

Resolution ICC-ASP/23/Res.2

Adopted at the 9th plenary meeting, on 6 December 2024, by consensus

ICC-ASP/23/Res.2

Resolution of the Assembly of States Parties regarding the implementation of the tenure policy

The Assembly of States Parties,

Taking note of recommendation R105 on Tenure, of the Group of Independent Experts, which provides that “[i]n order to encourage fresh thinking and bring more dynamism to the Court, a system of tenure should be adopted by the Court, applicable to all positions of P5 and above. The system should stipulate a maximum tenure in position of these levels of somewhere between five and nine years, and should admit, few, if any exceptions. For reasons of procedural fairness, the limitations should not be applied to those occupying these positions currently and would only apply to those newly appointed to the positions. Nonetheless, long serving officers of P5 or Director level might be encouraged to retire early to allow the new system to be established as quickly as possible”,¹

Recalling that, at its twenty first session,² the Assembly endorsed the positive assessment of recommendation R105 on Tenure for which the Review Mechanism had served as the platform for assessment, and invited the Court through the Registry, in close consultation with the Bureau, to develop a detailed proposal for a tenure policy addressing also the financial implications, for its introduction as of 1 January 2024 for approval by the Assembly at its twenty-second session,

Recalling its resolution ICC-ASP/22/Res.7 by which it, inter alia, decided to implement a tenure policy as of 1 January 2025,

1. *Reiterates its decision to implement, as of 1 January 2025, a tenure policy at the International Criminal Court of seven years’ duration, applicable to the P-5 and Director levels;*
2. *Adopts the amendments to the Staff Regulations and Rules, as set out in the annexes to the present resolution, which are necessary to give legal effect to the tenure policy;*
3. *Decides to review, the implementation of the tenure policy within a period of eight years, and subsequently thereafter every three years and requests the Bureau, through The Hague Working Group, to report to the thirty-second session of the Assembly of States Parties in 2033 on the first review;*
4. *Requests also the Court to provide an annual report on the implementation of the tenure policy to the Assembly of States Parties, including on the use of the exemptions stated in Staff Rule 104.5bis.*

¹ ICC-ASP/19/16, para. 253.

² ICC-ASP/21/Res.4, para. 9.

Annex I

Amendments to the Staff Regulations

1. In regulation 4.5, insert a new paragraph (c):

(c) As regards appointments pursuant to Staff Regulation 4.5(a), the maximum aggregate length of service of a staff member's appointment(s) either at a P-5 grade or in the Director category shall not exceed a period of seven years, subject to the conditions established by the Registrar, in consultation with the Prosecutor.

Annex II

Amendments to the Staff Rules

1. In rule 104.1 (Employment contract), insert a new sub-rule (b)(vi):

(b)(vi) Whether the appointment to the post is subject to the maximum aggregate length of service established in Staff Regulation 4.5(c) and Staff Rule 104.5*bis*.

2. In rule 104.2 (Letter of appointment), insert a new sub-paragraph (a)(vii):

(a)(vii) Whether the appointment to the post is subject to the maximum aggregate length of service established in Staff Regulation 4.5(c) and Staff Rule 104.5*bis*.

3. Insert a new rule 104.5*bis* (Maximum aggregate length of service):

Rule 104.5*bis*

(a) As regards appointments pursuant to Staff Regulation 4.5(a), the maximum aggregate length of service of a staff member's appointment(s) either at a P-5 grade or in the Director category shall not exceed a period of seven years, subject to the following:

(i) An extension of a staff member's appointment beyond the relevant maximum aggregate length of service may be exceptionally granted by the Registrar or the Prosecutor, as appropriate, for no longer than strictly necessary, to meet imperative operational needs in relation to ongoing trial proceedings;

(ii) A staff member is eligible for employment to posts at a higher grade or category, in which case a new maximum aggregate length of service of seven years shall apply pursuant to Staff Regulation 4.5(c);

(iii) A staff member is eligible for employment to any post at a lower grade or category as last held by him or her, for the remainder of the relevant maximum aggregate length of service; and

(iv) For staff members appointed to a post at the P-5 grade or in the Director category prior to 1 January 2025, the provisions of Staff Rule 104.5*bis* shall apply as from:

a) the first extension of their appointments on or after 1 January 2025; or

b) the starting date of their appointment to another post at a P-5 grade or in the Director category on or after 1 January 2025, whichever occurs first.

(b) When calculating the maximum aggregate length of service, the following periods of service shall, *inter alia*, be taken into account:

(i) Periods of service of staff members appointed to a post at the P-5 grade or in the Director category at the Court while on secondment or loan to another organization or entity shall be counted towards the relevant maximum aggregate length of service;

(ii) Periods of service of personnel seconded or loaned from another organization or entity to the Court to a post at the P-5 grade or in the Director category shall be counted towards the relevant maximum aggregate length of service where, upon the completion of the secondment or loan, such personnel are appointed to the same post or to any other post at the P-5 grade or in the Director category pursuant to Staff Regulation 4.5(a); and

(iii) Where a staff member appointed to a post at the P-5 grade or in the Director category is temporarily assigned to another post at the Court, the period of service during the assignment, irrespective of grade or category, shall be counted towards the relevant maximum aggregate length of service.

(c) Any periods of leave, excluding parental leave, granted to, or taken by, a staff member appointed to a post at the P-5 grade or in the Director category shall be counted towards the relevant maximum aggregate length of service.

4. In rule 104.6 (Re-employment and reinstatement), insert new sub-paragraphs (d) and (e):

(d) Where the maximum aggregate length of service referred to in Staff Regulation 4.5(c) has not been reached, a former staff member is eligible for re-employment (i) to a post, or posts, at the same or lower grade or category as last held by him or her, for the remainder of the period, and (ii) to a post, or posts, at a higher grade or category, for which a new maximum aggregate length of service of seven years shall apply in accordance with Staff Regulation 4.5(c).

(e) Upon reaching the maximum aggregate length of service referred to in Staff Regulation 4.5(c), including any exceptional extension thereof pursuant to Staff Rule 104.5*bis*, a former staff member shall be ineligible for re-employment to a post at the same or lower grade or category as last held by him or her. Notwithstanding, such former staff member shall be eligible for re-employment to a post, or posts, at a higher grade or category, for which a new maximum aggregate length of service of seven years shall apply in accordance with Staff Regulation 4.5(c).
