

PROTOCOL

2021

IAP Complaints Protocol



IAP
INTERNATIONAL
ASSOCIATION OF
PROSECUTORS

1 Preamble

- a) The IAP from time to time receives complaints, sometimes from individual prosecutors, against their organisation, association, government or the IAP itself, and sometimes from concerned individuals, civil society organisations and other agencies, whether or not (in all cases) they are members of the IAP.
- b) This protocol sets out the principles to which the IAP will adhere and the processes which the IAP will follow when responding to such complaints.
- c) The Secretary-General may reject any complaint that: does not relate to a breach of the **IAP's Objects** (Article 1.3 of the Constitution) and/or **Standards**; does not relate to an IAP member; or is clearly without merit or vexatious. Any such rejection must be notified to the Executive Committee and the Secretary-General will inform the complainant in writing that the complaint is inadmissible.

2 Complaints by IAP members

- a) The IAP will consider seriously and respond promptly to any allegation by a member of a serious breach of the IAP's Objects and/or Standards.
- b) When such a complaint is received by the Secretariat it will be referred promptly to an **ad hoc Committee** consisting of:
 - I) the President (Chair), Secretary-General and General Counsel;
 - II) one or more of the Vice-Presidents of the IAP nominated by the President; and
 - III) two members of the Executive Committee nominated by the President.

3 Complaints by non-members

- a) The IAP will consider seriously and respond promptly to any allegation by a non-member of a serious breach of the IAP's Objects and/or Standards by the IAP or by a member.
- b) When such a complaint is received by the Secretariat it will be referred promptly to the **IAP Civil Society Organisations Committee** to be dealt with in accordance with its mandate.

4 All complaints

- a) The **ad hoc Committee** and the **IAP Civil Society Organisations Committee**, as applicable, are hereafter referred to as “the Committee”.
- b) The Secretary-General will confirm the receipt of the complaint to the complainant and refer the complaint to the Committee.
- c) The Committee will consider what further information, if any, it requires from the complainant and will consult with members of the IAP and other interested parties as appropriate.
- d) If further information is required, the Secretary-General will write on behalf of the Committee, in terms proposed by the Committee, to the complainant asking for the further information required.
- e) The complainant may ask the Secretary-General to keep their identity confidential when approaching the person and/or organisation complained against.
- f) If the complainant does not request confidentiality, the Secretary-General will write to the person and/or organisation complained against, enclosing a copy of the complaint and requesting a response to the complaint within six weeks of the date of the request. The deadline for a response may be extended by written agreement.
- g) If the complainant requests confidentiality from the IAP when approaching the person and/or organisation complained against, the Secretary-General will write to the person and/or organisation setting out the nature of the complaint which has been made and requesting a response to the complaint within six weeks of the date of the request. The deadline for a response may be extended by written agreement.
- h) The Secretary-General will inform the Committee about the action taken under paragraph f) or g) above and keep it informed of any responses.
- i) In considering what action to take at all stages, the Committee shall:
 - I) assess the seriousness of the complaint and whether it constitutes a serious breach of the IAP's Objects and/or Standards;
 - II) assess the impact of a range of possible responses from the IAP; and
 - III) consider whether assistance in addressing the complaint may be obtained from any IAP member in the jurisdiction concerned.
- j) In formulating its response (including advice and recommendations), the Committee shall keep in mind the Objects and Standards of the IAP but it shall be cautious when responding not to be perceived to be interfering improperly in the internal affairs of any jurisdiction or to do so.
- k) If the Committee considers that no response should be made or that there is substantial uncertainty about the propriety or efficacy of responding, the Secretary-General shall be informed and shall notify the complainant in writing that the complaint is dismissed.

- l) The Committee will adopt the same procedure whether the person/organisation complained against is a member of the IAP or the IAP itself.
- m) The Secretary-General shall provide the members of the Executive Committee with copies of the complaint, any additional information provided by the complainant, the person and/or organisation's response to the complaint (if any) and the Committee's response (including advice and recommendations) in writing via electronic means for approval to proceed or for other response. Subsequent action is to be taken as approved by the Executive Committee.
- n) The members of the Executive Committee shall, within one month of the date of the Secretary-General's electronic message, reply to him/her indicating whether they support the response of the Committee and any action described in paragraph o).
- o) The Executive Committee may decide not to proceed further, to proceed without suspending or expelling a member or to recommend to the General Meeting that a member be expelled or his/her/its membership suspended if it is considered that he/she/it has been guilty of dishonourable conduct or that the continuation of his/her/its active participation in the activities of the IAP or of his/her/its membership is detrimental to the IAP.
- p) If the Executive Committee decides by a simple majority of its members to adopt the response of the Committee:
 - I) not to proceed further or to proceed without suspending or expelling a member, the issue will rest there and Secretary-General will notify the complainant and the member of the decision in writing;
 - II) to recommend suspension or expulsion to the General Meeting, the Secretary-General will inform the member in writing of the recommendation and the right to appeal the decision to the Conflict Committee indicating the appeal must be presented in writing to the Conflict Committee within one month from the member being informed of the decision.
- q) If the matter is referred to the Conflict Committee, the Conflict Committee will consider and come to a decision on the matter within six weeks of the matter being referred to it. It will explain the reasons for its decision in writing to the Executive Committee and the member. If the Conflict Committee decides:
 - I) to leave intact the recommendation of the Executive Committee to suspend or expel the member, the matter will be placed on the agenda of the next General Meeting.
 - II) to reject the recommendation of the Executive Committee to suspend or expel the member, the matter will rest and the Secretary-General will notify the complainant and the member of the decision.

- r) If the matter is not referred to the Conflict Committee, or if the Conflict Committee supports the recommendation of the Executive Committee to suspend or expel the member, the Secretary-General will circulate details of:
 - I) the complaint;
 - II) the decision of the Executive Committee;
 - III) the decision of the Conflict Committee,
 - to all members of the IAP.
- s) The Secretary- General shall notify the complainant of the actions taken under paragraph p), q) or r) above.
- t) The recommendation of suspension or expulsion will be put on the agenda of the next General Meeting by the Secretary-General. The member and the President shall be entitled to address the meeting and all those attending shall be entitled to speak. The General Meeting will decide by a simple majority vote on the matter.
- u) The Secretary-General shall notify the member and the complainant of the decision of the General Meeting in writing.

This Protocol was adopted by the Executive Committee of the International Association of Prosecutors at its meeting on 20-21 October 2021, in St Petersburg.