

**INTERNATIONAL CRIMINAL TRIBUNAL FOR
THE FORMER YUGOSLAVIA**

Prosecutor's Regulation No 2 (1999)

**STANDARDS OF PROFESSIONAL CONDUCT FOR
PROSECUTION COUNSEL**

1. The Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY) and of the International Criminal Tribunal for Rwanda (ICTR) makes this Regulation articulating the standards of professional conduct to which counsel in the Office of the Prosecutor (OTP) for both Tribunals will adhere. In doing so the Prosecutor is guided by the following considerations:

- in the Charter of the United Nations, the peoples of the world affirm, *inter alia*, their determination to establish conditions under which justice can be maintained, and proclaim as one of their purposes the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion;
- the Universal Declaration of Human Rights enshrines the principles of equality before the law, the presumption of innocence and right to fair trial and public hearing by an independent and impartial tribunal;
- the establishment of the Tribunals by the Security Council under Chapter VII of the Charter of the United Nations, recognises and underlines that international criminal justice makes an important contribution to lasting peace and security in the former Yugoslavia and to the process of national reconciliation and the restoration and maintenance of peace in Rwanda;
- prosecutors, who in these Tribunals represent the international community, play a crucial role in the administration of justice and the determination of individual responsibility for crimes, and standards and rules concerning the performance of their important responsibilities should promote principles of fairness and professionalism;
- there are already in existence a *Code of Professional Conduct for Defence Counsel Appearing Before the International Tribunal (ICTY)*

and a *Code of Professional Conduct for Defence Counsel (ICTR)* and it is desirable that the standards of professional conduct of prosecution counsel should also be clearly set out and understood;

- the duties and responsibilities of the Prosecutor differ from, and are broader than, those of defence counsel - the Office of the Prosecutor is one of the three constituent organs of each of the International Tribunals, their members can be regarded as permanent officers of the court, and many safeguards are built into the Statutes of the respective Tribunals, their Rules of Procedure and Evidence and the United Nations system to ensure high standards of conduct and ethics on the part of the Prosecutor and prosecution counsel;
- *Guidelines on the Roles of Prosecutors*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and welcomed by the General Assembly in its resolution 45/166 of 18 December 1990, and the *Code for Prosecutors* set out by the International Association of Prosecutors (IAP) on 23 April 1999 provide points of reference for the conduct of international prosecutions, as they do for prosecutors in national systems.


2 In the conduct of investigations, and in the conduct of pre-trial, trial and appellate proceedings, prosecution counsel will adopt the highest standards of professional conduct. The Prosecutor expects them, consistent always with the letter and the spirit of the relevant Statute and Rules of Procedure and Evidence, and the independence of the Prosecutor:

- a) to serve and protect the public interest, including the interests of the international community, victims and witnesses, and to respect the fundamental rights of suspects and accused;
- b) to maintain the honour and dignity of their profession and conduct themselves accordingly with proper decorum;
- c) to be, and to appear to be, consistent, objective and independent, and avoid all conflicts of interest that might undermine the independence of the Prosecutor - in particular prosecution counsel shall not allow themselves to be influenced by national, ethnic, racial, religious or political considerations;

- d) to exercise the highest standards of integrity and care, including the obligation always to act expeditiously when required and in good faith;
- e) to demonstrate respect and candour before the Tribunal, and not knowingly to make an incorrect statement of material fact to the Tribunal, or offer evidence which prosecution counsel knows to be incorrect or false - should prosecution counsel become aware that a statement made to the Tribunal is incorrect, or that evidence presented to the Tribunal is false, he or she shall take all the necessary steps to inform the Tribunal as soon as possible;
- f) to respect, protect and uphold the universal concepts of human dignity and human rights, and in particular avoid political, social, religious, racial, cultural, sexual or any other kind of discrimination;
- g) to take any available measures, as required, to protect the privacy and ensure the safety of victims, witnesses and their families, to treat victims with compassion, and to make reasonable efforts to minimise inconvenience to witnesses;
- h) to assist the Tribunal to arrive at the truth and to do justice for the international community, victims and the accused;
- i) to preserve professional confidentiality, including not disclosing information which may jeopardise ongoing investigations or prosecutions, or which might jeopardise the safety of victims and witnesses;
- j) to avoid communicating with a Judge or Chamber of the Tribunal about the merits of a particular case, except within the proper context of the proceedings in the case;
- k) to avoid, outside the courtroom, making public comments or speaking to the media about the merits of particular cases or the guilt or innocence of specific accused while judgement in such matters is pending before a Chamber of the Tribunal;
- l) to make it clear, particularly when undertaking official speaking engagements, that he or she is representing the OTP and not the Tribunal as a whole;

- m) in order to ensure the fairness, consistency and effectiveness of prosecutions, to make reasonable efforts to consult regularly and co-ordinate with other OTP staff and co-operate with colleagues in other sections of the Tribunal;
 - n) to know, understand and follow OTP policies, guidelines and procedures;
 - o) to respect these standards of ethical conduct, and to the best of their ability, to prevent and actively oppose any departure therefrom, and when given reason to believe that a departure from these standards has occurred or is about to occur, report the matter to the Prosecutor.
3. If there is any inconsistency between the standards of professional conduct set out in paragraphs a) to o) above and any other code of conduct which prosecution counsel is bound to honour, the former shall prevail with respect to counsel's conduct before this Tribunal.
4. Failure by prosecution counsel to observe the above standards will be dealt with by the Prosecutor, in the exercise of her discretion, and subject to the staff rules of the United Nations, apart from any sanctions that may exceptionally be imposed upon prosecution counsel pursuant to Rules 46 or 77 of the Rules of Procedure and Evidence of both Tribunals (or other provisions of the Statutes and Rules).
5. These Standards of Professional Conduct for Prosecution Counsel will be subject to ongoing review and may be amended at any time, pursuant to the applicable provisions of the Rules of Procedure and Evidence pertaining to Regulations.

Done on this 14th day of September 1999
At New York City
United States of America


Louise Arbour
Prosecutor