

## **Objectives for the Counsel Support Staff Committee**

In light of the opportunity presented by the election of a new ICC Registrar, the Counsel Support Staff Committee wishes to publicly set out its position on these important issues affecting the members it represents.

### **Taxation**

The Counsel Support Staff Committee ('Committee') reassures every support staff member that it shall continue to persevere on the issue of taxation. The Committee feels that this, along with the other issues outlined below, are of paramount importance. In addition to areas already proposed by the Committee on Taxation, the Committee is looking into GTA contracts for external team members, with a long-term view of securing fixed-term contracts.

### **Harassment**

The Committee shall be proposing concrete ideas to the Executive Committee to strengthen the commitment of a harassment free working environment. The Committee notes that with recent events, effective change needs to be immediate and not bogged down by bureaucracy.

The Committee is not restricting its proposals to specific types of harassment. The Committee stresses that all types of harassment, including sexual harassment, discrimination, possible extortions, and the like are real concerns for the Committee. The work is stressful enough; support staff must be free of these problems and concerns.

To make changes permanent and effective, the Committee endorses the proposal in the ICCBA Declaration of 2 March 2018 that changes be made to the Code of Professional Conduct for counsel (ICC-ASP/4/Res.1, 'CPC') at the ICC. As every Counsel who accepts work must agree to be bound by the CPC, this is the most logical way to bind Counsels, Co-Counsels, and yes, even the support staff itself to the proposals. Any amendments prohibiting harassment must also include provisions protecting: (i) individuals who file complaints in good faith from victimisation; and (ii) the privacy of victims and witnesses in disciplinary proceedings. As amending the CPC may take some time, the Committee invites current and future Counsel in the meantime to make a voluntary commitment that they will take all reasonable steps to ensure that the working environment within the team is free from all types of harassment.

### **Working Conditions**

The Committee shall, in conjunction with the abovementioned issues, be pressing the need for a basic minimum standard related to working conditions for support staff. As mentioned above in

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relation to taxation, the goal is to have support staff placed on GTAs, with a long-term view of securing fixed-term contracts. Support staff for the Prosecution typically work under such contracts, and the same should in principle be extended to support staff on Victims and Defence teams to ensure an equal footing. This would alleviate problems related to sick leave, maternity leave, taxes, etc.

The Committee notes that many of these issues were raised on its behalf in the ICCBA's response on the legal aid issue on 24 April 2017, and urges the Registry to press forward with legal aid reform that addresses minimum working standards (including the prohibition of harassment) without delay. It is further important to note that, with GTAs and fixed-term contracts, the Committee does not intend to restrict Counsel's ability to arrange the team as Counsel see fit.

Several concerns have been raised about this topic, and the Committee wants to apprise everyone reading this that it is aware of these issues and notes them as valid concerns. In response, the Committee notes the following issues and answers related to topics and concerns about a more ethical and healthy working environment:

- 1) **Maternity/Paternity leave** – In a modern society where both women and men work, maternity leave (and paternity leave) is a necessity. Families should not have to choose between work and family, and the Registrar must be addressed on this issue. Whilst we know this might cause issues in relation to Defence and Victim Team's budget, the Committee thinks that paid maternity and paternity leave is just and legal, and no one should worry about her or his job because they are expecting a child. It shall further be requested that during maternity or paternity leave, the Registry should be required to increase the Defence or Victim Team's budget during said leave to ensure that the rights of its client(s) are protected.
- 2) **Sick leave** – Paid sick leave should accrue in the same manner for external teams as it does for ICC staff members.
- 3) **Paid vacation** – Whilst many persons may have informal agreements about paid holiday leave, the Committee has heard concerns about the practicality of using such days. Considering that the external teams are often underfunded, and that the court is under pressure to ensure expeditious trials, the two cannot live in a vacuum and must work in consort. Paid leave on a regular basis is important to supporting the mental and physical well-being of a legal team and to avoid burn out. All efforts should be made between Counsel and support staff to agree on suitable dates when paid leave may be taken which fit within acceptable periods of a case schedule.
- 4) **Termination of contracts** – Everyone realises that we work at the behest of our clients. The client has the ultimate right to hire and terminate contracts as he or she deems fit.

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The Committee is concerned with terminations that do not involve the client. The Committee wishes to put forth guidelines as to how the termination of contracts may happen, and what procedures need to be followed before a termination is effectuated (*i.e.* internal reprimands). In any event, in all cases, there should be a short notice period to provide a modicum of security for support staff.

- 5) **Long working hours** – The Committee and its constituents understand that we operate in a Court, and that the normal 37.5-hour work week does not necessarily apply. We also understand that there shall be times when persons must work longer hours than normally required. The Committee is concerned with the continuous long working days/months. It is not uncommon for many people to have over 200 hours on their invoice month after month. Whilst we all want the best for our client(s), the Registry must hear our voices and consider that increased funding for the external teams is the only logical choice to ensure greater resources to complete the work. Between support staff and Counsel, we suggest that an agreement on basic working hours should be reached which outlines when these hours should be performed, and that additional hours should ideally be the exception and compensated through additional leave when the case is less busy.

The Committee is currently working alongside others on a contract which outlines these requests, which it plans to make available to the Registry in the hopes that it will consider implementing some or all the issues listed above. We hope that the contract acts as an instrument to protect our rights. The Committee has also drafted a memorandum detailing EU laws which touch upon and concern the abovementioned issues, and will hopefully reinforce our rights.