



Administrative Instruction

Ref. ICC/AI/2024/004

Date: 20 December 2024

TENURE POLICY

The Registrar, with the consent of the President and the Prosecutor, pursuant to sections 3.2 and 3.3 of Presidential Directive on *Procedures for the Promulgation of Administrative Issuances* (ICC/PRES/D/G/2003/001), as well as Resolution ICC-ASP/23/Res.2 adopted by the Assembly of States Parties to the Rome Statute of the International Criminal Court (“ASP”), which sets forth the tenure policy of the Court, and for the purpose of implementing Staff Regulation 4.5(c) and Staff Rules 104.1(b)(vi), 104.2(a)(vii), 104.5*bis* and 104.6(d) and (e), as referred to in the annexes to that resolution, hereby promulgates the following:

Section 1

Purpose

- 1.1 The purpose of this Administrative Instruction is to implement the tenure policy at the Court pursuant to the ASP Resolution ICC-ASP/23/Res.2, and to regulate its impact on other relevant Administrative Instructions.
- 1.2 This Administrative Instruction shall be read in conjunction with all relevant Administrative Instructions, including without limitation the Administrative Instructions on *Performance Appraisal System* (ICC/AI/2019/003), *Classification and Reclassification of Posts* (ICC/AI/2018/002), *Rest and Recuperation* (ICC/AI/2017/002), *Dependency Status and Allowances* (ICC/AI/2016/006/rev.1), *Special Entitlements for Staff Members Serving at Designated Duty Stations* (ICC/AI/2016/005), *Mobility and Hardship Scheme* (ICC/AI/2016/004), *Short-Term Appointments* (ICC/AI/2016/001), *Duration and Extension of Fixed-Term Appointments Against Established Posts* (ICC/AI/2013/005), *Probationary Period and Performance Appraisal* (ICC/AI/2013/004) and *Part-Time Employment of Staff Members* (ICC/AI/2008/006).

- 1.3 In case of conflict, discrepancy, contradiction or inconsistency between any of the Court's Administrative Instructions and this Administrative Instruction, the latter shall prevail, in accordance with section 7.1 of Presidential Directive on *Procedures for the Promulgation of Administrative Issuances* (ICC/PRES/D/G/2003/001).

Section 2 **Definitions**

For the purpose of this Administrative Instruction, the terms below are defined as follows:

- 2.1 "Current Incumbent" means a staff member who holds a fixed-term or short-term appointment, as applicable, to a post at the P-5 grade or in the Director category at the time of entering into force of this Administrative Instruction.
- 2.2 "Downward Mobility" means the downward movement of a staff member, as follows: (a) within the Director category; (b) from a post in the Director category to a post at the P-5 grade or to a Non-Tenured Post; or (c) from a post at the P-5 grade to a Non-Tenured Post.
- 2.3 "Fixed-term appointments" comprise fixed-term appointments funded against established posts and fixed-term appointments funded by General Temporary Assistance (GTA).
- 2.4 "Lateral Mobility" means the movement of a staff member from one Tenured Post to another Tenured Post at the same grade.
- 2.5 "Maximum Aggregate Length of Service" means the total period of seven years pursuant to Staff Regulation 4.5(c), as calculated in accordance with section 3.
- 2.6 "Non-Tenured Post" means any post in the General Services category and at the P-1 , P-2, P-3 and P-4 grades in the Professional category at the Court.
- 2.7 "Tenured Post" means a post at the P-5 grade and at any grade in the Director category at the Court.
- 2.8 "Upward Mobility" means the upward movement of a staff member, as follows: (a) from a Non-Tenured Post to a Tenured Post; (b) from a post at the P-5 grade to a post

in the Director category; and (c) from a lower-graded post in the Director category to a higher-graded post in that same category.

Section 3

Maximum Aggregate Length of Service

- 3.1 Pursuant to Staff Regulation 4.5(a), staff members holding fixed-term and short-term appointments to Tenured Posts are subject to a Maximum Aggregate Length of Service, as follows:
- (a) In case of one or more appointments to the same Tenured Post pursuant to Staff Rule 104.5*bis*(a): the Maximum Aggregate Length of Service corresponds to the total length of service under such appointment(s).
 - (b) In case of Lateral Mobility pursuant to Staff Rule 104.5*bis*(a): the Maximum Aggregate Length of Service corresponds to the total length of service under all appointments to Tenured Posts at the same grade.
 - (c) In case of Upward Mobility pursuant to Staff Rule 104.5*bis*(a)(ii): a Maximum Aggregate Length of Service shall apply to the appointment(s) held by a staff member to Tenured Post(s) at each grade. The Maximum Aggregate Length of Service applicable to the Tenured Post(s) at the lower grade, if not fully completed, shall be suspended upon the appointment to the Tenured Post at the higher grade.
 - (d) In case of Downward Mobility pursuant to Staff Rule 104.5*bis*(a)(iii): the total length of service under the appointments held by the staff member shall be counted towards the Maximum Aggregate Length of Service applicable to the Tenured Post at the higher grade. No other Maximum Aggregate Length(s) of Service shall be triggered and applied upon the appointment(s) of the staff member to a Tenured Post at a lower grade, as applicable.
 - (e) In case of Upward Mobility followed by Downward Mobility, as governed by sub-paragraphs (c) and (d) respectively: the Maximum Aggregate Length of Service applicable to the Tenured Post at the higher grade shall continue to apply to the post(s) at a lower grade. However, in case of Downward Mobility to a Tenured Post at the same grade as held by the staff member prior to the Upward

Mobility, the remainder of the Maximum Aggregate Length of Service applicable to that post shall apply.

- (f) In case of Downward Mobility followed by Upward Mobility, as governed by sub-paragraphs (d) and (c) respectively: a new Maximum Aggregate Length of Service shall apply to the appointment to the Tenured Post at a higher grade. However, in case of Upward Mobility to a post at the same or lower grade as that held by the staff member prior to Downward Mobility, the remainder of the Maximum Aggregate Length of Service applicable to that post shall apply.

3.2 The Maximum Aggregate Length of Service shall commence on:

- (a) in case of initial appointment to a Tenured Post on or after 1 January 2025, the starting date of the appointment; and
- (b) in case of Current Incumbents, the date of the first extension of his or her appointment to a Tenured Post on or after 1 January 2025.

3.3 Under no circumstances shall this Administrative Instruction be interpreted, construed or applied in such a way as to extend the Maximum Aggregate Length of Service other than as provided for in the present Administrative Instruction or as specifically and expressly established in any subsequent administrative issuances promulgated after this Administrative Instruction enters into force.

Section 4 **Eligibility for (Re-)Employment**

Eligibility for Employment of Staff Members

4.1 Pursuant to Staff Rule 104.5bis(a), a staff member holding an appointment to a Tenured Post is eligible for employment:

- (a) to other Tenured Posts at the same grade, for the remainder of the Maximum Aggregate Length of Service under section 3.1(b);
- (b) to other Tenured Posts at a higher grade or category, in which case a new Maximum Aggregate Length of Service will apply under section 3.1(c); and

- (c) to other Tenured Posts at a lower grade or category as last held by him or her, and to Non-Tenured Positions, for the remainder of the relevant Maximum Aggregate Length of Service under section 3.1(d).

Eligibility for Re-Employment of Former Staff Members

4.2 Pursuant to Staff Rule 104.6(d), where the Maximum Aggregate Length of Service has not been reached, a former staff member is eligible for re-employment:

- (a) to other Tenured Posts at the same or lower grade or category as last held by him or her, and to Non-Tenured Posts, for the remainder of the relevant Maximum Aggregate Length of Service under sections 3.1(b) and 3.1(d), as applicable; and
- (b) to other Tenured Posts at a higher grade or category as last held by him or her, in which case a new Maximum Length of Service will apply under section 3.1(c).

4.3 Pursuant to Staff Rule 104.6(e), where the Maximum Aggregate Length of Service has been reached, including any exceptional extension thereof pursuant to section 6, a former staff member:

- (a) is ineligible for re-employment to Tenured Posts at the same or lower grade or category as last held by him or her, and to Non-Tenured Positions; and
- (b) is eligible for re-employment to Tenured Posts at a higher grade or category as last held by him or her, for which a new Maximum Aggregate Length of Service will apply under section 3.1(c).

Section 5

Duration and Extension of Appointments against Tenured Posts

Fixed-Term Appointments: Established Posts

A. New Appointments on Tenured Posts on or after 1 January 2025

5.1 The initial fixed-term appointment of a staff member recruited to fill an established post on a Tenured Post on or after 1 January 2025 shall be for a period of two years, subject to the expectation that the post in question will be needed for at least two years. The first six months of the appointment shall be subject to a probationary period as set out in Staff Rule 104.7 and the Administrative Instruction on *Probationary Period and Performance Appraisal* (ICC/AI/2013/004).

5.2 The initial fixed-term appointment established in section 5.1 shall be extended for a period of three years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

5.3 After five years of continuous service with the Court, the fixed-term appointment shall be subject to one last extension of two years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

B. Current Incumbents on Tenured Post

B.1 Current Incumbents with continuous service on Tenured Post(s) for five years or more on 1 January 2025

5.4 The first extension of a fixed-term appointment that takes effect on or after 1 January 2025 shall be for a period of five years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

5.5 After the extension referred to in section 5.4, the fixed-term appointment shall be subject to one last extension of two years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

B.2 Current Incumbents with continuous service on Tenured Post(s) for less than five years on 1 January 2025

5.6 The first extension of a fixed-term appointment that takes effect on or after 1 January 2025 shall be for a period of three years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

5.7 After the extension referred to in section 5.6, the fixed-term appointment shall be subject to one last extension of four years, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

Fixed-Term Appointments: General Temporary Assistance (GTA) Posts

- 5.8 The fixed-term appointment of a staff member recruited to fill a post funded by GTA on a Tenured Post, on or after 1 January 2025, for new staff members as well as for Current Incumbents, shall be for a period of up to one year. Subsequent extensions for additional periods of up to one year may be granted, subject to the Maximum Aggregate Length of Service, provided that there is funding available, as well as a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

Conversion of GTA to Established Post on or after 1 January 2025

- 5.9 In case of conversion of a Tenured Post from a GTA into an established post, where the staff member has completed a continuous period of service of five years or more since 1 January 2025, the fixed-term appointment shall be extended for the remaining period to complete the relevant Maximum Aggregate Length of Service, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.
- 5.10 In case of conversion of a Tenured Post from a GTA into an established post, where the staff member has completed a continuous period of service of less than five years since 1 January 2025, the fixed-term appointment shall be extended for a maximum period of three years, subject to the relevant Maximum Aggregate Length of Service, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.
- 5.11 After the extension referred to in section 5.10, the fixed-term appointment shall be subject to one last extension for the remaining period, if any, to complete the relevant Maximum Aggregate Length of Service, provided that there is a continuing need for the Tenured Post and that the staff member's performance continues to meet a satisfactory level.

Short-Term Appointments

- 5.12 Periods of service under short-term appointments to Tenured Post(s) held by a staff member on or after 1 January 2025 shall be counted towards the relevant Maximum Aggregate Length(s) of Service.

Separation from service

- 5.13 Upon reaching the Maximum Aggregate Length of Service as set out in the present Administrative Instruction, or, exceptionally, following an additional period of a maximum of two years under the terms provided in section 6, the staff member shall be separated from the Court pursuant to Staff Rule 109.1(a).

Section 6

Exceptional Extensions of Appointments Beyond the Maximum Aggregate Length of Service

- 6.1 In implementing Staff Rule 104.5*bis*(a)(i), the Registrar or the Prosecutor, as appropriate, may exceptionally extend the appointment of a staff member beyond the relevant Maximum Aggregate Length of Service, if the Registrar or the Prosecutor, as appropriate, is satisfied that the following cumulative criteria are met:
- (a) the Tenured Post encumbered by the staff member at the time of the extension requires direct involvement in ongoing trial proceedings. These positions shall include without limitation Principal Trial Lawyers and Senior Trial Lawyers in the Office of the Prosecutor, and the Principal Counsel of the Office of Public Counsel for Victims in the Registry;
 - (b) there is a continuing need for the Tenured Post in question; and
 - (c) the staff member's performance continues to meet a satisfactory level.
- 6.2 The Registrar or the Prosecutor, as appropriate, may exceptionally grant one or more extensions of the appointment. Such extension(s) shall be for no longer than strictly necessary and shall in no event exceed the total maximum period of two years. Upon reaching such maximum period, the appointment shall not be subject to any further extension and the staff member shall be separated from the Court pursuant to section 5.13.

Section 7

Secondment, loan, periods of leave or temporary assignments

- 7.1 Periods of service of staff members of the Court on secondment or loan to another organisation or entity shall be counted towards the relevant Maximum Aggregate Length of Service.
- 7.2 Periods of service of personnel seconded or loaned from another organisation or entity to the Court on a Tenured Post shall be counted towards the relevant Maximum Aggregate Length of Service where, upon completion of the secondment or loan, such personnel are appointed to the same Tenured Post or to other Tenured Posts at the same or lower grade.
- 7.3 Any periods of leave, excluding parental leave, granted to, or taken by a staff member shall be counted towards the relevant Maximum Aggregate Length of Service.
- 7.4 Where a staff member appointed to a Tenured Post is temporarily assigned to either another Tenured Post at the same grade or below or to a Non-Tenured Post at the Court, whilst retaining a lien to the original Tenured Post, the period of service during the assignment shall be counted towards the Maximum Aggregate Length of Service applicable to the post against which the staff member retains the lien. Where a staff member appointed to a Tenured Post is temporarily assigned to another Tenured Post at a higher grade or category, whilst retaining a lien to the original Tenured Post, the period of service during the assignment shall be counted towards the Maximum Aggregate Length of Service applicable to the post at the higher grade or category.

Section 8

Part-Time Employment of Staff Members

- 8.1 The Maximum Aggregate Length of Service shall not be pro-rated with respect to the period of service performed by the staff member on a part-time basis.

Section 9

Short-Term Appointments

- 9.1 Section 6 under 'Eligibility of a staff member who has held or is holding a short-term appointment' of the Administrative Instruction on *Short-Term Appointments* (ICC/AI/2016/001) is hereby amended, including addition of a new section *6bis*, as follows:

[new] “Section 6bis

Eligibility of a staff member who has held or is holding fixed-term appointment(s) on a Tenured Post(s)

6bis1. A staff member who has held or is holding fixed-term appointment(s) to Tenured Post(s) is eligible for short-term appointment(s) under the terms established in section 4 of the Administrative Instruction on Tenure Policy.”

Section 10

Classification and Reclassification

10.1 Section 1.5 under ‘General Provisions’ of the Administrative Instruction on *Classification and Reclassification of Posts* (ICC/AI/2018/002) is hereby amended, including addition of a new paragraph 1.5bis, as follows:

“1.5. Subject to section 1.5bis, the reclassification of a post shall not negatively affect the existing contractual status, salary or other entitlement of the staff member encumbering the post.

[new] 1.5bis. In the case of reclassification of a post to a Tenured Post, the Maximum Aggregate Length of Service shall commence on the effective starting date of the appointment of the staff member to the Tenured Post.”

Section 11

Performance Appraisal System

11.1 Section 3.2 under ‘Performance Appraisal Cycle’ of the Administrative Instruction on *Performance Appraisal System* (ICC/AI/2019/003) is hereby amended by adding a new subparagraph (c), as follows:

“3.2 A staff member’s performance appraisal cycle may be shorter or longer than twelve (12) months, normally not shorter than six (6) months or longer than eighteen (18) months in the following cases:

(a) Initial appointment, which includes selection to another post with different functions;

(b) Extended authorized absence; or

[*new*] (c) To cover the remaining period of a Maximum Aggregate Length of Service.”

Section 12
Final Provisions

- 12.1 This Administrative Instruction shall enter into force on 1 January 2025.
- 12.2 This Administrative Instruction shall be reviewed no later than one year after its entry into force.



Osvaldo Zavala Giler
Registrar