



Administrative Instruction

ICC/AI/2015/002

Date: 18 March 2015

RECORDS RETENTION AND DISPOSAL POLICY

The Registrar, with the consent of the President and of the Prosecutor, pursuant to section 3 of ICC/PRESG/2003/001 (“Procedures for the promulgation of administrative issuances”), promulgates the present Administrative Instruction for the purposes of establishing a retention policy for all records of the Court, in whatever forms they are, in accordance with Presidential Directive ICC/PRESG/2005/001 and Administrative Instruction ICC/2007/001 (“ICC Information Protection Policy”):

Section 1

Use of terms

For the purpose of the present Administrative Instruction, the following terms shall be defined as below:

- 1.1 “Archives” – ICC Records to be permanently retained for their administrative, fiscal, legal, historical or informational value.
- 1.2 “Back-up Storage” – The action of keeping ICC Records electronically after completion of their retention period in a way that makes the records retrievable, if necessary and upon request. ICC Records in back-up storage may no longer be immediately available.
- 1.3 “Born-Digital” - ICC Records originally created and stored in electronic format.
- 1.4 “Disposal” - The destruction, back-up storage or transfer of ICC Records.
- 1.5 “Historical Value” - The value of an ICC Record in light of its use in the future for the purposes of supporting any sort of legal dispute or reconstructing the general history of the development and governance of the Court and its legacy.

- 1.6 "ICC Records" - Books, papers, photographs, machine readable materials, maps, or other documentary materials, regardless of physical form or characteristics, which are in the possession of the Court and have operational, historical or evidentiary value. The content of portable computing devices (for example, laptops and PDAs) with resident memory are regarded as ICC Records within the context of this Administrative Instruction. ICC Records include but are not limited to Born-Digital records and those that have been digitised from another medium or format. Ordinary, not finalised, working materials and other documents with no documentary or evidentiary value, shall not be considered ICC Records.
- 1.7 "ICC Legacy Records" - ICC Records that contain information determined to be of historical value which maintain the legacy of the Court for the future. This category may apply, *inter alia*, to any ICC Records (in any medium or form) of investigations and prosecutions, the administration of Chambers, public communications of the Court that are appraised to be of historical value and any other category of records as decided by the Registrar or the Prosecutor, as appropriate.
- 1.8 "ICC Operational Records" - ICC Records that are determined to be of operational value and that support or document on-going business functions, programmes, processes, transactions, services and all other functions of the Court.
- 1.9 "ICC Transitory Records" - ICC Records that are determined to be of temporary value and are only required for a limited period of time for the completion of a routine action or for the preparation of an ICC Operational or Legacy Record.
- 1.10 "Operational Value" - The usefulness of ICC Records within the Court's on-going business. It includes fiscal value and legal value which are appraised separately when records are evaluated to determine their Retention Period.
- 1.11 "Organisational Unit"- An organ, division, office, section, team or unit as described in Court's structure;
- 1.12 "Records Appraisal" - The process of categorising the ICC Records, based on their transitory, operational or legacy value, for the purpose of determining the applicable Retention Period.
- 1.13 "Records Management and Archives Focal Point" – The staff member assigned to provide his or her Organisational Unit with advice on the retention and disposal of records and fulfil the other functions described in the present Administrative Instruction. In the absence of assignment, the role and responsibilities of the Records Management and Archives Focal Point shall be performed by the Head of the Organisational Unit.
- 1.14 "Retention of ICC Records" – The keeping or retaining of ICC Records both electronically and/or in physical form.
- 1.15 "Retention Period" - The minimal time an ICC Record is retained before its disposal.
- 1.16 "Retention Schedule" – A comprehensive instruction developed by an Organisational Unit covering the retention and disposal of records to ensure that they are retained for as long as necessary based on their administrative, fiscal, legal, historical or informational value.
- 1.17 "Transfer of ICC Records" – The action of moving ICC Records to an external organisation for the purpose of storage or of returning of ICC Records to their originating institution. This

applies in particular with respect to ICC Records obtained on loan from other institutions or governments.

Section 2

Objective and scope

2.1 This Administrative Instruction sets out the ICC Records retention and disposal policy for ICC Records handled within the operations of the Court, in accordance with Section 12.1 of the ICC Information Protection Policy. It regulates the roles, responsibilities, conditions and timeframes for the retention and disposal of ICC Records.

2.2 This Administrative Instruction shall be implemented and interpreted in light of other relevant administrative issuances, and subject to specific agreements entered into with States and other third parties governing the retention, disposal or general management of information.

2.3 It shall be completed by the appropriate Retention Schedules developed for each Organisational Unit in compliance with the present Administrative Instruction.

Section 3

General Retention Principles

3.1 Unless specifically provided otherwise in the Court's legal framework, including the present Administrative Instruction, electronic forms of ICC Records shall be authoritative.

3.2 Physical forms of ICC Records that have a corresponding electronic form which is authoritative pursuant to Section 3.1 above shall be destroyed. ICC Records of which only the physical form is authoritative shall be retained in their original physical form and associated with their electronic form.

3.3 All physical ICC Records that do not exist already in electronic form and of which the retention period has not yet expired shall be digitised for the purpose of their retention.

Section 4

Retention Periods

4.1 The Retention Periods applicable to ICC Records shall be determined in accordance with their categorisation as ICC Transitory Records, ICC Operational Records or ICC Legacy Records. It shall be calculated from the date the ICC Record was last modified or, in the case of ICC Records affected by an expiration, termination or closure date, from that specific date. All ICC Records shall be categorised and labelled accordingly.

4.2 Working documents and other material not qualifying as ICC Records shall not be retained. It is the responsibility of each staff member to destroy such documents and material once they have completed their purpose.

4.3. ICC Transitory Records shall have a Retention Period of two (2) years, after which they shall be disposed.

4.4. ICC Operational Records shall have a Retention Period of ten (10) years as from the date of expiration of their operational value, after which they shall be disposed.

4.5. ICC Legacy Records shall be retained permanently. These records shall be subject to retention and categorisation reviews. They shall normally be retained in electronic version, with the exception of physical records that cannot be fully and properly converted into electronic format without compromising their value and utility because of their inherent characteristics (e.g. fingerprints). Material filed in the records of situations or cases before the Court shall be categorised as ICC Legacy Records.

4.6. Pursuant to rule 111.9 of the Financial Regulations and Rules, accounting records, other financial and property records, and all supporting documents shall, for the purposes of this Administrative Instruction, be categorised, depending on their nature, either as ICC Operational Records or as ICC Legacy Records. These records and documents shall not be categorised as ICC Transitory Records.

4.7. Pursuant to regulation 26(4) of the Regulations of the Court, evidence other than live testimony shall be categorised as ICC Legacy Records for the purpose of the present policy and shall be kept in its original form.

4.8. Pursuant to regulation 108(2) of the Regulations of the Registry, victims' applications for participation in the proceedings and reparations and related documents/materials shall remain available for consultation in their original version over the applicable retention period. After that period, the applications may be disposed of and kept for consultation in electronic version only. When applications have been introduced as evidence in a case, section 4.7 above applies.

4.9. Documents recording arrangements with third parties signed in a non-electronic way or otherwise physically authenticated by the parties shall be retained in their physical form.

4.10. In case of conflict between the Retention Periods set forth in Sections 3.2 to 3.4 above and other specific Retention Periods defined with respect to certain categories of records, such as the one applicable to official status files under section 2.9 of ICC/AI/2008/002, the longest Retention Period shall prevail.

Section 5

Roles and Responsibilities

5.1. Each staff member shall be responsible for taking the initial decision as to the categorisation as ICC Records of new documents or other material s/he produces, acquires, delivers or receives and for their categorization as Transitory, Operational and Legacy Records. This initial categorisation shall trigger any automatic disposal of the ICC Records pursuant to section 5.5 below at the end of the corresponding Retention Period.

5.2. In order to avoid duplicates, ICC Records created and categorised pursuant to section 5.1 above shall be circulated internally by way of hyperlinks to the location where they are recorded, instead of as attachments. Access rights to classified ICC Records shall be granted accordingly.

5.3. The Head of each Organisational Unit shall be responsible for defining relevant criteria for the categorisation of ICC Records within the Organisational Unit and ensuring their implementation by his/her subordinates, with the assistance of the Records Management and Archives Focal Point. In the definition of these criteria, the Head of the Organisational Unit shall take into account all relevant statutory documents, policies and practices of the Court. The Head of the Organisational Unit should also choose between the various modalities of disposal, as defined under section 1.4 above.

5.4. The Records Management and Archives Focal Point shall be responsible for reviewing the categorisation of ICC Records within his/her Operational Unit in accordance with the criteria set forth by the Head of the Organisational Unit pursuant to section 5.3 above as follows:

- The categorization as ICC Transitory Records shall not be subject to review;
- The categorization as ICC Operational Records shall be reviewed by way of random checking or upon request by the staff member who initiated the categorisation pursuant to section 5.1 above;
- Each time a staff member proposes to classify a document or other material as ICC Legacy Record, this proposal shall be reviewed by the Records Management and Archives Focal Point.

5.5. Each month, ICC Transitory and Operational Records which have reached the end of their retention period over the last month shall be disposed of, unless a staff member of the Organisational Unit has specifically requested their continued retention to his/her Records Management and Archives Focal Point. In the latter case, the Records Management and Archives Focal Point shall review the relevant ICC Records and decide on their continued retention for an additional period of two (2) or ten (10) years, as applicable, or their re-categorisation as ICC Legacy Records.

5.6. Once a year, the Records Management and Archives Focal Point shall issue a summary report on the disposal of ICC Records and categorisation of records as ICC Legacy Records by his/her Operational Unit over the preceding 12 months. This report shall be circulated to the Heads of Organs.

5.7. The Records Management and Archives Focal Point shall certify the conversion of paper versions of ICC Records into electronic format and, thereafter, ensure, when applicable, the proper destruction of the paper versions pursuant to section 3 above.

5.8. The Records Management and Archives Focal Point shall monitor compliance with the present Administrative Instruction by the staff members in his/her Operational Unit, in particular the destruction of documents pursuant to sections 3.2 and 4.2 above.

Section 6

Responsibilities of Staff Members


6.1. All ICC Records, in whatever form, produced, acquired, delivered or received by a staff member in connection with or as a result of the performance of his/her official duties at the Court, are the property of the Court.

6.2. Staff members shall not alter, destroy, misplace, transfer, or render useless any of the retained ICC Records. Staff members are permitted to destroy documents and records in keeping with the provisions of the present Administrative Instruction, in particular its sections 3.2 and 4.2 above, and subsequent retention schedules.

6.3. Violations may constitute unsatisfactory conduct under section 5.3(a) of the Code of Conduct for Staff Members (ICC/AI/2011/002) and result in disciplinary action.

Section 7
Final provisions

7.1. The present Administrative Instruction shall enter into force on 18 March 2015.



Herman von Hebel,
Registrar