

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on violence against women and girls, its causes and consequences

Ref.: OL OTH 44/2026

(Please use this reference in your reply)

23 July 2026

Excellency,

We have the honour to address you, in your capacity as the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC), in our respective roles as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the independence of judges and lawyers and Special Rapporteur on violence against women and girls, its causes and consequences, pursuant to Human Rights Council resolutions 58/14, 62/12 and 59/20.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 59 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to the attention of all Member States of the Assembly of States Parties (ASP) of the Rome Statute of the International Criminal Court **information we have received concerning inadequacies in the procedural rules for the handling of complaints of misconduct by personnel of the International Criminal Court**, with potentially negative implications for the human rights of Court personnel (complainants and respondents) as well as for the Court's work towards accountability for international crimes and public confidence in the institution. We would be grateful if a copy of this letter could be circulated to all Member States of the ASP.

Assembly of States Parties (ASP) to the Rome Statute of the International Criminal Court (ICC)

Context

A number of uncertainties about the legal, procedural and institutional processes for handling complaints within the Court emerged following allegations of sexual misconduct against the Court's Prosecutor, which were publicly reported in October 2024. The ASP President issued a public statement on 23 March 2026 expressing concern at media reporting, stating that the disciplinary process was ongoing and confidential, that no decisions had been made, and that the Bureau was working to resolve the matter without delay and with full respect for the due process rights and privacy of those concerned.¹ This letter does not address the substance of the underlying complaints, which are *in camera* and due to be determined by the ASP on 24 July 2026. Such complaints must be promptly, independently and impartially investigated and determined in accordance with international standards, including ensuring due process to all parties. Rather, we identify areas of concern about complaints handling generally and make suggestions for improvements.

The complaints process

Articles 46 and 47 of the Rome Statute of the International Criminal Court² establish the legal framework governing removal from office and disciplinary measures applicable to judges, the Prosecutor, Deputy Prosecutors, the Registrar and the Deputy Registrar. Article 46 of the Court's Statute authorizes removal from office for serious misconduct or serious breach of duties, through a secret ballot of States Parties and requiring a two-thirds majority to remove judges, and an absolute majority for the Prosecutor and the Deputy Prosecutor. Article 46 also provides procedural guarantees. Article 47 provides that where misconduct is of a less serious nature than under article 46(1), the individual shall be subject to disciplinary measures.

Section IV (Rules 23 to 32) of the Court's Rules of Procedure and Evidence ("Rules") defines the types and severity of misconduct/breach of duty and sets out the processes for making complaints, ensuring procedural guarantees, and for decisions concerning suspensions from duty, disciplinary measures, and removal from office.

In 2009, the Court's Independent Oversight Mechanism (IOM) was established by the ASP. The IOM is mandated to carry out investigation, evaluation and inspection functions concerning elected officials, Court staff and contractors.³ After an investigation, factual findings are transmitted by the IOM to the Presidency, which convenes a panel of three judges to consider whether recommendations should be made for action by the ASP under article 46 and/or article 47 of the Rome Statute.

Despite the above processes, irregularities have been reported where the President of the ASP referred a matter for external investigation by the United Nations Office of Internal Oversight Services (OIOS), and following its report, tasked an ad hoc, three-member, independent judicial panel to draw non-binding legal conclusions about the OIOS' factual findings. OIOS applies a civil-type standard of proof, which is described in its Manual for Practitioners as follows: "Clear and convincing proof

¹ <https://www.icc-cpi.int/news/asp-president-expresses-concern-over-recent-media-reports-regarding-ongoing-disciplinary>.

² [Rome Statute of the International Criminal Court](#).

³ Resolution ICC-ASP/8/Res.1 of November 2009, https://asp.icc-cpi.int/sites/asp/files/asp_docs/Resolutions/ICC-ASP-8-Res.1-ENG.pdf.

requires more than a preponderance of the evidence but less than proof beyond reasonable doubt – it means that the truth of the facts asserted is highly probable”. In the case mentioned, the judicial panel appears to have applied a criminal standard of proof based on the procedure of the International Labour Organization Administrative Tribunal.

In December 2025, amendments to the Court’s Rules were adopted by the ASP concerning receipt of complaints, regularizing ad hoc panels, ensuring confidentiality and procedural fairness, enabling discretionary suspension of personnel from duty, and further regulating the procedure for removal and disciplinary measures. We welcome the 2025 amendments to the Rules, which significantly clarify, regularize and improve many aspects of complaints handling.

Applicable international standards

We recall that effective protection of workers against, and effective remedies for, serious misconduct at work, including sexual violence and harassment, is an element of the right to just and favourable conditions of work under article 6 of the International Covenant on Economic, Social and Cultural Rights (see Committee on Economic, Social and Cultural Rights (CESCR), general comment No. 23 (2016) on article 7), the right to security of person under article 9 of the International Covenant on Civil and Political Rights (ICCPR), the rights to non-discrimination and equality (articles 2 and 26 of the ICCPR) (see Human Rights Committee, general comment No. 28), and the rights of women under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

International Labour Organization (ILO) Convention No. 190 on Violence and Harassment 2019, which includes gender-based violence and harassment, ILO Recommendation No. 206 on Violence and Harassment 2019, and associated ILO guidance materials set minimum international standards for handling workplace complaints. Article 10 of ILO Convention No. 190 requires accessible and effective remedies, and safe, fair, gender-responsive and effective reporting and dispute resolution mechanisms and procedures; protection of complainants, victims, witnesses and whistle-blowers against victimization and retaliation; legal, social, medical and administrative support measures for complainants and victims; protection of the privacy of those involved and confidentiality; and sanctions.

ILO Recommendation No. 206 elaborates further on the need for decision-makers with expertise in cases of gender-based violence and harassment; timely and efficient processing; legal advice and assistance for complainants and victims; and “shifting of the burden of proof, as appropriate, in proceedings other than criminal proceedings” (article 16). It also details the support, services and remedies for victims of gender-based violence and harassment (article 17), and accountability and counselling for perpetrators (article 19).

United Nations human rights treaty bodies have also articulated relevant standards. The CESCR has emphasized the need for access to justice for victims of workplace harassment, including sexual harassment; protection of and assistance to victims; provision of avenues of complaint and redress; explicit prohibition of reprisals; and identification of specific duties of employers, managers, supervisors and workers

to prevent and, where relevant, resolve and remedy harassment cases (CESCR, general comment No. 23, para. 48). The CEDAW Committee has set out detailed standards for addressing complaints concerning gender-based violence, including procedures that are accessible and effective, gender-sensitive and fair, prevent reprisals, and provide assistance and reparation to victims (general recommendation No. 35 (2017), para. 31).

The United Nations Guidelines on the Role of Prosecutors⁴ require disciplinary proceedings to be in accordance with law, fair, expeditious and subject to independent review (guideline 21; see also Special Rapporteur on the independence of judges and lawyers, A/HRC/20/19, paras. 66, 67 and 70). Guideline 22 further requires that disciplinary proceedings ensure an objective assessment and determination in accordance with the law, codes of professional conduct, and established ethical standards.

Special Procedures mandate-holders have highlighted the risks associated with disciplinary mechanisms that may be used, or be perceived to be used, to exert pressure, marginalize, or sanction judges or prosecutors for reasons unrelated to professional conduct. Practices such as suspension, transfer, or removal, even when presented as administrative or organizational measures, may function as disguised sanctions and may undermine independence if not accompanied by robust due process safeguards (A/75/172, paras. 68-69). Such risks may arise where, for instance, political discretion is exercised to handle complaints in a manner that is not codified in law.

In combination, the above safeguards not only protect the human rights of complainants and respondents but also prevent unnecessary procedural uncertainties and controversies from impeding its work for international justice and accountability, help protect against the politicization of misconduct proceedings, safeguard the Court's independence and impartiality, and enhance public confidence in the Court.

Concerns and recommendations

We remain concerned that the Court's complaints handling process does not fully reflect best practice international standards in line with international human rights law, including labour rights. Accordingly, in order to improve the Court's procedures for complaints handling, we recommend the following:

- The Rules must clearly define all aspects of the complaints process, including the roles of all actors (extending to the ASP Bureau and ASP), and allocating clear responsibilities for findings of facts and law; a protective standard of proof appropriate for workplace misconduct, particularly as regards sexual misconduct, and the grounds for suspending respondents. The ASP should avoid establishing irregular, uncoded ad hoc procedures.
- Investigations, including by the IOM, must be prompt, independent, impartial, trauma-informed, victim-centred, and gender responsive, afford due process to all parties, ensure confidentiality; and be carried

⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/guidelines-role-prosecutors>.

out with sufficient expertise in workplace health and safety law, employment law and procedural fairness.

- Safeguards against retaliation and protection of complainants, victims, witnesses and whistleblowers must be effective. Complainants and respondents should not be subject to public attacks or disclosure of confidential information.
- Where allegations involve senior Court personnel, adequate steps must be taken by the Court's management and the ASP as required to actively mitigate the potential negative impacts on the welfare of staff and workplace morale.
- The Court's workplace culture and management practices should be thoroughly reviewed, and the recommendation of a 2020 expert report⁵ implemented.
- Complaints processes must not be exploited for political attacks or reprisals by any actor, including member States, to discredit the Court's vital work for justice and accountability.

We stand ready to provide any technical advice that the ASP may require in relation to these matters.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Please provide any information on further improvement that the ASP Bureau is considering for the Court's rules and procedures on the handling of misconduct complaints, and if so, the nature of any proposals.
3. Please provide information on measures taken to improve the Court's workplace culture, and if so, the nature of any proposals.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from you will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

A copy of the communication has been sent to Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Chile, Cyprus, Ecuador, Finland, Italy, Japan, Kenya, Latvia, New Zealand, Poland, the Republic of Korea, Senegal, Sierra

⁵ https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP19/IER-Final-Report-ENG.pdf.

Leone, Slovenia, South Africa, Switzerland, Uganda and the Director of the Permanent Secretariat of the Bureau of the ASP.

Please accept, Excellency, the assurances of our highest consideration.

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