



Administrative Instruction

Ref. ICC/AI/2023/001

Date: 23 March 2023

PREVENTION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE

The Registrar, with the consent of the President and the Prosecutor, pursuant to Sections 3.2 and 3.3 of [Presidential Directive ICC/PRES/D/G/2003/001 \(“Procedures for the promulgation of administrative issuances”\)](#) and for the purpose of implementing Staff Regulation 1.2 and Staff Rule 101.2 by setting out the policies and procedures for the prevention of sexual exploitation and sexual abuse, hereby promulgates the following:

Section 1

Purpose

- 1.1 The purpose of the present Administrative Instruction is to prevent and appropriately respond to sexual exploitation and sexual abuse. In doing so, the International Criminal Court (“ICC” or “Court”) will ensure that the rights and dignity of the victims of sexual exploitation and sexual abuse are put at the centre of its considerations.
- 1.2 The Court has a zero-tolerance policy on sexual exploitation and sexual abuse. The Court shall not remain silent or passive in the face of reported incidents, regardless of the offender. The Court will actively work to protect and support victims and ensure appropriate accountability for sexual exploitation and sexual abuse as defined below.

Section 2

Definitions

- 2.1 “Sexual exploitation” is any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another person. Sexual exploitation includes transactional sex and solicitation for transactional sex, trafficking and prostitution as well as any kind of exploitative relationships.
- 2.2 “Sexual abuse” is the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Sexual abuse is a broad term which

includes but is not limited to rape, attempted rape, sexual assault, sexual activity with a minor, child pornography, child prostitution, sexual slavery, forced marriage.

- 2.3 “Sexual exploitation and abuse” is sexual exploitation and/or sexual abuse.
- 2.4 “Staff member” is any person holding a letter of appointment under the Staff Rules and/or Regulations.
- 2.5 “Non-staff personnel” are those individuals, other than elected officials, staff members and counsel, performing services in a direct or other agreed relationship with the Court and other than through a letter of appointment under the Staff Rules and/or Regulations, and include consultants, individual contractors, interns and visiting professionals.
- 2.6 “Elected Officials” are the Judges, Prosecutor, Deputy Prosecutors, Registrar and Deputy Registrar.
- 2.7 “Counsel” includes counsel as defined in article 1 of the Code of Professional Conduct for Counsel, legal advisers pursuant to rule 74(10) of the Rules of Procedure and Evidence, and members of their teams.
- 2.8 “Court personnel” are staff members and non-staff personnel.
- 2.9 The “Heads of organ” are the President for the Presidency and Chambers, the Prosecutor for the Office of the Prosecutor, and the Registrar for the Registry as well as the offices administratively linked to the Registry such as the Secretariat of the Assembly of States Parties and the Secretariat of the Trust Fund for Victims.

Section 3 **Scope of Application**

- 3.1 The present Administrative Instruction applies to all Court personnel.
- 3.2 The Court’s Administrative Instruction on [Discrimination, Harassment including Sexual Harassment and Abuse of Authority](#) sets forth policies and procedures for handling cases of sexual harassment at the Court.
- 3.3 Action on suspected sexual exploitation and abuse shall be taken in accordance with the legal regime applicable to the alleged offender. Staff members who are alleged to have engaged in sexual exploitation and abuse may be subject to disciplinary or other administrative action in accordance with the Administrative Instructions on [Investigations of Unsatisfactory Conduct](#), and on [Unsatisfactory Conduct and Disciplinary Proceedings](#). Non-staff personnel who are alleged to have engaged in sexual exploitation and abuse may be subject to action consistent with the terms and conditions of the contract governing their relationship with the Court. Elected Officials who are alleged to have engaged in sexual exploitation and abuse may be subject to disciplinary proceedings in accordance with Articles 46 and 47 of the Rome Statute. Counsel who are alleged to have engaged in sexual exploitation and abuse may be subject to disciplinary proceedings in accordance with the [Code of Professional Conduct for Counsel](#).

- 3.4 The Court's [policy on protection against retaliation](#) applies to the reporting of suspected sexual exploitation and abuse. Any retaliation or adverse action or threat of these actions against an individual who reports sexual exploitation or sexual abuse or who assists in the investigation of such a report may constitute, as applicable, unsatisfactory conduct or serious misconduct within the meaning of Staff Regulation 10.2; a serious misconduct or misconduct pursuant to Articles 46 and 47 of the Rome Statute; a violation of the terms and conditions governing the relationship of the alleged offender with the Court, leading to appropriate action; or a violation of the [Code of Professional Conduct for Counsel](#).
- 3.5 Any person has the right to invoke the applicable procedures provided for in this Administrative Instruction and the Administrative Instruction on [Investigations of Unsatisfactory Conduct](#) without fear of intimidation, discrimination or unfavourable treatment.

Section 4 **Prohibition of Sexual Exploitation and Abuse**

- 4.1 Sexual exploitation and abuse violate universally recognized international legal norms and standards and are unacceptable behaviour.
- 4.2 The following specific norms and standards, which reiterate existing general obligations, apply:
- a) Sexual exploitation and abuse is prohibited and may constitute grounds for disciplinary measures, including summary dismissal;
 - b) Sexual activity with persons under the age of 18 is prohibited regardless of the age of majority or consent locally. Mistaken belief in the age of a person is not a defence;
 - c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading, exploitative or abusive behaviour of a sexual nature, is prohibited. This includes any exchange of assistance that is provided to victims, witnesses or others who are at risk on account of testimony given by such witnesses, as well as to suspects or accused persons;
 - d) Sexual relationships between Court personnel and victims, witnesses, and others who are at risk on account of testimony given by such witnesses, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the Court and are prohibited. For the same reasons, sexual relationships between Court personnel, and suspects or accused persons are prohibited;
 - e) Court personnel who develop concerns or suspicions regarding sexual exploitation and abuse by a person referred to in Sections 2.4 to 2.7 above, have an obligation to report such concerns via established reporting mechanisms;

- f) Court personnel are obliged to create and maintain an environment that prevents sexual exploitation and abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.
- 4.3 The norms and standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, in accordance with the Court's legal framework.

Section 5 **Duties of Heads of Organ**

- 5.1 The Heads of organ, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and abuse, and shall take appropriate measures for this purpose. This includes, *inter alia*, the implementation of reporting mechanisms accessible to all, including victims of sexual exploitation and abuse; the establishment of an awareness programme, including mandatory training for Court personnel; reference checks of external candidates during recruitment processes, prior to appointment or engagement, to verify whether those individuals have a documented history of sexual exploitation and abuse; and a communication campaign towards Counsel, external stakeholders and individuals interacting with the Court within the performance of its mandate. The Registrar or the Prosecutor, as appropriate, shall inform Court personnel of the contents of the present administrative instruction and ensure that this information is accessible to all.
- 5.2 The Registrar or the Prosecutor, as appropriate, shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in Section 4.2 above have been violated or any behaviour referred to in Section 4.3 above has occurred, including by referring the matter to the Independent Oversight Mechanism. Any such action shall be taken in accordance with the Court's legal framework for dealing with cases of unsatisfactory conduct. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved.
- 5.3 The Registrar or the Prosecutor, as appropriate, may use their discretion in enforcing the standard prescribed in Section 4.2 (b), where a staff member is legally married to a person under the age of 18 but over the age of majority or consent in the latter's country of nationality.

Section 6 **Referral to National Authorities**

6. Where an investigation reveals that criminal conduct may have been committed, such a matter may, upon consultation with the competent legal offices within the Court, be referred by the Prosecutor or the Registrar, as appropriate, to the relevant national authorities for possible criminal accountability.

Section 7
Contractors, Suppliers and Partners of the Court

7. The Court shall request that contractors, suppliers and partners adhere to the standards listed in Section 4 and commit to taking adequate action if faced with allegations of sexual exploitation and abuse, and inform them that failure to do so may lead to the termination of contractual arrangements.

Section 8
Final Provision

8. The present Administrative Instruction shall enter into force as of the date of promulgation.



Peter Lewis
Registrar