

## ICC governing body to assess judges' advice in Karim Khan misconduct case

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*The International Criminal Court's governing body is expected to meet today to consider the advice of a panel of judges who have challenged the findings of a sexual misconduct investigation into its chief prosecutor, Karim Khan.*

A UN inquiry last year into allegations about Mr Khan's behaviour is understood to have established a factual basis for claims of misconduct. The senior lawyer, who hails from Edinburgh, has been accused by a complainant of sexual abuse.

Three judges commissioned by the ICC have now submitted an 85-page report examining the evidence and assessing whether the claims met the threshold of "beyond reasonable doubt" – the standard typically applied in criminal proceedings.

Applying that benchmark, the panel advised that the UN inquiry did not establish that Mr Khan's conduct amounted to misconduct or a breach of duty. The report is critical of the inquiry's methodology, stating that it failed to resolve inconsistencies in the accounts of Mr Khan and the alleged victim. The judges confined their assessment to a legal analysis of the UN report and did not cross-examine witnesses.

The panel's advice is understood to have prompted disagreement among some of the ICC's member states, which oversee the Netherlands-based court, over whether to accept its conclusions.

Lawyers for Mr Khan are expected to argue that the findings amount to an exoneration, describing them as a "decisive and meticulously reasoned legal finding". However, the process remains ongoing and he could still face dismissal.

Mr Khan's position will depend on how representatives of the court's member states assess the competing findings and whether they consider the UN inquiry alone sufficient to justify disciplinary action.

Päivi Kaukoranta, president of the Assembly of States Parties, circulated a note to members over the weekend stating that "the disciplinary process before the bureau [a subgroup of the assembly] is ongoing and remains confidential". The note added: "No decisions have been taken, and no weight should be given to recent media speculation. Currently, the bureau is considering the [UN] report and the report of the ad hoc panel pursuant to its responsibility as the competent decision maker."

The panel of judges was appointed last year to review the UN report compiled by the Office of Internal Oversight Services.

That report set out allegations that Mr Khan's behaviour towards a woman escalated over time, culminating in non-consensual sexual contact at his home, during overseas trips and at ICC headquarters.

The judges said they were faced with two entirely conflicting accounts and that the UN inquiry had often been unable to resolve the evidence. The panel unanimously concluded that the factual findings did not establish misconduct or breach of duty under the relevant legal framework, and said it was not able to determine the credibility of the complainant.

If the Assembly of States Parties determines that the findings indicate misconduct, Mr Khan will have an opportunity to respond. A finding of serious misconduct could ultimately lead to a vote by the court's 125 member states on whether to remove him from office.

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[https://www.youtube.com/watch?v=T\\_EqWR-v05g](https://www.youtube.com/watch?v=T_EqWR-v05g)