



UNIVERSITY OF JYVÄSKYLÄ

PRIVACY NOTICE FOR RESEARCH SUBJECTS

The privacy notice has been published at
<https://www.jyu.fi/en/university/privacy-notice>.

1. NAME AND DURATION OF THE RESEARCH

“Negotiating international criminal law. A courtroom ethnography of trial performance at the International Criminal court.” A research project that will continue until 08/2023.

2. LEGAL BASIS FOR THE PROCESSING OF PERSONAL DATA

The personal data are processed based on the public interest (General Data Protection Regulation article 6.1 e and Finnish National Data Protection law 4.3 §). The purpose is also academic expression and freedom of expression.

Processing these data will provide essential insights in the day-to-day operation of the ICC, and the effect of these hitherto ‘hidden’ practices on the production of legal outcomes. Processing these data will also help us to understand how this emergent form of critical adjudication manages issues and tensions related to the multilingualism and interculturality.

3. CONTROLLER, SCIENTIST-IN-CHARGE AND CONTACT PERSON

Controller: University of Jyväskylä, Seminaarinkatu 15, P.O. Box 35, 40014. Switchboard (014) 260 1211, Business ID 0245894-7. Data protection officer of the University of Jyväskylä: tietosuoja@jyu.fi, tel. 040 805 3297.

Scientist in charge of the research: Sigurd D’hondt; 040 8055071; sigurd.a.dhondt@jyu.fi; Seminaarinkatu 15, P.O. Box 35, 40014.

Contact person(s): Sigurd D’hondt

Implementers of the research. In addition to the scientist in charge, other

implementers include Jonas Bens (FU Berlin, Institute of Social and cultural Anthropology, Affective Societies CRC) and Baudouin Dupret (CNRS & IEP Bordeaux, LAM, UMR 5115). The data may also be used by other researchers associated with JYU's Centre for Applied language Studies and/or Department of Language and Communication Studies, having a contractual relationship with the University.

Recipients of personal data. Personal data will not be transferred to other parties

Transfer of data outside the EU or EEA and appropriate safeguards. No data will be transferred outside of the EU or EEA.

Processors of personal data. The data will not be processed by third parties.

4. BACKGROUND AND PURPOSE OF THE RESEARCH

The International Criminal Court (ICC) in The Hague became operative as recently as 2002. Unlike established domestic legal systems, it represents an emergent, amalgamated form of criminal justice that is still under development. As a consequence, it faces multiple uncertainties in fundamental law and procedure. Other challenges relate to the fact that it administers justice over a multiplicity of linguistically and culturally diverse constituencies. The court's legitimacy is also repeatedly challenged by various outside forces. This project addresses the tensions surrounding this emergent form of global adjudication from an interaction-analytical angle. It draws on language and law research and courtroom ethnography for elucidating how the different actors in an international criminal trial (magistrates, attorneys, etc.) behaviorally navigate these tensions in their situated courtroom conduct, while they interact with one another at the ICC.

5. PRACTICAL IMPLEMENTATION OF THE RESEARCH

The research is implemented according to qualitative methods that are widely accepted in sociolinguistic and discourse-analytic language and law research, and proceeds on the basis of an in-depth analysis of actual language use. Three kinds of data will be used:

- (a) courtroom transcripts of actual ICC trial hearings
- (b) interviews with trial participants and other ICC actors
- (c) international press coverage related to the cases under investigation

Courtroom transcripts are publicly available records. They are published on the ICC website and a legal-resources website sponsored by the ICC

specifically devoted to the analysis of international criminal law, as part of the public commons.

The interviewees will be informed, before they consent to the interview, about the forms of personal data processing and the way their data be used (by means of a privacy notice). In case it is impossible to anonymize the interviews, or if there are any other ways they might be identified from the research results, this will be explicitly spelled out to them. If this is the case, the interviewer will seek explicit consent from the interview to use the interview (or part of it) for the purpose of the research project.

Press coverage will only include data about public figures, speaking and acting in their capacity of public figure.

6. POTENTIAL BENEFITS AND DISADVANTAGES TO SUBJECTS

The research produces important new information on the everyday operation of the ICC, the way this newly emerging form of globalized criminal justice navigates cultural and linguistic diversity, and the hitherto unstudied ways in which these may affect the production of legal outcomes. As such, this research may contribute important new information that will be valuable to the ICC to strengthen its legitimacy.

In order to investigate the court's everyday operation, the processing of court records is essential because it is the only way to gain a detailed understanding of what is done and said inside the ICC courtroom. Small fragments of these records may be republished in the reporting of the research. These records are already available in the public domain, and they are distributed by the ICC itself on a legal resource website (cf. *infra*) with the explicit aim of increasing knowledge and understanding of international criminal law. This includes scholarly purposes. The records have been commented on and published before, and our processing of them poses little additional risks to the data subjects. There is no risk of any harm whatsoever to victims, witnesses, or other vulnerable participants, as all direct or indirect identifiers that might lead to their identification are removed by the ICC before the records are released. There is no risk for the defendant, as our analysis will not affect the outcome of the case, and the cases themselves already received worldwide public attention. There is a very limited, hypothetical risk that our processing might affect the professional standing of professional ICC trial actors. However, this falls within the scope of their public functioning, as legal actors are aware that they operate in a public arena, that their arguments and decisions have precedent value, and that their conduct will be subject to critical scrutiny by colleagues and scholars.

Interviews with ICC trial actors will be used to elicit their view of the case and to put their linguistic behavior in court in its proper context. Again, there is a

very slight risk that our processing might affect their professional standing, but again, this falls within the limits of their public functioning.

Press coverage related to the ICC will be collected to study the reception of court cases and to examine how the court interacts with outsiders constituencies. As we will be relying exclusively on data that is already available in the public domain, this does not poses any additional risk beyond the ones already mentioned above.

7. PROTECTION OF PERSONAL DATA

The data collected during the research and the research results are processed confidentially in compliance with the data protection legislation.

The following have been considered when designing the research:

Safeguards selected to protect personal data:

- There is a designated person or a group of persons responsible for the research;
- The personal data file is used only for purposes of historical or scientific research and the procedure followed is also otherwise such that
- Internal actions of the controller and the processor in order to prevent unauthorised access to personal data
 - o Data secured working environments (systems) and services related

Processing of direct identifiers

Direct identifiers are not erased in the analysis phase because this is an ethnographic inquiry. Ethnographic inquiries crucially depend on detailed descriptions of the content and context of social action. In this case, such an analysis requires that the researchers (a) knows the identity of whom says what in the ICC courtroom (and to whom) and (b) the facts of the case that is being tried. Full anonymization would therefore make an ethnographic analysis impossible. Given the limited number of cases that have appeared before the ICC so far, and the highly public profile of both the cases and the defendants who appeared before the court (including high ranking officials and heads of state), pseudonymization will have no effect here.

The research data is stored in accordance with the University of Jyväskylä's data security practices for processing research data.

8. INFORMATION RECEIVED FROM ELSEWHERE

Personal information used for this research (court records) has been collected from the Legal Tools Database (<https://www.legal-tools.org>), a resource site sponsored by the ICC meant to promote and disseminate information international criminal justice. In addition, press coverage related to the ICC and cases that are tried before the court will be collected from major international news channels. The corpus will only include personal data about public figures, speaking and acting in their capacity of public figure.

9. RESEARCH RESULTS

The research will result in scientific publications, conference and seminar presentations, and teaching.

The research will provide essential insights in the day-to-day operation of the ICC, and the impact of hitherto 'hidden' practices on the production of legal outcomes. It will also help us to understand how this emergent form of critical adjudication manages issues and tensions related to the multilingualism and interculturality. The focus here lies on uncovering institutional mechanisms and processes, and not on measuring or evaluating the performance of individual trial actors.

As indicated in (6) above, these published research results will mention the case that is used as a data source, and may contain fragments of courtroom records and other personal identifiers (including names of judicial actors involved in the trial). However, they will only contain personal data that is already available in the public domain and that has been published before (unless when explicit information has been obtained from the data subject to do otherwise).

Research subjects will not be personally informed of the results.

10. RESEARCH COSTS AND FINANCIAL CLARIFICATIONS

Participation in the research will not result in any costs whatsoever to the research subjects. The research is not funded from external sources.

11. RIGHTS OF THE RESEARCH SUBJECT AND DEVIATION FROM THEM

A research subject has the right to lodge a complaint to the office of the Data Protection Ombudsman if the research subject considers that the processing of personal data relating to him/her infringes the valid data protection legislation. (Read more at <http://www.tietosuojafi.fi>).

Read more about your rights: <https://tietosuoja.fi/en/know-your-rights>

12. STORAGE AND ARCHIVAL OF PERSONAL DATA

Storage: The register is stored in the University of Jyväskylä (with identification data) until the end of the research, after which, the data will be discarded.

13. IMPLEMENTING THE RIGHTS OF DATA SUBJECTS

If you have questions on the rights of data subjects, please contact the University's data protection officer. All requests concerning the implementation of the rights must be submitted to the Registry Office of the University of Jyväskylä. Registry Office and Archive, P.O. Box 35 (C), 40014 University of Jyväskylä, tel. 040 805 3472, email: kirjaamo(at)jyu.fi. Visiting address: Seminaarinkatu 15, Building C (the Main Building), 1st floor, room C 140.