

## International Commission of Jurists Prevention of Sexual Misconduct Policy (PSEAH Policy)

Created	Last modification	Authorized by	Scheduled for review
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### I. Preamble

1. The International Commission of Jurists (ICJ), believes in the intrinsic dignity of every person, celebrates differences and aims to create relations of mutual respect. Through its work around the world and in accordance with the ICJ's Strategic Plan, the ICJ strives for the equal enjoyment of human rights, and advocates for access to justice, remedies and accountability when these rights are violated.
2. The ICJ recognizes that sexual misconduct, as defined by the ICJ Code of Ethics and in paragraph 12 of this policy, violates universally recognized international legal norms and standards, and it has zero tolerance for any such violations carried out by any person covered under this policy.
3. This policy shall apply to the ICJ, its Executive Committee, its Commissioners, the Secretary General and the Secretariat employees wherever they may be located, as well as to any person carrying out missions or trial observations and to any person or corporation, appointed or engaged to carry out any function on behalf of the ICJ also including participants in events and workshops.
4. This policy shall be made publicly available and known to its Commissioners, members of the Secretariat and all those with whom the ICJ engages.
5. This policy shall be implemented in compliance with the laws of each country in which the ICJ operates, provided those laws comply with international human rights standards.
6. The National Sections and Affiliated Organizations of the ICJ are requested to adopt this policy.
7. Partners are expected to maintain or take concrete steps toward adopting an adequate PSEAH policy as a precondition to any subgrant from the ICJ.

Partners must notify the ICJ in writing regarding any incidents of sexual exploitation, abuse, or harassment involving any position or activity funded by the ICJ. This notification must occur promptly and include information about what steps have been taken.

8. References in this policy to the ICJ shall include each of the persons or corporations set out in paragraph 3 unless the context otherwise requires.
9. Anyone is encouraged to report any potential breaches of this policy to a member of management, the ICJ Ombudsperson or relevant external authorities depending on the circumstances of the violation, whether or not they have been directly affected.
10. This policy is connected to ICJ's Grievance Policy, Discipline Policy, Whistleblowing and the ICJ Ombudsperson mechanisms, Diversity and Inclusion Policy and Code of Ethics.<sup>1</sup>

## **II. Zero Tolerance for Sexual Misconduct**

11. The ICJ has zero tolerance for sexual misconduct in any form perpetrated by any person(s) to whom this Code applies.<sup>2</sup>

## **III. Key definitions and prohibited activity**

12. "Sexual misconduct" encompasses different types of violations, including (i) sexual exploitation; (ii) sexual abuse or violence; and (iii) sexual harassment. It can occur in any gender configuration, i.e. between persons of the same or different genders, and regardless of actual or perceived gender and/or gender identity.
13. "Sexual exploitation" refers to an abuse of authority, trust or a situation of vulnerability for sexual ends in exchange for money, work, goods or services. It is also understood as any actual or attempted abuse of a position of vulnerability, differential power or trust, for sexual purposes. Any payment (through cash or any other commodity or favour) to an affected person for sexual services is considered exploitative and thus constitutes sexual exploitation.
14. "Sexual violence or abuse" refers to acts of a sexual nature committed against any person by force, threat of force or coercion. "Coercion" must be understood broadly as not just consisting of a show of physical force but also any act that causes duress or fear of violence or detention, or that constitutes psychological oppression or abuse of power, or that takes advantage of a coercive environment or of a person's incapacity to give genuine consent. Sexual activity with minors (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence.

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<sup>1</sup> *Sexual misconduct* as defined under this policy also represents a violation under ICJ's Code of Ethics

<sup>2</sup> See point 3.

15. “Sexual harassment” refers to any sexual behaviour that is not wanted by the person to whom it is addressed and that violates his or her dignity. Sexual harassment can take the form of words, gestures or acts. In concrete terms, this can include but is not limited to any of the following:

- i. insinuating and suggestive remarks about the appearance of a person
- ii. sexist comments and jokes about sexual characteristics, sexual behaviour and the sexuality of a person
- iii. whistling or staring
- iv. unwanted bodily contact
- v. stalking colleagues at work or outside work, through lying in wait, monitoring or repeatedly pursuing contact in person or through a medium of communication, such as letters, email, text messages, or telephone calls
- vi. phone-calls, text messages or emails with obscene or sexual content.

#### **IV. Scope of application**

16. Sexual misconduct may take place within or outside of a formal workplace setting, including but not limited to:

- i. Events including internal and external stakeholders sponsored by the ICJ and/or partners (in person or virtual)
- ii. The ICJ formal meetings (in person or virtual)
- iii. Social events including persons to which this policy applies
- iv. Through virtual means using personal or the ICJ issued devices.
- v. Through the use of private or the ICJ social media and other virtual means.

#### **V. Commitment to the PSEAH in personnel recruitment**

17. The recruitment, selection and appointment of all those included under art. 3 must reflect ICJ’s commitment deriving from the PSEAH Policy. Background and reference checks must be implemented in accordance with the law to prevent anyone who is not suitable under this policy from working with the ICJ. All suitable candidates will be informed of the binding nature of this policy.

#### **VI. Enforcing and Complying with ICJ’s PSEAH Policy**

##### ***Duties of the Secretary General, Directors, Executive Committee Members and Commissioners***

18. The ICJ Secretary General, Directors and Executive Committee Members shall be responsible for creating and maintaining an environment that prevents sexual misconduct, and shall take appropriate measures for this

purpose, including enforcing this policy in their respective capacities, and supporting training and awareness raising around PSEAH within the ICJ.

### ***Reporting***

19. Anyone may refer any violation under this policy that they suspect or are aware of via the ICJ's Grievance Policy or via the whistleblowing procedure, or directly to a member of management, to the ICJ Ombudsperson or to the relevant external authorities, depending on the circumstances of the violation.

20. External parties may report any breach of this Policy that they suspect to any authority within the ICJ, including, but not limited to, senior managers, the Secretary-General, members of the Executive Committee, the ICJ Ombudsperson or through the whistleblowing mechanism.

### ***Safeguarding against abuses of power***

21. The ICJ is committed to protecting any individual who reports in good faith a violation of this policy from any form of retaliation, reprisal or abuse of power. Persons to whom this policy applies also commit to ensuring that they do not, for the exploitation of others, abuse any powers available to them, including, but not limited to, positions of authority, trust or situations of vulnerability.

### ***Investigating potential breaches***

22. Those suspected of being in breach of this Policy may be subject to investigation in ICJ disciplinary proceedings in compliance with the organization's internal Discipline Policy or in proceedings before the ICJ Ombudsperson.<sup>3</sup>

23. Where a breach that may amount to criminal conduct is referred to the relevant authorities these authorities shall undertake their own investigations.

24. In case of investigations on sexual misconduct, confidentiality is required so that information is available only to a limited number of authorised people for the purpose of concluding the investigation. The ICJ strives to create an environment in which witnesses are willing to recount their versions of events and can trust the systems and safeguards in place.

### ***Consequences of breaching this Policy***

25. Those found to be in breach of this Policy may be subject to any or all of the following consequences:

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<sup>3</sup> See the ICJ's Discipline Policy and the ICJ Ombudsperson Terms of Reference for further details of the processes involved.

- i. Termination of association or affiliation with the ICJ, which may include:
- ii. Removal of status of Commissioner;
- iii. Termination of employment or consultancy with the ICJ;
- iv. Termination of partnership or other affiliation with the ICJ;
- v. Termination of involvement in an ICJ programme/project;
- vi. Referral of violations to the appropriate public authorities.

## Annex I. Associated Policies

1. ICJ Code of Ethics
2. Discipline Policy
3. Grievance Policy
4. Anti-Corruption Policy (Whistleblowing mechanism)
5. Ombudsperson's Terms of Reference
6. Diversity and Inclusion Policy