



Administrative Instruction – Instruction Administrative

Ref. ICC/AI/2019/002

Date: 11 February 2019

Flexible Working Arrangements

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 establishing flexible working arrangements, hereby promulgates the following:

Section 1

Purpose and scope

- 1.1 This administrative instruction establishes the conditions under which staff members of the Court may benefit from flexible working arrangements leading to a better work-life balance.
- 1.2 This administrative instruction applies to all staff members holding a fixed-term or a short-term appointment, subject to the conditions described below.

Section 2

General Provisions

- 2.1 Subject to the conditions set out in this administrative instruction, the following flexible working arrangements are available to staff members: (i) Flexible working schedule; (ii) Compressed work schedule; (iii) Remote working; and (iv) Scheduled breaks for outside learning activities. Flexible working arrangements can be combined. Such combination is subject to the approval of the immediate supervisor or the head of organ, division or section, as appropriate.

- 2.2 The regular working hours of the Court, i.e. from 9:00 to 17:30 from Monday to Friday, with a one-hour mandatory lunch break, shall be observed, unless the staff member is working on a part-time basis or a specific flexible working arrangement is agreed in accordance with this administrative instruction.
- 2.3 All flexible working arrangements require careful planning and preparation and shall not be considered an entitlement or a vested right of staff members. Such arrangements require a specific written agreement, are not automatic and are contingent upon the specific work circumstances and exigencies of service. Staff members shall be aware that certain flexible working arrangements may not be compatible with their current function.
- 2.4 The flexible working arrangements established in this administrative instruction shall not affect any accrual of service credits for the purpose of salaries and entitlements.
- 2.5 Any costs resulting from the use of flexible working arrangements, such as those related to the necessary computer hardware, software, internet connection, communication, and any other charges, expenses or fees incurred by the staff member for the performance of his or her tasks under the flexible working arrangements or for complying with security and safety requirements, shall be borne by the staff member and not be reimbursed by the Court.
- 2.6 Flexible working arrangements shall not increase the risks to the Court's information, operations or reputation, nor increase the risks to those persons that interact with the Court. Supervisors and staff members shall be responsible to ensure that activities during flexible working arrangements are undertaken with full adherence to the risk management steps and security measures and policies, as outlined in the relevant administrative instructions and any related Standard Operating Procedures and/or guidelines.
- 2.7 The Human Resources Section shall provide guidance to staff members regarding flexible working arrangements. In addition, it shall provide statistics on flexible working arrangements to heads of organ, division or section, upon request, with respect to the number of staff members who have participated in different flexible working arrangements.

Section 3
Eligibility

- 3.1 All staff members are eligible for flexible working arrangements whether they are working on a full-time or part-time basis.

Section 4
Flexible Working Schedule

- 4.1 A flexible working schedule is a schedule that permits flexible arrival and departing times within prescribed time limits.
- 4.2 Under this option, staff members are required to be present at the Court's premises, or at another authorized location, pursuant to section 6, during the core working hours, i.e. from 10:00 to 12:00 and from 14:00 to 16:00, unless otherwise agreed with the immediate supervisor and contingent upon the operational needs and priorities of their respective organizational unit.
- 4.3 Under this option, staff members shall work the full number of working hours per day, which is seven and one half hours in addition to the one-hour mandatory lunch break, pursuant to section 2.1 of Administrative Instruction ICC/AI/2013/007 (*"Overtime, Stand-By Duty, Compensatory Time Off, and Night Differential"*). Staff members shall complete the remaining working hours each day before, after, or partly before and partly after the core working hours. Staff members working on shifts are not eligible for the flexible working schedule under this section.
- 4.4 Authorized absence of less than two hours which is agreed upon between the staff member and the immediate supervisor, in accordance with Administrative Instruction ICC/AI/2011/004 (*"Recording of Attendance and Leave"*), shall not require an approved flexible working schedule and need not be recorded.

Section 5
Compressed Work Schedule

- 5.1 A compressed work schedule is a schedule where the total number of hours required to be worked over a period of ten consecutive working days are compressed into nine working

days. These working hours should normally be equally spread among these nine days. When working on the compressed work schedule, on average the staff member would have to work an additional 50 minutes per day. This allows staff members, every other week, to take the tenth day off. Such a day off shall be recorded as a “compressed day off”.

- 5.2 Managerial discipline is required to avoid scheduling meetings where the staff member is supposed to be present, or other work related assignments that concern the staff member, on the staff member’s compressed day off. In the case of unforeseen events, emergencies or other exigencies of service, the immediate supervisor may require a staff member to come to work on what would otherwise be his or her compressed day off. In such cases, the staff member shall be allowed to exercise the day off on the next working day after the scheduled compressed day off, unless otherwise agreed with the immediate supervisor.
- 5.3 The compressed day off cannot be carried forward, accumulated, or credited to annual leave or compensatory time off. Extra time worked during a ten working day period in excess of the time necessary for one compressed day off cannot be carried over to the next ten working day period. If a staff member is sick on the designated compressed day off, that day will be recorded as sick leave. In such cases, the designated compressed day off shall be taken as the regular tenth day off during the next ten working day period without the staff member having to work on a compressed work schedule during this period.
- 5.4 If a staff member is absent on official travel, sick leave or annual leave for one day or less during the ten working day period, or if one official holiday falls within the ten working day period, the staff member has the option to suspend the arrangement or to work on a nine-in-eight-day basis. The working hours of the ninth day should, in so far as possible, be equally distributed among the eight days.
- 5.5 If a staff member is absent on official travel, sick leave or annual leave for more than one day during the ten working day period, or if more than one official holiday falls within the ten working day period, the compressed work schedule will be automatically suspended. Immediate supervisors shall not approve, and staff members shall not request, compressed work schedules that fall during periods of anticipated official travel or leave.

Section 6 Remote working

- 6.1 Under this option, staff members perform their work away from the Court's premises at a remote location within commuting distance.¹ Where consistent with the nature of the position and the functions to be performed, a staff member may work up to two (consecutive or non-consecutive) full days per working week from an agreed remote location, provided he or she has access to the necessary data and equipment, can always be reached by telephone, email or videoconference and meets all requirements set out in sections 6.5 and 6.6. In exceptional circumstances, a longer period may be granted. When required, the staff member shall be available to attend meetings at the Court's premises or elsewhere. Remote working can be conducted on a regular basis, or on an ad-hoc basis, for example to finish a particular assignment.
- 6.2 Approval for remote working should only be granted if the immediate supervisor determines that the staff member has (i) a full understanding of his or her work in general and the specific tasks to be performed; (ii) demonstrated at least fully satisfactory performance; (iii) demonstrated the ability to work efficiently with minimal supervision, to establish priorities and to manage his or her own time; (iv) demonstrated the ability to access and handle ICC information securely; (v) holds a valid ICC information security awareness certificate issued within the preceding 12 months; and (vi) complies with conditions set out under sections 6.5 and 6.6 below.
- 6.3 The work that the staff member is authorized to perform from a remote location should be (i) measurable in terms of quality and quantity; (ii) non-dependent for its satisfactory completion on direct personal contact and presence at the office; and (iii) non-reliant on information, materials or facilities that are not readily available at the remote working location, other than those accessible via the Court's approved secure remote access system.
- 6.4 Staff members authorized to work from a remote location under this option shall work the regular and full number of working hours per day specified in their contractual arrangements,

¹ "Commuting distance" means a distance between the remote working location and the Court's premises in the duty station the staff member is assigned to that would allow the staff member to be physically present, on short notice, at the Court's premises during the required working hours, when requested.

following either a full-time or a part-time schedule, unless otherwise agreed pursuant to section 5.

- 6.5 Staff members performing their duties in a remote working location shall not use any method other than the Court's approved secure remote access system and applications to access Court data, as provided by the Court, and subject to availability. Staff members shall not copy or export non-public files from the Court's computers, nor shall they transfer such files via personal email in the context of remote working. Any form of access that could result in the Court's non-public information being stored on any untrusted computer (e.g. files copied to an untrusted computer via USB stick or via email download) is prohibited.
- 6.6 Staff members shall declare to have read and agreed to the terms set out in the Court's Security and Safety Checklist prior to starting the remote working arrangement, and shall declare that all remote working arrangements and measures put in place with respect to the remote working environment and necessary equipment comply with the Court's safety and security requirements, and with its information protection policies and standards, including the regime outlined in Administrative Instruction ICC/AI/2007/001 (*"ICC Information Protection Policy"*). The Security and Safety Checklist is attached to this administrative instruction, as Annex I.

Section 7 Scheduled breaks for outside learning activities

- 7.1 Under this option, eligible staff members may participate in or attend courses or other similar events, including but not limited to seminars or conferences, relevant to their professional development, at universities or other learning institutions. Staff members may, subject to operational needs, request breaks of up to three hours per working day for a maximum of two days per week. The hours spent away from work during a particular week must be made up during that same week.
- 7.2 Eligible staff members shall determine with their immediate supervisor whether the specific request for outside learning activities would best fall under the scope of Administrative Instruction ICC/AI/2011/003 (*"Staff Development Leave"*), or be considered a scheduled break for outside learning activities under section 7 of this administrative instruction. The Human Resources Section can assist in that process by providing the necessary guidance, if needed.

Section 8
Procedures for flexible working arrangements

- 8.1 Staff members shall firstly discuss the request with their immediate supervisor and, if needed under the terms of this administrative instruction, with the head of organ, division or section, as appropriate. The immediate supervisor must ensure that the duties and functions to be provided by the staff member are covered, where required, during the full regular working hours.
- 8.2 All flexible working arrangements are solely at the discretion of the immediate supervisor, who will assess the request and reply within a reasonable time. Supervisors are expected to discuss all arrangements with their head of organ, division or section, as appropriate, to allow for equal treatment among staff members. For such purpose, the interests of the Court, including its operational needs, its priority objectives, the nature of the staff member's post and related functions, and the needs of the staff member, shall be taken into account.
- 8.3 In determining whether to approve the flexible working arrangement requested by a staff member, the immediate supervisor or the head of organ, division or section, as appropriate, shall uphold and respect the principle of equal treatment. They shall also take into account requests from other staff members performing the same or similar functions, but under different supervisors, and the needs of the specific job. The immediate supervisor shall be responsible for the proper implementation of flexible working arrangements. He or she shall also provide feedback on those arrangements when assessing staff performance. A staff member must ensure that his or her level of productivity and efficiency is not affected by choosing to work flexibly.
- 8.4 Staff members must lodge a formal request as a first step through the ICC Intranet page. Upon submission, the staff member's request will automatically be forwarded to the immediate supervisor for his or her initial assessment and decision.
- 8.5 In case the immediate supervisor does not approve the request submitted and the staff member wants to pursue it, (i) the reasons motivating the rejection shall be provided to the staff member in writing; and (ii) a reassessment of that decision shall be carried out by the head of organ, division or section, as appropriate. During his or her reassessment, the head of

organ, division or section, as appropriate, shall take into account requests submitted by other staff members performing the same or similar functions, but under different supervisors, in order to ensure fair and equal treatment. The decision of the head of organ, division or section, as appropriate, shall constitute the administrative decision on the staff member's request, for the purpose of Article XI of the Staff Regulations and Chapter XI of the Staff Rules.

- 8.6 A written agreement in electronic form, clearly indicating the modality of the flexible working arrangement(s) agreed upon ("the Agreement"), shall be completed and signed by the staff member, the immediate supervisor and, in the case of a reassessment or appeal provided under section 8.5 above, the head of organ, division or section, as appropriate. All necessary forms will be made available on the Court's intranet site in the SAP system.
- 8.7 The immediate supervisor or the staff member may request that a flexible working arrangement be changed, discontinued or temporarily suspended, if the immediate supervisor considers that the operational needs necessitate the return to normal working hours and/or require the presence of the staff member at the Court's premises, or if the needs of the staff member have changed.
- 8.8 Flexible working arrangements may be agreed on an ad-hoc basis or for a period of up to twelve months and may be renewed subject to the approval of the immediate supervisor and/or the head of organ, division or section, as appropriate.

Section 9
Final provision

- 9.1 This administrative instruction shall enter into force on 11 February 2019 and will be reviewed two years after its date of issuance.



Peter Lewis
Registrar