POLICY ON THE CONDUCT OF CASES OF PROSECUTORS IN DIFFICULTY

1. Purpose

1.1. This policy regulates the ways in which the International Association of Prosecutors (IAP) processes requests for assistance from prosecutors, prosecution agencies or associations of prosecutors claiming to be in difficulty.

2. Standing Committee on Prosecutors in Difficulty

2.1. In accordance with Article 8.2(m) of the IAP Constitution, there shall be a Standing Committee on Prosecutors in Difficulty (the Standing Committee).

2.2. The Standing Committee shall act in accordance with this Policy and with the Standing Committee on Prosecutors in Difficulty Terms of Reference.

3. Criteria for initial consideration of request for assistance

3.1. The IAP will consider any request for assistance from:

i. An IAP member who claims to be in difficulty if, prima facie, there is or may have been a breach of the IAP Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors (the IAP Standards) and/or any other international legal instrument; or
ii. A prosecutor, prosecuting agency or association of prosecutors who is a non-member of the IAP who claims to be in difficulty if, prima facie, there is or may have been a breach of the IAP Standards and/or any other international legal instrument; or
iii. A third-party where a prosecutor, prosecuting agency or association of prosecutors is incapacitated or otherwise unable to make a request for assistance directly.

3.2. The individual or organisation seeking assistance under this section must supply full details of the request for assistance and related background information, together with an indication of how the Standards and/or another international legal instrument have been or are being infringed, to the IAP Secretariat.

3.3. In such circumstances where the Standing Committee itself becomes aware of a prosecutor, prosecuting agency or association of prosecutors that is facing a possible difficulty, it is open to the Standing Committee to initiate such measures as it deems fit, within the parameters of this Policy.

4. Processing a request for assistance

4.1. Following receipt, the Secretariat will provide the information outlined in subsection 3.2 to the Standing Committee. The Standing Committee will then conduct an initial assessment

of the merits of the request for assistance. They may consult with members of the Executive Committee and/or the Senate if it is necessary to do so.

4.2. If further information is required to enable the Standing Committee to make an initial assessment of the merits of the request for assistance, then they may request further information from the applicant via the Secretariat.

4.3. When assessing the request for assistance, consideration will be given to whether the request has real substance when assessed against the IAP Standards and/or any other international legal instrument.

4.4. A request for assistance may be considered to be unsuitable by the Standing Committee for further consideration by the IAP because it does not comply with the terms of this Policy, or because it is minor or trivial in nature, or for some other reason.

4.5. If a request for assistance is considered to be suitable for further consideration by the IAP, then the Standing Committee will conduct a detailed analysis of the request and will provide a report to the President and the Secretariat.

4.6. If the matter is urgent then the Standing Committee may advise the President to issue a statement of principle to the relevant authority, whilst the full request is being considered. Such statement may indicate that a request for assistance has been received, advise that the matter is subject to investigation to determine whether there has been a breach of the IAP Standards and/or other international legal instrument, and seek cooperation with the inquiry.

4.7. FFollowing a full consideration of the request for assistance, the Standing Committee shall

i. Determine whether to uphold the request, in whole or in part; and
ii. Determine what steps, if any, should be taken as a result of their decision regarding the request for assistance.

4.8. The Standing Committee shall provide its conclusions in a report to the President and Secretariat for action.

5. Available responses when a request for assistance is upheld

5.1. Where a request for assistance is upheld, the available responses may include, but are not limited to:

i. The writing of a letter/s by the President (or, where appropriate, by the Secretary-General) to the appropriate individual, authority or organisation;
ii. Seeking the support of other national, regional or international bodies;
iii. The issuing of a statement on the IAP website;
iv. The issuing of a press release to the media; or
v. The offer to arbitrate any dispute.

5.2. Any letter or other document issued on behalf of the IAP pursuant to this section may include the following:

i. An outline of the role of the IAP;
ii. A summary of the complaint;
iii. The outcome of the IAP's investigation into the complaint;
iv. Reference to the IAP Standards or other international legal instrument that have been breached;
v. Any suggested solutions to resolve the complaint;
vi. A request that the complaint be resolved as soon as possible;
vii. A request for support to be provided to the applicant to enable the complaint to be resolved as soon as possible; and
viii. Any other matter as is deemed appropriate or necessary in the circumstances.

5.3. Where the response includes an action pursuant to section 5.1(iii) or (iv), the draft statement or press release must be circulated to the President and Vice-Presidents before publication. The President and Vice-Presidents shall, within ten working days of receipt of the draft, either:

i. approve the draft statement or press release; or
ii. propose an agreed amended version of the draft for publication.

6. Available responses when a request for assistance is not upheld

6.1. Where a request for assistance is not upheld but where it is deemed that grounds for concern exist, the President (or, where appropriate, by the Secretary-General) may write to those who were the subject of the complaint, and to any other individual or organised as deemed appropriate, to:

i. Provide an outline of the role of the IAP;
ii. Advise that a complaint has been made;
iii. Advise that, whilst the complaint was not upheld, grounds for concern regarding the applicant's situation exist;
iv. Detail the IAP Standards and/or other relevant international legal instrument;
v. Urge that the rights of the applicant are fully upheld and respected;
vi. Urge the parties to resolve any difficulties amicably; and
vii. Offer support from the IAP in the resolution of any difficulties, if appropriate.

6.2. Where a request for assistance is not upheld and where there are not deemed to be any grounds for concern, then the President (or, where appropriate, by the Secretary-General) may write to the applicant and to any other individual or organisation as deemed appropriate, to advise them that the complaint has not been upheld and that the inquiry by the IAP has been finalised and closed.

7. Records

7.1. The Secretary-General shall keep an official record of all requests for assistance received pursuant to this Policy and the outcome of all such requests for assistance.

8. Amendment

8.1. This terms of this Policy may be amended by agreement by the Executive Committee.

Approved by the IAP Executive Committee following discussions in Shanghai April 2026.
In force with immediate effect.

STANDING COMMITTEE ON PROSECUTORS IN DIFFICULTY

TERMS OF REFERENCE

1. Purpose

1.1. These Terms of Reference (the Terms) regulate the work of the Standing Committee on Prosecutors in Difficulty (the Standing Committee).

1.2. The purpose of the Standing Committee is to consider and investigate requests for assistance that are submitted to the IAP, and to provide a report on their conclusions.

2. Membership

2.1. The Standing Committee shall consist of three members. The Standing Committee will be supported by the IAP Secretariat.

2.2. Members of the Standing Committee may be members of the Executive Committee or the Senate.

2.3. Members of the Standing Committee shall be appointed by the Executive Committee, after consultation with the Chair of the Senate and the Secretariat.

2.4. The Executive Committee shall appoint one of the members of the Standing Committee as Chair. The term of office for the Chair is three years and may be renewed without limitation.

2.5. A member shall serve for a term of three years. Members shall be eligible for reappointment without limitation.

2.6. A member may resign from the Standing Committee by providing notice in writing to the Secretary-General.

2.7. A member of the Standing Committee may be dismissed by the Executive Committee if, after due enquiry, the Executive Committee decides by a majority that the member is unwilling to perform their duties as required by the Policy on the Conduct of Cases of Prosecutors in Difficulty or these Terms, or has acted in such a way that is inconsistent with their continued membership of the Standing Committee.

2.8. No member may remain on the Standing Committee if he/she ceases to be a member of the IAP.

2.9. Standing Committee members shall disclose any conflict of interest relating to the work of the Standing Committee to the Chair of the Standing Committee. If requested to do so by the Chair, the member shall withdraw from the Standing Committee or from any part of the Standing Committee meeting as is deemed appropriate by the Secretary-General.

2.10. If any member of the Standing Committee is not available to consider a particular case, then the President may invite another member of the Executive Committee or the Senate for the purposes of determining that particular case.

2.11. At the request of the Chair, the President may appoint a further member of the Executive Committee or the Senate, ideally from the region involved, to assist the Standing Committee to conduct their investigation.

3. Procedure

3.1. On receipt of a referral of a request for assistance made to the IAP, the Standing Committee shall be responsible for:

i. Investigating the request for assistance;
ii. Seeking any further information that may be required to enable a proper consideration of the request for assistance;
iii. Identifying appropriate responses to the request for assistance;
iv. Identifying any potential solutions to the difficulties that have been raised in the request for assistance;
v. Deciding finally upon the issues under consideration;
vi. Advising the President of its decision and the reasons, and indicating how the request should be responded to by the President;
vii. Drafting such documents as are deemed necessary, including statements of principle, letters of support, public statements and press releases;
viii. Identifying relevant individuals or authorities to whom representations should be made;
ix. Advising on any other actions that are deemed appropriate; and
x. Assisting in any other way that is deemed appropriate.

3.2. The Chair of the Standing Committee should aim for consensus on all decisions and recommendations. If consensus cannot be reached, majority and minority positions shall be noted in the report that is provided to the President and Secretariat.

3.3. The Standing Committee should respond to any request for assistance within as short a timeframe as is reasonably practicable and commensurate with the nature of the request.

3.4. The Standing Committee may meet, either in person or online, to fulfil their responsibilities, or alternatively may do so electronically without the need for a meeting.

3.5. If, in rare circumstances, the Standing Committee requires a fact-finding visit to a particular jurisdiction, then the Chair should seek the endorsement of the President. Once approved, the Secretariat will be responsible for facilitating the visit. Where appropriate, the President should notify the relevant authorities in the jurisdiction that the fact-finding visit is taking place and seek such support as may be provided.

4. Rules of procedure

4.1. The Standing Committee may make and vary its own rules of procedure, including these Terms.

5. Record keeping

5.1. A record should be kept of each Standing Committee report. The report should be sent to the IAP Secretariat for storage in the IAP archives.

5.2. The Chair of the Standing Committee should make a report to the Executive Committee during the Northern Spring Meeting (and more often if deemed appropriate), summarising all requests for assistance that were considered by the Standing Committee and any advice given by the Standing Committee relating to them.

5.3. The Chair of the Standing Committee should prepare a short report on the activities of the Standing Committee for inclusion in the IAP Annual Report. The short report should be anonymised so that it is not possible to identify the person or organisation who sought assistance (unless they have expressly indicated that they are content to be so identified).

Approved by the IAP Executive Committee on 28 September 2024 in Baku, Azerbaijan.
In force with immediate effect.