,542
Description	Unit cost	Total cost								
ICC administrative fee	7%	€ 6,542								
6	T307	Special Fund for Relocations	0%	No PSC-related provisions in the agreement						
			10%	“3. (The donor) will make a financial contribution of a maximum of three hundred thousand EUR (€300,000) out of which a 10 per cent management fee of the Court will be applied.[...]”						
			10%	“3. (The donor) has made a financial contribution of AUS\$300,000 out of which a 10 per cent management fee applicable to all trust funds of the Court will be applied.”						
			10%	“3. (The donor) will make a financial contribution of £200,000.00 out of which a 10 per cent management fee applicable to all trust funds of the Court will be applied.”						

Note: The donor listed for the T000 fund are illustrative and do not cover all contributions made in the past five

years(2020-2024).

Source: External Auditor on the basis of data submitted by the Court

(b) PSC Waivers or Reductions Based on the Court's Internal Review (4 Cases)

129. Four trust funds, including the French Language and OIF fund (T103), were granted full PSC waivers (0%) through separate waiver documents, primarily based on the specific characteristics of each fund rather than on an analysis of the financial implications for the regular budget. Specifically, such cases included funds with relatively small contributions, funding for one-off events such as the 20th anniversary of the *Rome Statute*, or cooperation projects from which the OTP directly benefited, where it was deemed unreasonable to impose PSC on the cooperating entity. In addition, there was a case in which a waiver was granted based on the claim that “no administrative costs are incurred,” even though the Finance Section had indicated that such costs were in fact incurred.

Table 26: Justification Status for PSC-Waived Funds

No.	SAP code	Trust fund	PSC rate	Waiver request format	Reason for waiver
1	T103	French language and OIF	0%	Internal memorandum	“The administrative implementation of this trust fund will be very simple;”
2	T209	Cooperation ICC-CILC	0%	Internal memorandum	“Considering the benefit the ICC-OTP will receive from the cooperation project, and the scope of the Trust Fund, it would not seem reasonable that the CILC should also cover for PSC.”
3	T301	20 th Anniversary of the Rome Statute	0%	Internal memorandum	“Considering the amount donated by each State is relatively small in size, that the 20 th anniversary of the Rome Statute is a one-off occasion and that the amount of administration required is minimal, [...]”
4	T309	Family Visits for Indigent Detainees	0%	e-mail	“[...], as the Trust Fund does not generate administrative expenses and the full amount donated is actually directed toward funding family visits for indigent detained persons.”

Source: External Auditor on the basis of data submitted by the Court

Finding: The Court has not established clear criteria or review procedures for applying PSC waivers or reductions, particularly for assessing their financial implications for the regular budget.

Recommendation 7: The External Auditor recommends that the Court establish clear and objective criteria for the application of PSC waivers or reductions, including procedures for analyzing the financial implications for the regular budget.

2.3.2. PSC Allocation Criteria and Management System

130. The Court defines PSC as administrative and technical indirect costs incurred in the implementation of programs and projects financed by trust funds, calculating PSC as a fixed percentage of direct expenditures.

131. Meanwhile, PSC inevitably arise during the implementation of trust fund programs and projects in addition to direct costs. Unlike direct costs, PSC cannot easily be attributed or traced to specific activities or cost items.

132. With respect to the Court, costs included under PSC may be considered those incurred in common or indirect functions related to trust fund activities, such as central administrative functions like human resources (HR) and finance, as well as internal and external services including legal, IT, security, procurement, and travel support.

Summary of UN Policy on the Use of PSC Revenue (ST/AI/286)

Eligible Categories of Use

PSC revenue may be used to finance indirect costs in the following categories:

- i. Central administration: HR, financial, physical and ICT staff and related operating expenses (e.g., rent, furniture).
- ii. Central programme/departmental administration: administrative staff supporting extrabudgetary operations and associated operational costs.
- iii. Other internally and externally provided services: including legal, IT, security, internal oversight, and UN-wide initiatives like Umoja or IPSAS.
- iv. Programme/departmental programme services: including central planning, donor relations, resource mobilization, monitoring and evaluation, and programme development.

133. When trust fund programs are executed, PSC inevitably arise; if these PSC are not separately reimbursed by the trust funds, they will be passed on to the regular budget. Therefore, it is appropriate for the Court to establish reasonable PSC allocation criteria, allocate PSC accordingly to relevant sections, and reimburse trust fund-related PSC (such as personnel costs and related operating expenses for central administrative functions like Human Resources and finance) incurred within the regular budget for the relevant financial year.

134. A review of PSC account operations over the past five years (2020-2024) revealed that PSC revenue increased from €84,141 in 2020 to €922,519 in 2024, while expenditures rose from €128,937 to €374,503 during the same period. However, no official allocation criteria for PSC were identified. Additionally, the carry-forward balance, which was €71,775 in 2020, grew to €998,726 in 2024, indicating that some costs incurred under the regular budget were not reimbursed through PSC but instead accumulated.

Table 27: PSC Financial Flows (2020–2024, in euros)

Financial year	Balance brought forward	PSC revenue	PSC expenditure	Balance carried forward
2020	116,571	84,141	128,937	71,775
2021	71,775	91,780	95,034	68,517
2022	68,521	232,384	102,155	198,746
2023	198,750	410,616	158,656	450,706
2024	450,710	922,519	374,503	998,726

Source: Data submitted by the Court

135. Additionally, a review of PSC departmental allocations showed that the Court allocated PSC only to three sections: the Financial Planning and Control Section (FPCS, Cost Center 2520) under the OTP, and the Human Resources Section (HRS, 3220) and Finance Section (FS, 3240) under the Registry.

Table 28: PSC Allocation by Cost Center (2020-2024, in euros)

Financial year		2020	2021	2022	2023	2024
PSC allocation by cost center	OTP_FPCS(2520)	-	-	-	30,541	292,299
	REG_HRS(3220)	66,948	64,788	72,259	91,264	47,880
	REG_FS(3240)	61,989	31,936	29,896	36,851	34,324
Total		128,937	95,034(*)	102,155	158,656	374,503

Note: 95,034 represents the total of 64,788 and 31,936, less the non-budgetary expenditure of 1,690.

Source: External Auditor on the basis of data submitted by the Court

136. In contrast, common sections that provide essential administrative and technical support for trust fund activities—such as the OTP’s Human Resources Office (2540) and Legal Advisory Section (2560); and, within the Registry, the Legal Office under the Office of the Registrar (3130), and three sections under the Division of Management Services (DMS): the SAP Team (3213), the Budget Section (3230), and the General Services Section (3250, including the Travel and Procurement Units)⁴⁶—were not allocated any PSC.⁴⁷

(Case 1, Travel Unit) Over the past five years (2020–2024), there were a total of 901 trips (including cancellations) related to trust fund activities amounting to €1,359,662, with the Travel Unit of the General Services Section (GSS) supporting these travel arrangements; however, no PSC was allocated to this unit.

(Case 2, Procurement Unit) During the same period, a total of 638 purchases (including cancellations) of supplies and materials amounting to €2,743,695 were made from trust funds, with the Procurement Unit of GSS supporting procurement activities; nevertheless, no PSC was allocated to this unit.

137. Meanwhile, an analysis of PSC allocation by cost center and detailed cost classification reveals that “employee benefit expenses” accounted for the largest share at 83.9%, followed by “contractual services” at 14.9%.

⁴⁶ The above sections are examples identified during the audit process and do not encompass all departments that may substantively support trust fund activities; additional Sections may be included, and some listed Sections may be excluded from the actual scope of support.

⁴⁷ The Finance Section currently receives PSC primarily to cover employee benefit expenses for temporary staff working on trust fund-related activities. However, the section also provides broad support for trust fund-related accounting and financial operations, and handles a wide range of transactions originating from various sections, including travel, procurement, human resources, and operations.

**Table 29: Trust Fund PSC Allocation by Detailed Budget Line
(2020–2024 aggregated, in euros)**

Budget item	Detailed item description	PSC allocation by cost center				Total (%)
		OTP_FPCS (2520)	REG_HRS (3220)	REG_FS (3240)	Sub-Total	
Employee benefit expenses	GTA salaries and allowances ¹⁾	27,642	232,429	73,754	333,825	714,740 (83.9%)
	STA salaries and benefits ²⁾	248,787	33,641	0	282,428	
	GTA pension and medical benefits ³⁾	7,882	63,726	18,914	90,522	
	GTA other welfare and support ⁴⁾	156	7,449	360	7,965	
Travel and hospitality	Official travel of staff	0	5,047	0	5,047	5,047 (0.6%)
Contractual services	Individual contractors	0	0	96,658	96,658	127,199 (14.9%)
	Consultants - fees	30,541	0	0	30,541	
Operating expenses	Write off cost	0	0	29	29	29 (0.0%)
Financial expenses	Bank charges	0	0	5,280	5,280	5,280 (0.6%)
Total		315,008	342,292	194,995	852,295	852,295 (100%)

Note: The four categories of employee benefit expenses were developed by the External Auditor for analytical purposes. The detailed Court budget items (GL Accounts) included in each category are listed below.

- 1) GTA Net Salaries – Professionals (3101), GTA – Post Adjustment (3102), GTA Net Salaries – General Service (3103), GTA Dependency Allowance (3111), GTA Rental Subsidy (3113), GTA Language Allowance (3114)
- 2) Short term – Salaries (3610), Short term – travel on Appointment/Sepa (3611), Short term – Medical Examinations (3661)
- 3) GTA Contributions to UNJSPF (3114), GTA Medical Subsidy (3171)
- 4) GTA other welfare and support: GTA Service Incurred Injury (3173), GTA Home Leave Travel (3181)

Source: External Auditor on the basis of data submitted by the Court

138. Employee benefit expenses were used to cover salaries and benefits for GTA and Short-Term Appointments (STA), but these costs were allocated to only three sections: OTP's FPCS (2520), and within the Registry, the HRS (3220) and the FS (3240).

139. In addition, PSC was spent on travel expenses for the personnel involved, contracts and consultancy fees for external experts, and bank charges; however, these expenditures did not cover the operating costs of all departments supporting trust fund activities.

Finding: The Court has been allocating PSC primarily to personnel expenses (STA, GTA) and related costs for staff involved in trust fund activities in only three of the several sections engaged in such activities, without a formal policy governing its allocation. In addition, unused PSC balances have been carried forward, with their amounts steadily increasing.

Recommendation 8: The External Auditor recommends that the Court establish a PSC management system, including reasonable allocation criteria consistent with the definition of PSC, to ensure that indirect costs arising from trust funds are not passed on to the regular

budget.

3. Reporting, Evaluation, and Closure

3.1. Reporting Framework for Financial and Operational Information

140. From the establishment to the implementation and closure of trust funds, the Court reports trust fund-related information at each stage to the designated recipients as stipulated in the regulations. The reporting flow is illustrated in the table below.

Table 30: Flowchart of Reporting Procedures for ICC Trust Funds

Reporting phase	Establishment	⇒	Operation			⇒	Closure	
			Budget planning	Implementation				Activities and performance
				Financial report	Substantive report			
Reporting party	Registrar		Implementing Office (IO)	IO	IO		Registrar	
Reporting recipient	Presidency, CBF, ASP		CBF, ASP	Donors	Donors		Presidency, CBF, ASP	
Reporting content	The fact that a trust fund has been established		Estimated income, budget narrative, balance of trust funds, implementing office	Financial status including income and expenditures	Implementation status	Actual implementation results against budget (including regular budget)	The fact that a trust fund has been closed	
Legal basis	Financial Regulation 6.5		Financial Rule 103.3, CBF recommendations	AI/2004/005 Section 6		-	Financial Regulation 6.5	

Source: External Auditor on the basis of data submitted by the Court

3.1.1. Establishment and Closure Reporting

141. According to Financial Regulation 6.5, trust funds that are established or closed by the Registrar shall be reported to the Presidency and, through the CBF, to the ASP. Additionally, the purposes and limits of each trust fund must be clearly defined by the appropriate authority, and unless otherwise decided by the ASP, such funds shall be administered in accordance with these regulations.

142. The Court has interpreted this provision as imposing a mere reporting obligation to the ASP, and explained that such reporting is carried out through the schedules of the financial statements, the Programme Performance Report, presentations during ASP and CBF sessions, and ad hoc reports.

143. In this regard, the External Auditor reviewed whether the establishment of 25 trust funds and the closure of 12 trust funds by the Registrar between 2015 and 2024 had been reported to the ASP.

144. It was confirmed that trust funds established during the reporting year were listed in the trust fund sections of the financial statement schedules and the Programme Performance Report, while funds closed during the same year were no longer included in these reports. This indicates that the establishment and closure of trust funds were reported to the ASP. In particular, for 4 out of the 25 trust funds reviewed⁴⁸, separate ad hoc reports clearly describing

⁴⁸ Technological Enhancement and Specialized Capacity (T210), Geographical Diversity (T211), OTP Cooperation and Complementarity (T212), Special Fund for Security (T305)

the establishment and relevant details were formally submitted to the ASP through the CBF. Given that these 4 funds were established relatively recently, this reflects an improvement in the format and clarity of reporting to the ASP.

145. However, for the remaining 21 funds, although the financial statements and the Programme Performance Report did include relevant information such as the purpose, income, and expenditures of each fund, the new funds were presented alongside existing ones without clear distinction, making it difficult to identify which funds had been newly created. Similarly, in the case of 12 funds that had been closed over the past 10 years, the absence of their names from the financial statement schedules and the Programme Performance Report allowed for indirect inference of their closure, but without a comparison to previous years' reports, it was difficult to identify such changes with certainty.

146. Accordingly, to enhance clarity for States Parties, consideration could be given to indicating newly established or closed trust funds more explicitly in the financial statements and Programme Performance Report—such as by marking new funds or separately listing those that have been closed—so that such changes can be easily identified without the need to compare with prior-year reports.

3.1.2. Inclusion of Extrabudgetary Accounts

147. When Court staff attend certain conferences or similar events, their participation is initially funded from the regular budget, and travel expenses are later reimbursed by the event organizers through sponsorships. These sponsorships are managed by the Court under a separate account called Sponsored Travel to External Conferences fund (STEC). It is therefore important to clearly state that the STEC fund is not a trust fund, but a distinct account composed entirely of extrabudgetary resources.

148. However, the Court includes the STEC within the trust funds in financial statement schedule 7, which may cause confusion for information users.⁴⁹

3.1.3. Activities and Programme Performance Reporting

149. The Court annually reports to the ASP on the budget implementation status and performance of key programs through the Programme Performance Report, which also include information related to trust funds.

150. This report serves as an official document provided not only to the donors of the trust funds but also to all States Parties, making it an effective means of sharing information on the implementation and performance of the trust funds.

151. Therefore, including detailed expenditure information by account in the Programme Performance Report would enable States Parties to more clearly compare and analyze the specific implementation status and performance of each trust fund, making it necessary to reflect such information.

152. Accordingly, a review of the trust fund expenditure included in the Programme Performance Report prepared over the ten-year period from 2015 to 2024 revealed that the items included in the reports were changed multiple times each year, as shown in the table below.

⁴⁹ The Court explained that, for this fund, sponsorships from event organizers are considered extrabudgetary income. Accordingly, for accounting purposes, they are recorded together with other trust funds in the “Statement of Financial Performance by Segment” in the financial statements.

Table 31: Trust Fund Reporting Items in the Programme Performance Report (2015-2024)

Financial year	Donors	Expenditure details by account(*)	Performance of trust fund				
			Balance brought forward	Contribution	Expenditure	Transfer or donor refunds	Balance carried forward
2015	×	○	○	○	○	○	○
2016	×	○	○	○	○	○	○
2017	×	×	×	×	×	×	×
2018	×	○	○	○	○	×	○
2019	×	○	○	○	○	×	○
2020	×	○	○	○	○	×	○
2021	×	○	○	○	○	×	○
2022	○	○	○	○	○	○	○
2023	○	×	○	○	○	○	○
2024	○	×	○	○	○	○	○

Note: “Expenditure details by account” presents items such as employee benefit expenses, travel and hospitality, contractual services.

Source: External Auditor on the basis of data submitted by the Court

153. As shown in the table above, the Court included expenditure amounts by trust fund account such as employee benefit expenses, travel and hospitality, contractual services, operating expenses and supplies and materials in the Programme Performance Report from 2015 to 2022 (except for 2017). However, starting in 2023, this information was no longer included⁵⁰ and the reporting items have changed multiple times over the years, making it difficult for States Parties to consistently compare trust fund expenditures across different years.

154. In particular, PSC, which represents indirect costs arising from trust fund expenditures and serves as a key indicator reflecting the actual operating costs of the trust funds, was reported in the Programme Performance Reports only during the period from 2016, 2018, and 2019. As shown in the table below, PSC was incurred in other years as well, but this information was not reported.

Table 32: PSC Reporting Status in the Programme Performance of the ICC (2015-2024, in euros)

Financial year	Balance brought forward	Contributions recorded	Financial/other revenue	Expenses(*)	Donor refunds	Balance carried forward
2015	Not reported					
2016	43,701	-	211	(44,122)	-	88,034
2017	Not reported					
2018	84,695	-	10	(36,781)	-	121,486
2019	121,486	-	110	5,025	-	116,571
2020	Not reported					
2021	Not reported					

⁵⁰ The Court explained that the change in the reporting format from 2023 onwards was due to the CBF’s recommendation (ICC-ASP/18/15 at the 33rd session). However, according to the referenced CBF report, the actual recommendation made to the Court was to include information on trust funds in the PPB.

Financial year	Balance brought forward	Contributions recorded	Financial/other revenue	Expenses(*)	Donor refunds	Balance carried forward
2022	Not reported					
2023	Not reported					
2024	Not reported					

Note: The column titled “Expenses” reflects the net amount calculated as “PSC revenue minus PSC expenditure” for the respective year.

Source: External Auditor on the basis of data submitted by the Court

155. Accordingly, a review of the financial flows of PSC from 2020 to 2024 revealed the figures shown in the table below.

Table 33: PSC Financial Flows by Programme Performance Report Format (2020–2024, in euros)

Financial year	Balance brought forward	Contributions recorded	Financial /other revenue	Expenses	Donor refunds	Balance carried forward
2020	116,571	-		44,796	-	71,771
2021	71,771	-	-	3,254	-	68,517
2022	68,517	-	-	(130,229)	-	198,746
2023	198,746	-	-	(251,960)	-	450,706
2024	450,706	-	-	(548,016)	-	998,726

Source: External Auditor on the basis of data submitted by the Court

156. The inconsistent reporting of PSC, as demonstrated above, makes it difficult to clearly identify annual trends in increases and decreases, and limits the comparability of financial flows. This may impact financial transparency and external confidence in the management of trust funds.⁵¹

Finding:

- 1) The Court has taken steps to meet its reporting obligations to the ASP through schedules in the financial statements, the Programme Performance Report, ASP and CBF presentations, and ad hoc reports. However, new funds are listed alongside existing ones without distinction, and closed funds are removed without explanation, making it difficult to identify such changes without reviewing prior-year reports.
- 2) Although the STEC fund is classified as an extrabudgetary resource other than trust fund, it was reported as a trust fund in schedule 7 of the Court’s financial statements.
- 3) The Programme Performance Report annually submitted by the Court to the ASP lacked detailed financial information by fund, including PSC, thereby making it difficult for States Parties to fully understand each fund’s activities and financial management.

⁵¹ In response, the Court’s Finance Section explained that the recent changes to the report format were made at the request of the CBF to report using the schedule 6 and 7 formats. Regarding information related to PSC, they clarified that PSC is not a type of trust fund and inclusion of the PSC in the trust funds schedules would distort the tie to the revenue note 15 of the statement, because voluntary contributions are recognized as revenue when received by trust funds. In contrast, PSC revenue is earned based on the direct expenses of trust funds and is equal to the PSC charges (expenses) of those funds. As a result, the PSC amounts offset each other in the financial statements. However, the Finance Section also indicated that they would consider including this information in the schedules with an added footnote explaining any reconciling differences with the financial statements.

Recommendation 9: The External Auditor recommends that the Court implement the following measures regarding reporting on trust funds:

- 1) Enhance the visibility of newly established and closed trust funds in the financial statements and the *Report on Activities and Programme Performance of the ICC* by clearly distinguishing them from ongoing funds—for example, by marking them or listing them under separate headings—so that such changes can be easily identified without the need to compare with previous reports;
- 2) Clearly distinguish extrabudgetary accounts that are not trust funds from trust funds in reporting;
- 3) Include detailed account information by trust fund and PSC in the *Report on Activities and Programme Performance of the ICC* to enable States Parties to gain a more comprehensive understanding of the financial and operational status of each fund.

3.2. KPI-Based Performance Evaluation

157. According to Financial Regulation 3.3, the budget narrative shall set out concrete objectives, expected results, and KPIs for the financial period. The Registrar shall monitor the achievement of these objectives and service delivery during the financial period, and report in the context of the next proposed budget on actual performance attained.

158. For the regular budget, the Court presents clear objectives, expected results, and KPIs, and provides annual reports to the ASP on implementation performance and progress toward objectives, supporting enhanced accountability and transparency in regular budget management.

159. Trust funds which are financed through voluntary contributions are not subject to regulations setting out the application of KPIs, as is the case for the regular budget.

160. Voluntary contributions, which form the resource base of trust funds, have increased significantly from €1,416 thousand (accounting for 1.0% of the Court’s total revenue in 2020) to €15,409 thousand (representing 7.8% of total revenue in 2024), reflecting a nearly tenfold rise. Given this scale, introducing KPI-based performance evaluation for each trust fund could contribute to ensuring that a substantial portion of the Court’s overall expenditures is systematically evaluated for effectiveness.

161. To further support transparency and efficiency in trust fund operations, it may be beneficial for the Court to develop SMART(Specific, Measurable, Achievable, Relevant, Time-bound)⁵² KPIs that assess the achievement of fund objectives and operational results. Evaluating performance against such indicators and systematically reporting communicating the outcomes internally and externally could offer additional insights for stakeholders.

162. For reference, the EU has introduced a KPI-based “Results Framework” to assess the performance of its trust funds, which has been applied, for example, to the “Regional Trust Fund in Response to the Syrian Crisis”. As shown in the table below, many international organizations, such as the EU and the UN, use specific and measurable KPIs to assess trust fund operations and publicly share their findings.

⁵² The SMART framework (Specific, Measurable, Achievable, Relevant, Time-bound) was first introduced by George T. Doran in his article “*There’s a S.M.A.R.T. Way to Write Management’s Goals and Objectives*” published in the November 1981 issue of *Management Review*.

Table 34: KPI-Based Evaluation of Trust Fund Operations (EU, UN)

Trust fund	KPI usage examples
EU Regional Trust Fund in Response to the Syrian Crisis (12th Results report, September 2024)	<ul style="list-style-type: none"> ▪ Objective: To help refugees thrive, not just survive, and thus foster their reliance and to assist the host countries and communities and alleviate their most pressing needs ▪ Category: Access to services (Target value: 889,933 persons) ▪ Indicators: <ol style="list-style-type: none"> ① Number of children whose registration fees for public formal education are subsidized ② Number of children receiving school supplies ③ Number of children benefiting from non-formal education and learning support programmes
UN Trust Fund to End Violence against Women (Annual report, June 2024)	<ul style="list-style-type: none"> ▪ Objective: To eradicate all forms of violence against women and girls ▪ Sector: People indicators ▪ Indicators: <ol style="list-style-type: none"> ① Total number of people benefiting from involved as partners in or reached overall by UN Trust Fund grantee projects (Target value: More than 100 million persons) ② Number of women and girls directly benefiting or involved as primary partners in UN Trust Fund grantee projects (Target value: 1.25 million persons) ③ Number of secondary beneficiaries or people involved as partners in UN Trust Fund grantee projects (Target value: 3.75 million persons) ④ Number of people indirectly benefiting or reached in UN Trust Fund grantee projects (Target value: 95 million persons) ⑤ Number of women and girls benefiting, involved as partners or reached overall by UN Trust Fund grantee projects (Target value: 51% or more of the total in indicator 1)

Source: Official websites of EU Regional Trust Fund in Response to the Syrian and UN Trust Fund to End Violence against Women

163. The External Auditor reviewed whether a KPI-based performance evaluation system had been established at the Court to systematically assess the achievement of objectives across all trust funds during the audit period. The review observed that for some trust funds, KPI-based performance evaluations are conducted in accordance with donor requirements or the internal criteria of the implementing units, and the results are reported to the donors.

164. For example, in the case of the Building Legal Expertise and Fostering Cooperation fund (T010), KPI-based performance evaluations are conducted for the voluntary contributions from a donor at the donor's request, and the results are reported to the donor accordingly. In addition, for the ICC Country Office CAR – Access to Justice Program fund (T302), KPI-based performance evaluations are conducted according to the internal criteria of the implementing office and reported to the donor. These practices appear to support efficient and cost-effective fund management.

KPI usage examples (as reported to the UK in 2023)

- Output Title: Reinforcement of due process (Human Rights of the accused in the CAR Cases)
- Milestones: **8 Family members'** visits to the ICC Detention Centre
- Progress: Funds were committed to **6 family members**

165. Given the growing scale of trust funds, the Court may consider expanding the KPI-based performance evaluations⁵³ that are already being implemented based on donor requirements or internal standards of implementing units, and establishing a KPI-based performance evaluation system applicable to all trust funds. Such a system would contribute to greater transparency and accountability in the management of trust funds.

Finding: For some funds such as the Building Legal Expertise and Fostering Cooperation fund (T010) and the ICC Country Office CAR – Access to Justice Program fund (T302), KPI-based performance evaluations are carried out following donor requirements or internal standards of implementing units. These practices appear to support efficient and cost-effective fund management.

Recommendation 10: The External Auditor recommends that, in order to enhance the efficiency and cost-effectiveness of trust fund management, the Court expand the use of existing trust fund cases where Key Performance Indicators (KPIs) are already applied.

3.3. Management of Unspent Balances After Closure

166. According to Financial Rule 106.1, voluntary contributions to trust funds remaining unexpended after the related activities of the Court are financially completed shall be disposed of by the Court in accordance with the agreement under which the contribution was made. Furthermore, paragraph 5.12 of the TF Guideline indicates that in respect of a trust fund which by its terms of reference or by the terms of a special agreement provides for the disposition of any remaining balance, the Registrar or his authorized delegate shall ensure that such provisions are carried out at the time the fund is closed.

167. For time-limited trust funds, in cases where no detailed agreement exists on the handling of unspent balances, there is a possibility that funds may remain open even after the planned operational period, as the Court would need to resolve such balances before formal closure can be considered.

168. To promote efficient management, it could be valuable for the Court, when concluding agreements with donors, to include provisions specifying that, in principle, unspent balances after the end of the fund's operational period will be resolved through consultation with the donor. For exceptional situations, such as the absence of a donor response despite continued efforts, it may be considered appropriate for the agreement to include explicit provisions on the Court's authority to directly address such balances.

169. As part of the audit, the External Auditor reviewed the status of trust funds as of December 2024 and noted that the 20th Anniversary of the Rome Statute fund (T301), which was intended to operate from 1 July to 31 December 2018, still holds an unspent balance of €5,463. Despite the fund's operational period having ended six years ago, it has remained open, with the balance carried forward each year.⁵⁴

170. Including provisions in future agreements regarding the handling of unspent balances, particularly where ongoing donor consultations do not result in resolution, could help avoid situations where funds continue without active use and formal closure remains pending.

⁵³ This system should include SMART KPIs designed to enhance efficiency and cost effectiveness based on the specific characteristics of each trust fund, as well as procedures for reporting performance evaluation results to external stakeholders such as the ASP.

⁵⁴ In this regard, the Court explained that it inquired with the donor in March 2023 about the possibility of reallocating the unspent balances, but as no response has been received from the donor to date, the trust fund has not yet been closed.

Finding: The 20th Anniversary of the Rome Statute fund (T301), whose operational period concluded in 2018, retains an unspent balance of €5,463 and has remained open for six years following the conclusion of activities due to the lack of response of one of the donors on the unspent funds.

Recommendation 11: The External Auditor recommends the Court to consider including, in future agreements, provisions that clarify the handling of unspent balances after the operational period, particularly where donor consultation proves difficult, to facilitate the effective closure of trust funds.

VI. Conclusion

171. The External Auditor conducted an audit of the Court's management of trust funds, taking into account their growing scale. The purpose of this audit was to assess whether the trust funds were being managed efficiently and appropriately, in order to provide relevant information to support States Parties in their decision-making on voluntary contributions and in exercising proper oversight over the trust funds. During the audit, the External Auditor observed that the Court has made efforts to manage a diverse range of trust funds within an administrative and legal framework. At the same time, the audit identified several areas needing improvement, including the appropriateness of the fund establishment process, cost planning and expenditures (including PSC), and reporting, evaluation, and closure processes. The External Auditor expresses appreciation for the cooperation of the Court's staff during the audit and hopes that the findings and recommendations in this report will contribute to strengthening the Court's trust fund management framework and support the effective implementation of the Court's mandate.

VII. Acknowledgements

172. The External Auditor wishes to extend his sincere appreciation to the staff members involved in the management of the trust funds from the Judiciary, OTP, and from the Registry — namely DMS, DJS, and DEO — as well as SASP, and to all other individuals who provided relevant assistance, for the cooperation and support demonstrated during the audit.

Appendix 1

Table 35: Newly Established ICC Trust Funds in the Past 10 Years

No	Trust fund	Establishment	closure	SAP code
1	Junior Professional Officer Programme	2015	In operation	T310
2	Building Legal Expertise and Fostering Cooperation	2015	2016	T004
3	Building Legal Expertise and Fostering Cooperation	2016	2017	T005
4	Launch Event OTP Policy on Children	2016	2017	T206
5	Building Legal Expertise and Fostering Cooperation	2017	2018	T006
6	Lessons Learned Project	2017	2018	T207
7	Access to Justice and Law Enforcement, CO-UGA,	2017	2022	T306-2017
8	Development of Interns and Visiting Professionals	2017	In operation	T303
9	Building Legal Expertise and Fostering Cooperation	2018	2019	T007
10	20 th Anniversary of the Rome Statute	2018	In operation	T301
11	Building Legal Expertise and Fostering Cooperation	2019	In operation	T008
12	ICC CO-CAR Access to Justice Program	2019	2021	T302-2019
13	Opening of Judicial Year and Judicial Seminar	2020	2020	T102
14	Building Legal Expertise and Fostering Cooperation	2020	In operation	T009
15	Building Legal Expertise and Fostering Cooperation	2022	In operation	T010
16	French Language and OIF	2020	In operation	T103
17	Cooperation ICC-KRSJI	2020	In operation	T208
18	Cooperation ICC-CILC	2020	In operation	T209
19	LDC Travel – Nominations of Judges	2020	In operation	T400
20	Technological Enhancement and Specialized Capacity	2022	In operation	T210
21	ICC Country Office CAR – Access to Justice Program	2022	In operation	T302-2022
22	Geographical Diversity	2023	In operation	T211
23	Special Fund for Security	2023	In operation	T305
24	OTP Cooperation and Complementarity	2024	In operation	T212
25	Access to Justice Project of the Country Office, Uganda	2024	In operation	T306-2024

Source: External Auditor on the basis of data submitted by the Court

Table 36: ICC Trust Funds Closed in the Past 10 Years

No	Trust fund	Establishment	Closure	SAP code
1	Building Legal Expertise and Fostering Cooperation	2013	2015	T003
2	Building Legal Expertise and Fostering Cooperation	2015	2016	T004
3	Building Legal Expertise and Fostering Cooperation	2016	2017	T005
4	Launch Event OTP Policy on Children	2016	2017	T206
5	Regional Seminar (Cambodia)	2013	2017	T308-1301
6	Building Legal Expertise and Fostering Cooperation	2017	2018	T006
7	Lessons Learned Project	2017	2018	T207
8	Building Legal Expertise and Fostering Cooperation	2018	2019	T007
9	Seminar of Focal Points for Judicial Cooperation	2014	2019	T308-2014
10	Opening of Judicial Year and Judicial Seminar	2020	2020	T102
11	ICC CO-CAR Access to Justice Program	2019	2021	T302
12	Access to Justice and Law Enforcement, CO-UGA,	2017	2022	T306-2017

Source: External Auditor on the basis of data submitted by the Court

Appendix 2

**Table 37: Financial Flows of Audited Trust Funds Over the Past 5 Years
(2020–2024)**

SAP code	Trust fund (period)	Financial year	Balance brought forward	Contribution recorded	Expenses	Donor refunds	Balance carried forward
T000	General Trust Fund (2002+)	2020	10,669	2,094	2,094		10,669
		2021	10,669				10,669
		2022	10,669	341,200	341,160		10,709
		2023	10,709	398			11,107
		2024	11,107	304,195	300,000		15,302
T008	Building Legal Expertise and Fostering Cooperation (2019-2020)	2020		711,614	417,742	293,872	
		2021					
		2022					
		2023			(1,073)	1,073	
T009	Building Legal Expertise and Fostering Cooperation (2020-2024)	2020		175,507	175,507		
		2021		640,054	490,054		150,000
		2022	150,000	366,092	456,034		60,058
		2023	60,058	90,542	8,372		142,228
		2024	142,228	3,694	29,200		116,722
T010	Building Legal Expertise and Fostering Cooperation (2022-2025)	2022		488,605	488,570		35
		2023	35	893,427	890,529		2,933
		2024	2,933	773,753	689,930		86,756
T103	French Language and OIF (2020+)	2020		5,341	5,341		
		2021					
		2022		1,464	1,464		
		2023		19,715	19,715		
		2024		24,775	24,525		250
T208	Cooperation ICC-KRSJI (2020+)	2020					
		2021		964	964		
		2022					
		2023					
		2024		16,659	16,659		
T209	Cooperation ICC-CILC (2020+)	2020		3,427	3,427		
		2021					
		2022		2,101	2,101		
		2023		14,305	14,305		
		2024					

SAP code	Trust fund (period)	Financial year	Balance brought forward	Contribution recorded	Expenses	Donor refunds	Balance carried forward
T210	Technological Enhancement and Specialized Capacity (2022-2027)	2022		5,984,846	948,370		5,036,476
		2023	5,036,476	18,522,692	3,923,397		19,635,771
		2024	19,635,771	8,382,712	9,885,626		18,132,857
T211	Geographical Diversity (2023-2028)	2023					
		2024		19,015			19,015
T212	OTP Cooperation and Complementarity (2024-2028)	2024		313,651	107,808		205,843
T301	20th Anniversary of the Rome Statute (2018)	2020	10,152			3,875	6,277
		2021	6,277				6,277
		2022	6,277	2			6,279
		2023	6,279	(960)			5,319
		2024	5,319	144			5,463
T302	ICC Country Office CAR – Access to Justice Program (2022+)	2020			(114)	114	
		2021					
		2022					
		2023		35,502	31,569	3,933	
		2024		27,282	22,503		4,779
T303	Development of Interns and Visiting Professionals (2017+)	2020	32,642	14,662			47,304
		2021	47,304	15,217	6,216		56,305
		2022	56,305	224,377	38,898		241,784
		2023	241,784	81,919	122,841		200,862
		2024	200,862	60,062	119,632		141,292
T305	Special Fund for Security (2023-2025)	2023		510,000			510,000
		2024	510,000	2,134,877	473,342		2,171,535
T306	Access to Justice Project of the Country Office, Uganda (2024-2025)	2024		137,610	137,610		
T307	Special Fund for Relocations (2010+)	2020	1,906,646	125,000	180,254		1,851,392
		2021	1,851,392	130,000	154,766		1,826,626
		2022	1,826,626	416,166	580,722		1,662,070
		2023	1,662,070	142,072	96,000		1,708,142
		2024	1,708,142	657,722	236,673		2,129,191
T309	Family Visits for Indigent Detainees (2011+)	2020	17,309	39,274	2,984		53,599
		2021	53,599	35,300	16,936		71,963
		2022	71,963	134,549	52,070		154,442
		2023	154,442	82,336	54,360		182,418
		2024	182,418	58,620	7,354		233,684

SAP code	Trust fund (period)	Financial year	Balance brought forward	Contribution recorded	Expenses	Donor refunds	Balance carried forward
T310	Junior Professional Officer Programme (2015+)	2020		301,339	301,339		-
		2021		1,086,406	426,992		659,414
		2022	659,414	716,105	632,965		742,554
		2023	742,554	1,734,548	840,757		1,636,345
		2024	1,636,345	2,487,678	1,309,248	43,785	2,770,990
T400	Least Developed Countries (2004+)	2020	33,391	10,000	(5,001)		48,392
		2021	48,392				48,392
		2022	48,392	12,532	40,241		20,683
		2023	20,683	137	17,062		3,758
		2024	3,758	64	2,424		1,398
T402	LDC Travel – Nominations of Judges (2020+)	2020					
		2021					
		2022					
		2023					
		2024					
STEC	Sponsored Travel to External Conferences (2018+)	2020		24,140	24,140		
		2021					
		2022		1,279	1,279		
		2023		19,670	19,670		
		2024		6,117	6,117		

Source: External Auditor on the basis of data submitted by the Court

Appendix 3

Opinion of the Court on the External Auditor's Findings and Recommendations of the Final Version

Finding: The General Trust Fund (T000) has been operated without a clearly defined purpose and has been used for a variety of functions, including supplementing the regular budget, covering one-off expenditures, and temporarily holding contributions intended for another trust fund pending its establishment. In some cases, contributions were held on a long-term basis where the purpose was either unspecified or no longer applicable.

Recommendation 1: The External Auditor recommends that the Court improve the management of trust funds by clearly redefining the purpose of the General Trust Fund (T000) in line with its current operational practices, and ensure that any future trust funds are established and managed with a clearly defined purpose from the outset.

Response and Observations by the Court:

The Court agrees with the recommendation and will formalize the establishment document to clarify the role and the function of the General Trust Fund T000.

However, the Court notes the auditor's view provided in Appendix 4 that "the establishment and operation of the above-mentioned funds [T208, T209] may be permissible under this provision."

In this regard, the Court would like to clarify that the establishment of a trust fund for the specific purpose of management and provision of other support services by the ICC is expressly provided for in Financial Rule 110.9. There is no indication therein that the establishment and operation of the funds under this provision to be of an exceptional basis.

Finding: The following findings 1), 2), and 3) are based on a procedural and formal review of the measures put in place by the Court to safeguard its independence. They do not indicate that any actual impairment of the Court's independence has been identified.

- 1) Donor declarations had not been submitted, and in some cases, neither the agreements nor the letters submitted by donors contained clauses safeguarding the Court's independence.
- 2) The independence safeguard clauses in the Court's agreement template were found to be limited in scope, and the extent of safeguards varied across donors and agreements. The reviewed clauses included affirming the Court's internal systems of accounting, internal control, and audit; limiting the safeguard to the Court's reporting activities to the donor; ensuring non-interference in the implementation of trust fund objectives; and broader assurances covering the independence of the Court and the OTP as a whole. These clauses were inconsistent and lacked uniformity.
- 3) The Court has not established specific or objective criteria to assess whether a proposed contribution may affect its independence during the process of establishing trust funds and accepting contributions.

Recommendation 2: The External Auditor recommends that the Court implement the following measures:

- 1) Establish a standardized procedure whereby all donors, at the time of trust fund establishment, are required either to submit a declaration explicitly stating that the contribution does not affect the independence of the Court, or to include consistent independence safeguard clause in the contribution agreements concluded with the donors;
- 2) Review the independence safeguard clause in the Court's standard agreement template to ensure that the scope of such safeguards does not vary across trust funds or donors, and, if necessary, expand its coverage so that it applies to all activities funded through the trust funds;
- 3) Develop formal criteria to enable the Registrar to make consistent determinations as to whether a proposed contribution may affect the independence of the Court at the time of acceptance.

Response and Observations by the Court:

The Court reiterates its commitment to ensuring that voluntary contributions do not affect its independence, in line with ASP Resolution ICC-ASP/1/Res.11 and Financial Regulation 7.2.

In response to audit observations, the Court agrees to:

1. Develop a donor declaration template affirming contributions do not impact the Court's independence;
2. Revise standard agreements to include this attestation directly therein;
3. Establish an inter-organ working group to define criteria for assessing whether voluntary contributions affect the independence of the Court.

The Court, notes that even where explicit declarations are not separately obtained or included in the arrangements concluded with the donors, independence is always a legal precondition for accepting any voluntary contribution, and this safeguard is applied throughout the contribution's lifecycle.

The absence of a separate declaration and the non-inclusion of that requirement in some of the arrangements do not mean, in any way or form, that the voluntary contribution can affect the independence of the Court. As provided for in Financial Regulation 7.2, voluntary contributions ‘may only be accepted by the Registrar, provided they are consistent with the nature and functions of the Court and the criteria to be adopted by the Assembly of States Parties on the subject.’ Such criterion is that the voluntary contribution ‘will not affect the independence of the Court,’ as established in ASP Resolution ICC-ASP/1/Res.11. Both the Financial Regulations and Rules and the ASP Resolutions are legally binding and shall apply to all trust funds established by the Registrar and to the voluntary contributions made in connection thereto.

In light of the foregoing, it is concluded that the assessment on whether the voluntary contribution meets that core requirement – which is an integral part to any trust fund – is to be conducted before its acceptance. As a result, the acceptance of the voluntary contribution would entail an acceptance on the side of the donor of that same requirement. Furthermore, it is noted that the Court shall ensure full adherence to such requirement throughout the implementation process of the financed activities and the management of the trust fund.

Finding: Regarding the financial implications of trust fund establishment on the regular budget, the following key issues were identified:

- 1) There were no specific criteria for assessing financial implications.
- 2) The current establishment proposal form does not require explaining the rationale when there are no financial implications.
- 3) Although a fund was assessed as having “no financial implications” at the time of establishment, additional use of the regular budget occurred during its operation.

Recommendation 3: The External Auditor recommends that the Court implement the following measures to enhance the objectivity and transparency of financial implication assessments of trust funds for the regular budget:

- 1) Establish clear criteria to enable consistent assessment of financial implications for the regular budget;
- 2) Revise the trust fund establishment proposal form, based on the above criteria, to require that the rationale for a “no financial implications” assessment be explicitly documented;
- 3) Establish internal control mechanisms to prevent additional use of the regular budget during trust fund operations, and, in cases where financial implication is unavoidable, implement procedures for retrospective reporting to the ASP.

Response and Observations by the Court:

1. The Court agrees to formalize the criteria for assessment of financial impact.
2. The Court accepts that an explicitly documented assessment to form a part of the Trust Fund Establishment Form. Several functions and sections in the different organs of the Court evaluate whether trust funds have any impact on the regular budget before the trust fund is established. By signing the Trust Fund Establishment Form, the managers in charge of the functions confirm that the assessment from their perspective has taken place, however those are not formalized.
3. The Court partially agrees with this point. The Court will formalize a standard operating procedure on decisions to resort to the regular budget, as an exception, such as unavoidable costs and will report such occurrence to the ASP through the Programme Performance Report.

As clarified by the implementing office, a decision on the use of the regular budget funds for the higher DSA and the business class differentials (corresponding to €9,642 or 0.3% of the Trust Fund) for the travel of the elected officials was documented and was in compliance with the internal control framework.

Finding: Some trust funds did not prepare cost plans for all or part of their contributions due to reasons such as small fund size, absence of expenditure deadlines, and difficulty in cost forecasting. As a result, there were cases of operational imbalances, including fund depletion in certain years and excessive carry-forwards in others.

Recommendation 4: The External Auditor recommends that the Court ensure thorough preparation and management of trust fund cost plans to prevent any instances where cost plans are not established without reasonable justification.

Response and Observations by the Court:

The Court agrees that the cost plans are to be in place for all trust funds except where there is a high degree of uncertainty, impacting reliability of cost forecasts. The Court will formalize the assessment for reasonable justification where such cost plans cannot be prepared.

Finding: Due to insufficient provision of trust fund information that is linked or related to the regular budget at the time of the ASP's approval of the Court's PPB, there are limitations in comprehensively understanding the overall resource situation and conducting a more accurate review of the PPB.

Recommendation 5: The External Auditor recommends that the Court establish measures to ensure that financial information on trust funds is adequately provided during the review process of the *Proposed Programme Budget* (PPB), enabling the ASP to make more comprehensive and accurate assessments when deliberating and approving the PPB.

Response and Observations by the Court:

The Court notes that the Auditor's finding and related recommendation stem from an interpretation of the relevant legal framework that, in the Court's views, is not fully accurate, therefore disagrees with this recommendation.

The Court remains committed to continue providing information on existing trust funds to governing bodies, including through ad hoc reports. Both narrative and financial information on the trust funds, including revenue, expenses and fund balances at a detailed level of contributors to each trust Fund are (already) provided through the financial statements as well as included in the Programme Performance report (PPR). The Court will further supplement this information with additional narrative, to include implementing office and agreed amount of overhead to be charged against each trust fund, as per the CBF recommendation ICC-ASP/18/15. While the Court supports information-sharing with governing bodies, it does not agree that replicating trust fund data, included in the PPR, in the Proposed Programme Budget (PPB) would add value. Such information is not relevant to the activities funded through assessed contributions. Exceptional cases where voluntary contributions have a potential impact on the regular budget needs (e.g., Host State support for ASP), are appropriately disclosed.

The ICC's legal and financial framework establishes a clear distinction between the regular budget, which is funded through assessed contributions, and voluntary contributions, which are intended to finance additional activities in supplement of, but not directly contributing to, the Court's core mandate. This separation is rooted in Articles 115 and 116 of the Rome Statute, the Financial Regulations and Rules (Regulations 6.5, 7.2, 7.3), and reinforced by ASP Resolution ICC-ASP/1/Res.11 and Presidential Directive ICC/PRESG/2020/002.

Articles 115 and 116 of the Rome Statute distinguish the regular budget of the Court from the voluntary contributions. In essence, those articles state that the regular budget of the Court shall be funded through assessed contributions, and that voluntary contributions are without prejudice to the regular budget and for additional funds.

This distinction between the regular budget and the activities funded from voluntary contributions was outlined in the Report of the Court on its guidelines for the receipt and expenditure of voluntary contributions and extra-budgetary resources (CBF/33/6):

“Regular budget funds are a fundamental resource reserved for the implementation of the Court's programmes and institutional mandates (...) Voluntary contributions will continue to be the main source of funding for programmes and activities which are considered to supplement rather than contribute directly to the discharge of the Court's core mandate”

The Court is also of the view that the interpretation given by the External Auditor to Financial Rule 103.3 concerning the scope of “estimated income” is not consistent with the rationale of

the provision in question. In the absence of a specific and codified definition of “estimated income” in the Financial Regulations and Rules, it is essential to focus on the ordinary meaning that such terms have in the context of the provision in which it is integrated. The Court considers that the inclusion, in particular, of the term “estimated” in Financial Rule 103.3(a)(iii) aimed to provide the ASP with an overview of the Court’s funds for the upcoming financial period that can be reasonably foreseen at the time of the budget preparation. However, the Court is not in a position to provide information on the estimated voluntary contributions income related to the future financial period, as such determination falls outside the sphere of influence of the Court. Therefore any 'forecast', potentially vastly inaccurate, amounts of such income that the Court would provide could likely skew the judgement of the readers rather than provide a useful and reliable information for the decision-making.

The Court would like to further respond to the examples of the staff and travel expenses under trust funds which, according to the auditor, are “not disclosed”. The Court would respectfully disagree with this statement. The expenses correctly reported under respective trust funds in all reports issued by the Court – financial statements, programme performance report, reports to donors etc. The expenses referred to by the auditor are direct and indirect costs of implementing trust fund projects. As an illustration, the very first example in the Table 18 Associate Programme Officer is a project manager position – a direct cost for the EU Support Project funded by the European Union contribution. From the same table, a Human Resources Assistant funded from Programme Support Cost account (TPSF) is part of the JPO coordination team providing administrative support to the trust fund - Junior Professional Officer Programme, and represents an indirect cost to the voluntary contributions funded project. Further, travel expenses of judges under the EU Support Project are also appropriately accounted for and reported under the respective trust fund expenses. The term “similar to those funded by the regular budget” used by the auditor for the trips planned and undertaken by the judges under the agreed EU action – Seminars, Events and Trainings (SET) for fostering cooperation, sharing expertise and building national capacity, is not clear to the Court, and is not relevant to the conclusion offered by the auditor.

In conclusion, the Court’s reporting on voluntary contributions is aligned with legal requirements, responsive to CBF guidance, and structured to maintain both accountability and institutional independence.

Finding: A review identified nine instances (three in 2023 and six in 2024) where the Court initially charged programme expenditures to the regular budget or other funds, rather than using contributions from the respective trust funds. These expenditures were subsequently reclassified to the appropriate trust funds at a later stage.

Recommendation 6: The External Auditor recommends that the Court implement internal control measures to help ensure that, except in unavoidable circumstances, programme expenditures related to trust funds are charged directly to the respective trust fund contributions, rather than relying on the regular budget.

Response and Observations by the Court:

The Court accepts the recommendation to implement internal control measures to help ensure that, except in unavoidable circumstances, programme expenditure related to trust funds are charged directly to the respective trust fund contributions.

Finding: The Court has not established clear criteria or review procedures for applying PSC waivers or reductions, particularly for assessing their financial implications for the regular budget.

Recommendation 7: The External Auditor recommends that the Court establish clear and objective criteria for the application of PSC waivers or reductions, including procedures for analyzing the financial implications for the regular budget.

Response and Observations by the Court:

The Court agrees with the recommendation and accepts to implement by expanding the PSC guidelines through revising the AI on the Establishment of Trust Funds

Finding: The Court has been allocating PSC primarily to personnel expenses (STA, GTA) and related costs for staff involved in trust fund activities in only three of the several sections engaged in such activities, without a formal policy governing its allocation. In addition, unused PSC balances have been carried forward, with their amounts steadily increasing.

Recommendation 8: The External Auditor recommends that the Court establish a PSC management system, including reasonable allocation criteria consistent with the definition of PSC, to ensure that indirect costs arising from trust funds are not passed on to the regular budget.

Response and Observations by the Court:

The Court recognizes the need to have the PSC allocation criteria and a policy to address exceptional cases where the PSC rate is not enough to cover indirect costs arising from implementation of trust funds.

The implementation of activities financed by voluntary contributions received by the Court in Trust Funds (TF) is done by following the same rules and administrative processes used for assessed contributions. Planning is required, particularly if the volume of activities and the financial resources involved impact the ability of the Court's operational departments and corporate services to lead and support implementation respectively noting that some TF's activities may result in increasing the productivity of the main beneficiary of such activities it becomes important to:

- (a) determine if the implementation of the TF's activities triggers a temporary (one-off) increase of the workload supported by the corporate service or;
- (b) there will be a increased workload in the foreseeable future, which should be addressed through the regular budget as such increased workload will continue beyond the closure of the TF.

In the light of recent years' developments in the use of TFs, and considering the size and the scope of the activities financed by voluntary contributions, internal discussions have been held to identify the best approach to ensure smooth implementation of both regular budget and TFs activities. There is common understanding on the following:

- The Registry, as Court-wide service provider, provides most of the corporate services, such as finance, recruitment and procurement, needed for the implementation of the TF's activities.
- It is more efficient for TF's Implementing Offices to leverage on the Registry's existing corporate services capacity instead of building their own capacity to support TF's implementation plans
- The Organ or Office implementing the TF is on the lead in planning all activities financed through voluntary contributions and shall provide updated multi-year implementation plans with an indication of the resources involved well ahead of time (and no later than end of Q4) to the Registry
- The Registry shall assess the capacity needed to support implementation, determine any capacity gaps and (if any) communicate it to the Organ or Office implementing the TF
- the Organ or Office owning the TF owns the PSC accrued yearly following the implementation of planned activities;

- the Organ or Office owning the TF and the PSC should provide the Registry with the necessary capacity needed to support the TFs' implementation.
- Alternatively, the Registry would have to request this additional capacity through the regular budget.

Finding:

- 1) The Court has taken steps to meet its reporting obligations to the ASP through schedules in the financial statements, the Programme Performance Report, ASP and CBF presentations, and ad hoc reports. However, new funds are listed alongside existing ones without distinction, and closed funds are removed without explanation, making it difficult to identify such changes without reviewing prior-year reports.
- 2) Although the STEC fund is classified as an extrabudgetary resource other than trust fund, it was reported as a trust fund in schedule 7 of the Court's financial statements.
- 3) The Programme Performance Report annually submitted by the Court to the ASP lacked detailed financial information by fund, including PSC, thereby making it difficult for States Parties to fully understand each fund's activities and financial management.

Recommendation 9: The External Auditor recommends that the Court implement the following measures regarding reporting on trust funds:

- 1) Enhance the visibility of newly established and closed trust funds in the financial statements and the *Report on Activities and Programme Performance of the ICC* by clearly distinguishing them from ongoing funds—for example, by marking them or listing them under separate headings—so that such changes can be easily identified without the need to compare with previous reports;
- 2) Clearly distinguish extrabudgetary accounts that are not trust funds from trust funds in reporting;
- 3) Include detailed account information by trust fund and PSC in the *Report on Activities and Programme Performance of the ICC* to enable States Parties to gain a more comprehensive understanding of the financial and operational status of each fund.

Response and Observations by the Court:

The Court respectfully notes that the flowchart in the Table 30 does not accurately reflect the Financial framework, as explained below.

The reference to the Financial rule 103.3, in connection to the reporting requirement on estimated voluntary contributions income and the budget narrative, is based on the interpretation given by the External Auditor to Financial Rule 103.3 concerning the scope of “estimated income” which is not consistent with the rationale of the provision in question. In the absence of a specific and codified definition of “estimated income” in the Financial Regulations and Rules, it is essential to focus on the ordinary meaning that such terms have in the context of the provision in which it is integrated. The Court considers that the inclusion, in particular, of the term “estimated” in Financial Rule 103.3(a)(iii) aimed to provide the ASP with an overview of the Court's funds for the upcoming financial period that can be reasonably foreseen at the time of the budget preparation. However, the Court is not in a position to provide information on the estimated voluntary contributions income related to the future financial period, as such determination falls outside the sphere of influence of the Court. Therefore any 'forecast', potentially vastly inaccurate, amounts of such income that the Court would provide could likely skew the judgement of the readers rather than provide a useful and reliable information for the decision-making.

However, it should be noted that the Court provides both narrative and financial information on the purpose and performance of each trust fund to the CBF and to the ASP during the

meetings of the CBF, the HWG and the ASP. The information is provided in presentations during the meetings, through the detailed schedules in the Financial Statements, as well as through the Programme Performance Report, and several ad hoc reports every year.

The Court is in full compliance with the regulatory provisions in relation to the reporting requirements on the Trust Funds, however the Court agrees to:

1. Mark newly established and closed Trust Funds in the schedules to the financial statements to distinguishing them from ongoing funds.
2. Clearly distinguish in the schedules to the financial statements the extrabudgetary accounts which are not Trust Funds.
3. Noting that the detailed information on Trust Funds is already included in the annual Reports on Activities and Programme Performance of the ICC, the Court accepts to, include the information on the PSC account in addition to the Trust Funds.

Finding: For some funds such as the Building Legal Expertise and Fostering Cooperation fund (T010) and the ICC Country Office CAR – Access to Justice Program fund (T302), KPI-based performance evaluations are carried out following donor requirements or internal standards of implementing units. These practices appear to support efficient and cost-effective fund management.

Recommendation 10: The External Auditor recommends that, in order to enhance the efficiency and cost-effectiveness of trust fund management, the Court expand the use of existing trust fund cases where Key Performance Indicators (KPIs) are already applied.

Response and Observations by the Court:

KPI-based performance evaluations are conducted in many instances already, in compliance with the donor agreements. Introducing KPI-based evaluation to all trust funds of the Court, some of which are short-term and of a smaller scale, would increase an administrative burden and would not be in line with the efficient and cost-effective approach to the administration of the trust funds. Therefore, the Court considers this recommendation implemented.

Finding: The 20th Anniversary of the Rome Statute fund (T301), whose operational period concluded in 2018, retains an unspent balance of €5,463 and has remained open for six years following the conclusion of activities due to the lack of response of one of the donors on the unspent funds.

Recommendation 11: The External Auditor recommends the Court to consider including, in future agreements, provisions that clarify the handling of unspent balances after the operational period, particularly where donor consultation proves difficult, to facilitate the effective closure of trust funds.

Response and Observations by the Court:

The Court would respectfully note that the agreements concluded with donors are based on the outcome of negotiations between the parties, and therefore the wording of the provisions, including on disposition of the unspent balances, reflect a common understanding. The Court therefore considers this recommendation implemented.

Appendix 4

Supplementary Opinion of the External Auditor on the ICC Opinion regarding Key Recommendations

Supplementary Opinion of the External Auditor on the ICC Opinion regarding Recommendation 1

T208 and T209 funds operate on a reimbursement basis, whereby the Court first covers the costs of specific services or activities—such as travel expenses and staff costs—using its regular budget, in response to requests from the respective partner institutions. Upon completion of the activities, the Court submits an invoice to the donor institution to recover the actual costs incurred. Accordingly, the contribution recorded in these trust funds represents reimbursement for services rendered to external entities, which show that their nature differs from that of the other trust funds.

Based on Financial Rule 110.9(a), management and other support services may be provided to other international courts or in support of activities in the field of international justice, financed from trust funds or special accounts on a reimbursable, reciprocal, or other basis, provided that such services are consistent with the independence and impartiality of the Court as well as its policies, aims, and activities. Therefore, the establishment and operation of the above-mentioned funds may be permissible under this provision.

Supplementary Opinion of the External Auditor on the ICC Opinion regarding Recommendation 2

The External Auditor draws attention to paragraph 2.1 of the AI/2004/005, which could serve to reinforce the Court's formal independence. A donor declaration in accordance with paragraph 2.1 of the AI/2004/005 would enhance the Court's independence from a formal and procedural perspective, thereby strengthening the confidence of stakeholders, including States Parties, in the Court's commitment to upholding its independence.

In addition, donors to the Court's trust funds include a wide range of entities, including Governments, international organizations, individuals, corporations, and other entities⁵⁵ with diverse backgrounds and interests. It is therefore not possible to assume that all donors uniformly interpret or accept the independence requirement in the same way. In this context, obtaining an explicit and documented commitment from donors – through either a declaration or appropriately worded agreement – may serve to ensure consistent and objective application of the relevant standards, regardless of the donor's identity.

⁵⁵ As mentioned in Article 116 of the *Rome Statute*

Supplementary Opinion of the External Auditor on the ICC Opinion regarding Recommendation 5

In relation to paragraph 97

According to the External Auditor's review, the phrase in Financial Rule 103.3 – “a statement of estimated income, including income classified as miscellaneous in accordance with regulation 7.1” – should be interpreted as referring to a statement that includes not only income classified as miscellaneous under Financial Regulation 7.1, but all estimated income.

A closer examination of the structure, classifications, and definitions within the FRR supports this interpretation. Financial Regulation 3.2 stipulates that the PPB shall include both income and expenditures related to the relevant financial period. Financial Regulation 5.1 further outlines the sources of funding for the Court as follows: (1) assessed contributions, (2) funds provided by the UN, (3) voluntary contributions, and (4) such other funds to which the Court may become entitled or may receive.

In addition, Financial Regulation 7.1 defines “miscellaneous income” as income other than assessed contributions, UN contributions, and voluntary contributions.

Accordingly, taking into account the overall structure, classification framework, and definitions provided in the FRR, it is reasonable to interpret the “estimated income” under Financial Rule 103.3 as encompassing assessed contributions, voluntary contributions, and miscellaneous income.

It should be noted, however, that information related to trust funds, such as estimated income, does not need to be strictly interpreted as requiring presentation in the same programme-based format as that used for regular budget resources. Rather, it is sufficient for such information to be included in the PPB for reference purposes, regardless of the format.

In relation to paragraph 100

The point the External Auditor wishes to emphasize is that the 2019 CBF recommendation called for the inclusion of information related to trust funds “in the PPB.”

However, no information on trust funds was provided in the PPB. Furthermore, the reports cited by the Court as evidence of implementation do not contain key elements referred to in the CBF recommendation – such as the amount of funds available for use in a specific year, the implementing entity, and the agreed overhead to be charged against each fund. Therefore, it may be considered that the recommendation has not been fully addressed in the manner originally intended by the CBF.

In relation to paragraph 101

The External Auditor acknowledges that Articles 115 and 116 of the Rome Statute legally distinguish between the regular budget and voluntary contributions. However, this distinction pertains to the source of funding and the legal nature of the resources, and does not imply that information on voluntary contributions should not be reported during the budget review process. On the contrary, since both funding sources are used in support of the Court's mandate and operations, it is appropriate to provide sufficient information on trust funds during the review and approval of the regular budget to enable efficient resource allocation based on comprehensive and well-informed considerations.
