



Administrative Instruction

ICC/AI/2023/003

Date: 28 November 2023

**REGULATIONS OF THE SPECIAL FUND FOR RELOCATIONS
AND
TERMS OF REFERENCE OF THE ADVISORY COMMITTEE ON THE SPECIAL FUND
FOR RELOCATIONS AND ITS COMPOSITION**

The Registrar, with the consent of the President and the Prosecutor, pursuant to sections 3.2 and 3.3 of the Presidential Directive ICC/PRESG/G/2003/001 (“Procedures for the promulgation of administrative issuances”), and in accordance with Presidential Directive ICC/PRESG/G/2004/002 (“Guidelines on the Establishment of Trust Funds of the International Criminal Court”) and Administrative Instruction ICC/AI/2004/005 (“Establishment of Trust Funds by the Registrar”), promulgates the following Administrative Instruction in relation to the Special Fund for Relocations that was established by the Registrar on 27 April 2010 pursuant to Financial Rule 6.5.

Section 1

Purpose of this Administrative Instruction

- 1.1 The purpose of this administrative instruction is to amend:
- (a) the Regulations of the Special Fund for Relocations that were promulgated by Information Circular ICC/INF/2015/013; and
 - (b) the Terms of Reference of the Advisory Committee for the Special Fund for Relocations that were adopted by the Registrar on 21 January 2011 and subsequently published in the Annex to the Information Circular ICC/INF/2013/006.

CHAPTER I - REGULATIONS OF THE SPECIAL FUND FOR RELOCATIONS

Section 2

Definitions

For the purpose of this Administrative Instruction, the terms below shall have the following meaning:

- 2.1 “Closely related individuals” refer to:

- (a) the partner of a person at risk; and
 - (b) dependants of a person at risk, who are considered by the Court to be part of the family unit.
- 2.2 “Contributing Party (-ies)” refers to States, international organizations, corporations or other entities that contribute to the Special Fund through Contributions.
- 2.3 “Contribution” refers to the voluntary contributions made by the Contributing Parties to the Special Fund for Relocations.
- 2.4 “Court” refers to the International Criminal Court.
- 2.5 “Family unit” refers to the members of the family who are related by birth, marriage or adoption, and other financially or otherwise dependant members, as recognised by the Court.
- 2.6 “Implementing Authority (-ies)” refers to States or authorities that are capable of engaging with the Court for the purpose of relocating people at risk and closely related individuals in their territory and, if determined by the Court, of receiving funds to that end, subject to the eligibility criteria established in this Administrative Instruction.
- 2.7 “Partner of a person at risk” refers to the member of the married couple or of the established unmarried couple, who is recognised as such by the Court.
- 2.8 “Person (or people) at risk” refers to natural people who, by reason of their involvement with the Court, are considered by the Court to be at risk and in need of relocation, such as victims, witnesses and other individuals.
- 2.9 “Relocation” refers to the physical relocation of people at risk, and closely related individuals, to an Implementing Authority.
- 2.10 “Rome Statute” refers to the Rome Statute of the International Criminal Court entered into force on 1 July 2002.
- 2.11 “Special Fund” refers to the Special Fund for Relocations.
- 2.12 “States” refers to all states, whether or not they are a party to the Rome Statute.

Section 3

Scope and Purpose of the Special Fund

- 3.1 The scope of the Special Fund is to provide financial assistance, under the terms established in this Administrative Instruction, to Implementing Authorities that are willing to relocate people at risk and closely related individuals, in their territory, on the basis of relocation agreements or other forms of written arrangements.
- 3.2 The purpose of the Special Fund is to increase the number of effective relocations and to assist Implementing Authorities in building their local capacity to adequately protect people at risk and closely related individuals.

Section 4
Establishment, Management and Closure of the Special Fund

- 4.1 Having established the Special Fund, on 27 April 2010, the Registrar is responsible for its management.
- 4.2 The Registrar may close the Special Fund if, taking into account all the relevant circumstances and after consultation with the Contributing Parties, (s)he considers that termination closure is appropriate.

Section 5
Contributions

- 5.1 The Special Fund shall be fully funded by Contributions.

Acceptance of Contributions and related arrangements

- 5.2 The Registrar can only accept Contributions to the Special Fund provided that they are in accordance with the relevant criteria set by the Assembly of States Parties, pursuant to Article 116 of the Rome Statute.
- 5.3 Contributions to the Special Fund may be accepted in Euros or in any other fully convertible currency. Contributions in currencies which are not convertible may be accepted only if the Registrar determines that the currency can be fully utilized in the implementation of the Special Fund.
- 5.4 The acceptance of a Contribution by the Court is subject to the conclusion of a written agreement between the Contributing Party and the Court ("Contribution Agreement"). A model agreement for Contribution to the Special Fund will be used, unless otherwise agreed by the Court and the Contributing Party. In the latter case, the parties may agree on an alternative written arrangement. No authorization is needed from the Contributing Party for the use of the Contribution once the Contribution Agreement or the alternative written arrangement has been concluded.
- 5.5 The Contributing Party may, as appropriate, earmark its Contribution. Such earmarking considerations will be implemented by the Registrar. The Contribution Agreement or the alternative written arrangement must (a) identify the earmarked Contributions, and (b) if decided by the Court and the Contributing Party, establish the possibility to agree on any deviations thereto on a case by case basis.

Contributions' coverage - Eligible expenses

- 5.6 The Contributions shall be used exclusively (a) to cover the direct expenses concerning the relocation of the person at risk and closely related individuals in the territory of the Implementing Authority, and (b) to finance capacity building projects in the Implementing Authorities, where agreed between the Court and the Implementing Authority. Under no circumstances may Contributions be used to cover any costs or expenses in connection with activities funded through the Court's regular budget.
- 5.7 The expenses listed below qualify as direct expenses for which the Contributions can be used:
 - (a) provision of appropriate rented housing facilities;

- (b) language and vocational training services;
- (c) medical care;
- (d) provision of appropriate clothing;
- (e) set up costs; and
- (f) any other direct expenses that the Registrar shall deem appropriate, upon the Advisory Committee's advice, having regard to section 5.8.

- 5.8 The Contributions shall not cover expenses related to the salaries of the Implementing Authority's personnel involved in the relocation of people at risk and closely related individuals.
- 5.9 The financing of capacity building projects under the terms established in section 5.6 above is limited to expert training activities and projects involving exchange of expertise with the related parties of the concerned Implementing Authority.
- 5.10 The payment of the direct expenses to the relevant service providers/person at risk and closely related individuals, as applicable, can be made either by the Court or the Implementing Authority. In the latter case, the Court will transfer the necessary funds to the Implementing Authority under the terms and conditions to be agreed by the Court and the Implementing Authority.

Allocation of the Contributions

- 5.11 The decision as to the allocation of funds in the Special Fund to the Implementing Authorities lies with the Registrar, upon the Advisory Committee's advice, subject to section 5.5.
- 5.12 No commitments, obligations or disbursements against any funds may be made without the prior written authorisation of the Registrar or his duly appointed delegate within the limits of the delegation.

Section 6 **Eligibility of Implementing Authorities**

- 6.1 The eligibility of the Implementing Authorities to relocate people at risk and closely related individuals in their territory, for which the Court will use the Contributions under the terms provided in section 5, shall be determined on the basis of the following cumulative criteria:
- (a) the Implementing Authority declares that it has reasons preventing it from financing the relocation of people at risk and closely related individuals in its territory;
 - (b) the Implementing Authority declares that it accepts the people at risk and closely related individuals for permanent or temporary relocation in its territory, and is capable and agrees to provide the said individual(s) with the necessary status allowing him/her to reside therein;
 - (c) subject to section 6.2, the Implementing Authority declares that it is capable and agrees to provide any required services for a successful relocation.
- 6.2 In the event the Implementing Authority is incapable to meet the criterion established in subparagraph (c) above, the Implementing Authority shall authorize the Court to directly implement relocation services in its territory, as necessary.
- 6.3 The criteria outlined in section 6.1 shall be implemented by the relevant executive entities of the Implementing Authority concerned.

- 6.4 The decision as to the eligibility of Implementing Authorities shall lie with the Registrar, upon the Advisory Committee's advice.

Section 7
Reporting and Audit Requirements

- 7.1 Subject to any applicable confidentiality requirements, as established *inter alia* in the Court's legal framework, the Registrar may report to the Contributing Party concerning the use of the Contribution. The details of such reporting, including applicable deadlines, will be agreed by the Court and the Contributing Party and reflected in the Contribution Agreement or in other arrangements, as applicable.

**CHAPTER II. TERMS OF REFERENCE OF THE ADVISORY COMMITTEE ON THE SPECIAL
FUND FOR RELOCATIONS**

Section 8
Mandate

- 8.1 Having been established by the Registrar, on 27 April 2010, the Advisory Committee shall assist the Registrar in the operation of the Special Fund. In particular, the Advisory Committee shall be responsible for:
- (a) advising the Registrar regarding the eligibility of the Implementing Authorities;
 - (b) advising the Registrar on the allocation of funds to the Implementing Authorities;
 - (c) providing biannual reports to the Registrar concerning the Advisory Committee's activities during that period;
 - (d) recommending amendments to the Terms of Reference of the Advisory Committee; and
 - (e) advising on any other matters deemed relevant for the operations and functioning of the Advisory Committee.

Section 9
Advisory Committee

Composition

- 9.1 The Advisory Committee shall have six members, each serving in his/her individual expert capacity. Each member shall have one or more authorised delegates from his/her office, who will serve in his/her absence.
- 9.2 The Advisory Committee shall be composed of the following members:
- (a) two (2) staff members of the Victims and Witnesses Section, Registry, or their authorised delegate;
 - (b) one (1) staff member of the Office of the Director, Division of External Operations, Registry, or his/her authorised delegate;
 - (c) one (1) staff member of the Budget Section, Registry, or his/her authorised delegate;
 - (d) one (1) staff member of the Finance Section, Registry, or his/her authorised delegate, and

(e) one (1) staff member of the Registry Legal Office, or his/her authorised delegate.

9.3 The Advisory Committee shall be assisted by an Advisor and a Secretary, who shall be staff members of the Victims and Witnesses Section. The Advisor and the Secretary shall not be members of the Advisory Committee and shall serve in a non-voting capacity.

Recusal

9.4 Members of the Advisory Committee and their authorised delegates, as well as the Advisor, shall recuse themselves from reviewing cases or providing advice, as applicable, where there may be a conflict of interests, or an appearance thereof.

Term of office

9.5 The members of the Advisory Committee, their authorised delegates, the Advisor and the Secretary shall be appointed by the Registrar for a two-year term, renewable for additional terms of two years. There shall be no limit to the total number of terms a staff member may serve as a member, authorised delegate, Advisor or Secretary.

9.6 The members of the Advisory Committee shall appoint amongst themselves one Chairperson and one alternate Chairperson, for a term of one year each, renewable for additional terms of one year. There shall be no limit to the total number of terms a staff member may serve as Chairperson or alternate Chairperson.

Quorum and recommendation-making process

9.7 The quorum of the Advisory Committee shall be three (3) members, including the Chairperson (or his/her alternate, in his/her absence). The Advisory Committee shall strive to reach consensus when making recommendations. If no consensus can be reached, the different recommendations shall be recorded in the minutes for the Registrar's consideration and decision.

Advisor

9.8 The Advisor shall provide advice and reports to the Advisory Committee on matters relating to the budget of the Special Fund.

Secretariat

9.9 The Advisory Committee shall be supported by a Secretariat, headed by the Chairperson of the Committee. The Secretariat shall be responsible for organising and servicing meetings of the Advisory Committee, and preparing recommendations for final approval of the Registrar. The Alternate Chairperson shall perform the functions of the Chairperson in his/her absence.

9.10 The Chairperson is responsible for, *inter alia*:

- (a) approving submissions for inclusion on the agenda;
- (b) reviewing submissions prior to the meetings to ensure their completeness;
- (c) convening and chairing meetings;
- (d) submitting, for approval of the other members, requests for review of specific cases by circulation of e-mails, as an alternative to a meeting; and

- (e) supervising and managing the work of the Advisory Committee's Secretariat and advising the Registrar on substantive developments and related issues.

9.11 Under the general authority of the Chairperson, the Secretary shall, *inter alia*:

- (a) arrange and coordinate meetings;
- (b) ensure the timely and efficient distribution of submissions and relevant documentation to members;
- (c) draft meeting minutes and recommendations;
- (d) submit minutes and recommendations for approval to the Registrar;
- (e) provide support on legal and procedural matters to the members;
- (f) maintain a permanent and secure record of all minutes, recommendations and case presentations reviewed by the Advisory Committee; and
- (g) compile statistics on the workload, activities and other matters pertaining to the Advisory Committee's functioning.

Meetings

9.12 The Advisory Committee shall hold at least two (2) regular meetings per calendar year. Extra meetings may be held, as necessary, at the request of the Chairperson, the Registrar or at the request of three (3) members, in writing.

Section 10 **Final Provisions**

10.1 The present Administrative Instruction supersedes the annex to Information Circular ICC/INF/2015/013 and the annex to Information Circular ICC/INF/2013/006, which are hereby revoked.

10.2 This Administrative Instruction shall enter into force on 28 November 2023 and shall remain in force until reviewed or amended by another duly promulgated administrative issuance.



Osvaldo Zavala Giler
Registrar