

**Twelfth session**

The Hague, 20-28 November 2013

**Report of the Court on its Anti-Fraud and Whistleblower Policies\*****I. Introduction**

1. At its seventeenth session held in August 2011, the Committee on Budget and Finance (“the Committee”) recommended that the International Criminal Court (“the Court”) develop an anti-fraud policy, including whistle-blowing provisions, as a matter of priority, with a particular focus on procurement.<sup>1</sup>

2. At its eighteenth session, the Committee followed up on its earlier recommendation by requesting the Court to place its anti-fraud and anti-retaliation policies on its website in order to ensure that the policies were widely known and easily accessible, and report to the Committee at its twentieth session.<sup>2</sup>

3. The Assembly of States Parties (“the Assembly”) concurred with the recommendations of the Committee in ICC-ASP/10/Res.5<sup>3</sup> in which the Independent Oversight Mechanism (IOM), working in close consultation with the organs of the Court, Staff Union Council and States Parties, was invited to develop an anti-retaliation/whistleblower policy, with a view to its adoption by the Court at the earliest time possible. In ICC-ASP/11/Res.4<sup>4</sup> the Assembly acknowledged with satisfaction information concerning the draft policies and invited the Court to adopt the policies as soon as possible.

4. In the present report, the Court provides an update on its efforts and the progress made in developing and adopting both an anti-fraud and a whistleblower policy.

**II. Anti-fraud and Anti-retaliation/whistleblower policy**

5. The close collaboration between the Court, IOM, Staff Union Council and others has led to a new approach to these two issues. The Court has developed a separate policy statement on its position on fraud and the prevention of fraud as well as on the Court’s position regarding whistleblowers and the protection of whistleblowers. The policies are specifically designed to be generally accessible and to be understood by non-lawyers.

6. These policies will, in turn, be supported by two Administrative Instructions (AIs) that describe how the policies will be implemented. The AIs also make an explicit link to those parts of the Court’s existing legal framework which already deal with fraud and whistleblower issues, thereby ensuring that all persons who work for the Court, including

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<sup>1</sup> *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Tenth session, New York, 12-20 December 2011* (ICC-ASP/10/20), vol. II, part B.2, para. 41.

<sup>2</sup> *Official Records ... Eleventh session 2012* (ICC-ASP/11/20), vol. II, part B.1, para. 40.

<sup>3</sup> *Official Records ... Tenth session ... 2011* (ICC-ASP/10/20), vol. I, part III, ICC-ASP/10/Res.5, para. 67.

<sup>4</sup> *Official Records ... Eleventh session ... 2012* (ICC-ASP/11/20), vol. I, part III, ICC-ASP/11/Res. 4, para. 4.

elected officials, staff, interns, visiting professionals, intermediaries and contractors, among others, are covered by each policy and its accompanying AI.

7. The two policies have undergone extensive internal consultation between the organs of the Court as well as with the Staff Union Council, the Office of Internal Audit, the Secretariat of the Trust Fund for Victims, the Project Office for the Permanent Premises and all parts of the Court that are directly involved in purchasing or approving the purchase of goods or services. The Audit Committee's external members have also commented on the policies and support the process.

8. It is expected that the two policies will be enacted as Presidential Directives in the near future and will be followed by the promulgation of the supporting Administrative Instructions. Both the policies and the AIs will further enhance the Court's existing system of internal controls and will form an integral part of the Court's risk management system.

9. As requested by the Committee, the policies, when promulgated, will be posted on the appropriate area of Court's website.

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