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Hello, I'm Yvonne McDermott Rees, and this is my commentary to article 44 of the ICC Statute.

Article 44 sets out provisions on the qualifications of, and regulations applicable to, staff appointed by the Prosecutor and Registrar.

The Registrar and Prosecutor have to have regard to the provisions of article 36(8) of the statute when hiring staff. In other words, they need to ensure an appropriate gender, geographic balance, and representation of the principal legal systems of the world in their staff.

Staff members are mandated by article 44, paragraph 2 to embody the highest standards of efficiency, competency, and integrity. The [Staff Regulations] add that they must “uphold and respect the principles and respect the principles embodied in the Rome Statute, including faith in fundamental human rights, in the dignity and worth of the human person, and in equal rights of men and women”. The standard reference request used by the Court asks whether the individual is free from prejudice or intolerance with regard to race, gender, religious and ethnic background, and the core competencies to work at the Court are set out as including honesty, integrity, attitude towards others, temperament, and ability to work harmoniously in a large diverse multi-cultural environment.

Under article 44, paragraph 4 the Court can ‘in exceptional circumstances’ accept the services of individuals who are on secondment from States, inter-governmental organisations, or non-governmental organisations. These people are known as ‘gratis personnel,’ given that they are not paid directly by the Court, but rather by the sending state or organization. Guidelines for the selection and engagement of gratis personnel were adopted in 2005. Pursuant to these guidelines, gratis personnel must accept the independence of the Court, and they must not accept instructions from their sending state or organisation, or indeed from any other external authority. They cannot be hired to replace a paid member of staff, and the Prosecutor or Deputy Prosecutor may not delegate their prosecutorial functions to gratis personnel who are serving in the Office of the Prosecutor.