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Contact: contact@iclpProsecutors.org

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Association of International
Criminal Law Prosecutors

Statement on the Situation Concerning the ICC Prosecutor, Karim Khan

The Hague / Washington, D.C. – The Association of International Criminal Law Prosecutors (AICLP) issues this statement in response to the ongoing proceedings before the Bureau of the Assembly of States Parties (ASP) concerning allegations of sexual misconduct against ICC Prosecutor Karim Khan. The AICLP takes no position on Mr. Khan’s formal status. We do consider it necessary to address the structural deficiencies this process has exposed, the voices of those within the Office of the Prosecutor (OTP) who service as the Office’s primary constituents, and the institutional consequences that now confront the Court.

I. STRUCTURAL GAPS EXPOSED BY THIS PROCESS

Flawed Investigative Architecture

At the heart of this process lies a fundamental procedural mismatch. According to public reporting, the OIOS was mandated to conduct fact-finding, not adjudication. The ad hoc Judicial Panel was tasked with legally characterising OIOS’ findings, but had no authority to address their deficiencies considering the seriousness of this matter, including the failure to assess witness credibility or resolve material narrative inconsistencies. The result was a process in which the facts were never fully determined and the law was never fully applied, an outcome that satisfies neither the complainant, the respondent, nor the institution. The AICLP calls on the ASP to establish clear, transparent, and well-defined rules governing the investigation and adjudication of misconduct allegations against senior ICC officials, with defined evidentiary standards and unambiguous allocation of functions. A procedural gap of this consequence must not be allowed to recur.

No Standing or Adequate Accountability Mechanism

The Court does have a standing oversight body: the Independent Oversight Mechanism (IOM). But this matter has exposed the IOM’s processes as inadequate to the task. When the IOM investigated the initial allegations in May 2024, it closed the inquiry within five days after the complainant, who by her own account feared retaliation, declined to file a formal complaint. That outcome did not reflect a resolved matter; it reflected a process incapable of proceeding when a complainant is too afraid to engage with it. The IOM’s inability to advance the investigation without the complainant’s active cooperation, in circumstances where fear of retaliation was itself part of the allegation, points to a structural failure of design, not merely of execution.

The AICLP is further concerned about whether the IOM is appropriately constituted to handle allegations of this nature. Investigations involving sexual misconduct, harassment, and abuse of authority in a workplace context are a specialist discipline, requiring not only investigative competence but deep expertise in employment law, trauma-informed practice, and the dynamics of power in hierarchical institutions. There is no publicly available basis for confidence that the IOM's current staffing reflects all those qualifications. The AICLP calls on the ASP to conduct a comprehensive review of the IOM's mandate, composition, and procedures, with particular attention to ensuring the IOM is staffed by individuals with recognised expertise in employment-related misconduct, that its processes do not require a complainant's active cooperation to proceed where there is independent evidence of wrongdoing, and that its framework reflects a genuine institutional commitment to zero tolerance for sexual misconduct and abuse of authority at every level of the Court. The Court cannot credibly prosecute the gravest crimes against persons while tolerating a culture in which its own staff are inadequately protected.

The Chilling Effect on Staff

The AICLP is gravely concerned by reports that the Prosecutor, prior to taking leave, engaged in conduct characterised by UN investigators as retaliatory toward staff supportive of the complainant. Whatever evidentiary weight is assigned to those findings, the perception of retaliation is itself an institutional harm. Staff who believe that supporting a complainant invites professional consequences will not come forward. Cultures of silence are not incidental to institutional failure; they are its precondition.

This concern is given concrete form by a letter sent to the ASP this week by purportedly a group of OTP staff members, expressing serious concerns about the prospect of the Prosecutor's return and stating that the UN investigation is "incompatible with continued confidence in the prosecutor's leadership." One senior staff member reported that "people are deeply afraid" of retaliation. The AICLP considers this communication to be of the highest significance. The men and women of the OTP are not peripheral observers of this matter; they are its primary institutional constituency. Their assessment of whether effective and credible leadership can be restored under the current circumstances is not merely anecdotal; it is direct, operational evidence that the ASP is obliged to weigh with the utmost seriousness. No decision about the leadership of the OTP should be made without a genuine, structured canvassing of staff views, with full protection for those who participate.

The Political Dimensions

The AICLP cannot ignore the environment in which this process has unfolded. The allegations against Mr. Khan emerged in direct parallel with his Office's pursuit of arrest warrants against Israeli officials, a prosecution that attracted ferocious external pressure, including US sanctions against ICC staff and judges. This timing has, in some quarters, deliberately invited conflation of two entirely distinct matters: the Prosecutor's personal conduct and fitness for office, and the legitimacy of the ICC's prosecutorial decisions.

The AICLP is concerned that this conflation serves no one well — least of all the complainant, whose allegations deserve to be assessed entirely on their own merits. Advocacy that filters the misconduct proceedings through the lens of the Gaza investigation, whether to shield the Prosecutor from accountability or to weaponise the allegations against his prosecutorial record, subordinates genuine institutional integrity questions to the interests of political actors. It should be noted that available reporting consistently indicates the misconduct allegations originated from within the OTP itself, from colleagues and professionals within the institution, not from foreign governments or external adversaries. The invocation of geopolitical pressure to reframe an internal accountability matter is, regardless of intent, a disservice to the complainant, to OTP staff, and to the Court.

II. THE INSTITUTIONAL STAKES

The question before the ASP is not solely whether legal findings of misconduct have been established to a defined standard of proof. It also encompasses whether the outcome of the fact-finding process has caused or is likely to cause (serious) harm to the proper internal functioning of the Court, including whether conditions exist for the Prosecutor to lead the OTP with the authority, credibility, and staff confidence that effective prosecution of the world's gravest crimes demand. These are distinct questions, and the ASP is empowered — indeed required — to consider both.

The OTP has built a globally respected body of work in the investigation and prosecution of sexual and gender-based violence. The same Office now faces unresolved allegations of sexual misconduct at its highest level, a documented pattern of conduct toward staff that investigators have reportedly characterised as retaliatory, and, most tellingly, an open statement from its own staff that they cannot operate with confidence under his leadership. Irrespective of formal legal outcomes, these are conditions in which the credibility of the OTP to investigate and prosecute sexual violence, to handle internal allegations of misconduct, and to maintain the proper internal functioning, unity and morale of its personnel is acutely at risk. The question is whether those conditions are remediable under current leadership, or whether the institutional interest of the Court and the people it serves is better advanced by a different path.

The AICLP makes no prescription. But we observe that the standard for fitness to lead the world's foremost international criminal prosecution office is not simply the absence of proven misconduct beyond reasonable doubt. It also includes the demonstrated capacity to command the trust of the institution's own staff, and that trust, on the evidence now before the ASP, appears to be deeply and publicly fractured.

The ASP must also be acutely mindful of the human dimension of this prolonged crisis. The approximately 380 staff of the OTP — prosecutors, investigators, analysts, and support personnel — have continued to carry forward some of the most demanding and consequential criminal investigations in the world: under US sanctions that have closed bank accounts and revoked visas, under the shadow of unresolved leadership, and in an environment of reported fear, internal division, and institutional distress. That they have done so reflects a profound dedication to the Court's mission that deserves far more than acknowledgement. It demands resolution.

The welfare of OTP staff is not a secondary or ancillary consideration. It is a direct institutional interest, and one that the ASP has both the authority and the responsibility to act upon. The AICLP urges the ASP to weigh explicitly, and to weigh heavily, the human cost of delay, and to recognise that a prompt, principled, and transparent resolution is not only a matter of fairness to the individuals directly involved, but a prerequisite for restoring the operational integrity of an Office on which the cause of international criminal justice depends.

III. CALL TO ACTION

The AICLP calls on the ASP to resolve this matter with transparency and fidelity to principled legal standards; to establish a permanent accountability framework for senior ICC officials; to strengthen anti-retaliation protections and independent whistleblower mechanisms for staff; to genuinely and structurally canvass the views of OTP personnel before any decision on leadership is finalised; and to ensure that political pressures — from any direction — play no role in the outcome.

The international criminal justice project cannot credibly hold others to account while failing to hold itself to account. That imperative must be honoured free from interference — and with the welfare, confidence, and voices of the institution's own people at its center.

The Association of International Criminal Law Prosecutors (AICLP) is a professional association representing prosecutors and former prosecutors engaged in international criminal law, before international tribunals, hybrid courts, and domestic jurisdictions applying international criminal law principles. The AICLP's mission includes the promotion of professional standards, institutional integrity, and the rule of law in international criminal justice.

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