



Information Circular – Circulaire d’information

Ref. ICC/INF/2014/011

Date: 19 August 2014

**PRINCIPLES AND PROCEDURES APPLICABLE TO DECISIONS ARISING FROM THE
REVISION PROJECT**

Introduction

1. These Principles and Procedures Applicable to Decisions Arising from the *ReVision* Project (“Principles”) are hereby adopted by the Registrar after extensive consultations with the Staff Union Council.
2. In the autumn of 2013, the newly elected Registrar identified the need for a restructuring process in order for the Registry to enhance its effectiveness and efficiency. Following the approval of the Assembly of States Parties (“ASP”), the Registrar established the *ReVision* Project (“the Project”) to facilitate this process and submit recommendations to the Registrar concerning the Registry’s organizational design and measures to enhance the efficiency and effectiveness of the Registry’s operations including a review of culture, policies, work methods and practices. The Project commenced its work in early January 2014.
3. As has been previously stated, there is a realistic possibility that some positions will be abolished due to changes in operational needs as determined by the Registrar. Decisions to abolish positions shall be taken independently of who is the incumbent of the position. As such, while a decision to abolish a position does not mean that all staff members whose positions are abolished will have to be separated as a result, it cannot be excluded that some staff members will have to be separated pursuant to regulation 9.1(b)(i) of the Staff Regulations.

Scope and Purpose

4. These Principles shall apply to positions, established posts and GTA, affected by the Project, and shall be limited to the period of operation of the Project.
5. The purpose of promulgating these Principles is to establish a framework for the implementation of decisions arising from the restructuring process, so that staff members can be confident that decisions affecting them are implemented according to a fair and transparent process and with full respect for their contractual rights. The Principles have been prepared to reflect best practices in restructuring exercises conducted in other international organisations. For any decisions that may be taken as a result of the Project,

including any proposal to abolish a position, there will be an underlying objective basis. Staff members shall be provided with reason(s) for the decision which shall be based on this underlying rationale.

6. These Principles provide managers and staff with guidance, options, and where necessary, specific operational procedures designed to ensure that decisions are taken in a transparent and fair manner. They are intended to compliment the ICC Staff Regulations and Rules ("SRRs") and Administrative Issuances ("AIs").

Decision making process

7. As noted above, the Project shall submit recommendations to the Registrar. A dedicated Project Board with members representing the ASP, Presidency/Chambers, Office of the Prosecutor (OTP) and the Staff Union, as well as members with extensive leadership experience in an international judicial organization and change management experts, will advise and support the Registrar in the evaluation and decision-making process. Any decisions taken in the context of the Project will ultimately rest with the Registrar. As with any other administrative decision, decisions arising from the Project are appealable pursuant to Chapter XI of the Staff Rules.

Redeployment of positions

8. Where an existing position is required in the new structure of the Registry but in a different section/unit than its current location and where there is no substantial change in the functions associated with that position, all reasonable efforts shall be made to redeploy the position along with the current incumbent. This process shall not involve a competitive recruitment. The decision to redeploy is without prejudice to the possibility that the position may need to be abolished subsequently as a result of the detailed functional analysis conducted as part of phase 4 of the Project. Any decision to redeploy shall be subject to the discretionary authority of the Registrar.

Abolition of Positions

9. A decision to abolish a position shall be taken by the Registrar. The reasons for abolition in the context of the Project shall be limited to the following:
 - (i) Where the functions performed in a particular position are no longer required;
 - (ii) Structural changes which result in substantial changes to the functions, duties and responsibilities of a position, or redeployment of functions to another position whereby the existing position is no longer required;
 - (iii) Changing Programme or operational requirements.

10. The determination of whether a change is considered substantial or not shall be made by a classifications expert.¹
11. The termination of an appointment as a result of the decision to abolish a position shall take place only after reasonable efforts have been made to assist staff members in finding alternative employment within the Court, as well as providing them with support, in accordance with paragraphs 33-39 and 47 below, respectively.

Notification of Decisions

12. There shall be several dates of abolition provided for all positions potentially abolished as part of the Project. The first date of abolition is anticipated to be 31 December 2014 and will be confirmed in letters of notification to affected staff members. The additional dates of abolition will be confirmed in letters of notification to affected staff members. Each of the dates shall respect the notice period set out below.
13. The Registrar shall endeavour to notify staff members as soon as the decision to abolish their position has been taken. In any event, official notice shall be provided a minimum of 120 days prior to the position being abolished.² This shall be without prejudice to the staff member's right to apply for, and be appointed to, another position within the Court in accordance with the process of recruitment outlined from paragraphs 33 to 39 below. In the event that the staff member's appointment expires in the period between the date of notification of the abolition of a position and the effective date of abolition, the staff member's appointment shall be extended until the effective date of abolition.
14. Staff members who have been notified that their position shall be abolished may be placed on Special Leave with Full Pay in accordance with Staff Rule 105.4 during the notice period, subject to the approval of the Registrar, pending the effective date of abolition of their position. Such decisions shall be without prejudice to the priority consideration of the staff member for the purposes of recruitment exercises as detailed in paragraphs 33-39 below.
15. The letter of notification of the abolition of a post shall contain: (i) the reasons for the abolition of the position. Such reasons shall not be limited to a mere recitation of one of the grounds contained at paragraph 9 above; (ii) details of the enhanced agreed separation package and (iii) an indication as to whether the staff member affected will be placed on Special Leave with Full Pay during the notice period, and, if so, the date that such leave will come into effect.

¹ (Re) classification refers to the process of (re)assigning a level to a position based on the functions, duties and responsibilities attached to the position.

² With the exception of those separated pursuant to an enhanced agreed separation package as provided below.

16. Appeals of decisions to abolish will be governed by the appeals procedure, provided in Chapter XI of the Staff Rules including the conciliation procedure with the staff member concerned as provided in Staff Rule 111.1.

Enhanced Agreed Separation Packages

17. For the purposes of the Project, an enhanced package of benefits and entitlements shall be available for a period of 45 days following the date of receipt of notice of abolition of position. Any separations following this period shall be effectuated on the basis of the termination indemnity provisions contained in Staff Rule 109.
18. Terms of enhanced agreed separation packages shall be as follows (please see table reproduced below):
 - (i) Payment of standard termination indemnity, to which a staff member would ordinarily be entitled as provided in the table under Staff Rule 109.2 (g), plus an increase of 50% pursuant to Staff Rule 109.2 (l) for agreed terminations.
 - (ii) Exceptional payment of an additional sum of 3 months' of salary, including allowances and post adjustment;
 - (iii) Payment of notice period as provided for in the staff member's terms of appointment;
 - (iv) Use of a period of Special Leave Without Pay pursuant to Staff Rule 105.3 (b) (vii) ;
19. Where the staff member agrees to the enhanced agreed separation package, the cause of separation from service shall be separation by mutual agreement pursuant to rule 109.1 (b) (iii) of the Staff Rules.
20. A staff member who agrees to an enhanced agreed separation package shall be required to sign a waiver of their right to appeal any administrative decision related to any matter contained in the separation package. Where a staff member opts for the enhanced agreed separation package, the notice period of 120 days referenced above shall be waived and replaced with the notice period provided in the staff member's terms of appointment, taking effect from the date of the staff member's acceptance of the enhanced agreed separation package. In such cases, the staff member shall separate as soon as is practicable and notice shall be effectuated as payment in lieu of notice as provided at staff rule 109.2 (f).
21. A staff member who separates from the Court pursuant to an enhanced agreed separation package may apply for any position at the Court as an external candidate following the date on which they sign an agreement providing for an enhanced agreed separation package.

22. Where a staff member who has been separated pursuant to an enhanced agreed separation package, is employed by the Court within a period of 12 months of the date of their signing an agreement for the provision of an enhanced agreed separation package, they shall repay the enhanced portion of the package, namely: 50% termination indemnity plus 3 months' salary including allowances and post adjustment, on a pro-rated basis, without prejudice to the provisions of Staff Rule 104.6 on reinstatement.
23. In calculating the enhanced separation package the figures for monthly net base salary and the 50% for agreed separation listed below will be pro-rated accordingly (the additional 3 months of salary will remain unchanged). A table of the calculations is provided below:

Completed Period of Service	Months of net base salary	50% for agreed separation	3 months net base salary plus allowances for enhanced agreed separations only	Notice period as provided in the staff member's terms of appointment
Less than 6 years	One week for each month of uncompleted service subject to a minimum of six weeks and a maximum of three months' indemnity pay.	Additional 50% to be calculated	3	
6	3	1.5	3	
7	5	2.5	3	
8	7	3.5	3	
9	9	4.5	3	
10	9.5	4.75	3	
11	10	5	3	
12	10.5	5.25	3	
13	11	5.5	3	
14	11.5	5.75	3	
15 or more	12	6	3	

Classification

24. Any positions whose functions appear to have undergone substantial changes and any newly created positions, as a result of the Project, shall be submitted to a classification expert who shall determine (i) whether or not the functions have in fact undergone substantial changes and/or (ii) the appropriate classification. Classifications shall be conducted prior to the implementation of any decisions.
25. For the purposes of determining whether a substantial change will take place as a result of the Project, the classification expert shall take account of the functions that are actually being performed in the position at the time of his or her review as reflected in any official documents, such as work surveys, prior vacancy announcements, official performance appraisal documents, including documented mid-term reviews, and budget submissions.
26. For the purposes of the Project, the classification process shall be in expedited form as follows: The classification process for a position affected by the Project shall be initiated by HRS, who shall submit the following information to a classification expert:
 - (i) The current work survey and the updated work survey for the position in question and the organisational chart submitted during the previous review;
 - (ii) An up-to-date organisational chart showing the placement of the position in question and its relationship to other positions within the section or Division.
27. The classification expert shall normally conduct a review of the position in question within 2 weeks of receiving the request for review and submit its recommendation to the Registrar for his approval. The results of the classification and the reasoning thereof shall be documented by the classification expert.

Change in Grade but no substantial change in functions as a result of classification of position

28. Where a position is down-graded yet there is no substantial change in functions,³ a no-loss formula or maintenance-of-personal-grade formula shall be applied to the incumbent to attempt to ensure that the staff member's salary is not affected by the downgrading for the remainder of their appointment. In the event that a post is classified from the Professional level to the General level, professional level entitlements will not be maintained.

³ This would include, for example, situations where the position had not previously been classified correctly.

29. Where a staff member is successful in applying for a position at a grade lower than that which they currently hold, their appointment shall be effectuated by applying the guidelines relating to determination of level and step on appointment.
30. Where a change in functions, duties and responsibilities has occurred and the classification results in the position being upgraded, the position shall be abolished and a new position shall be created and advertised as provided below.

Advertisement of positions and Recruitment Process

31. All interview panels shall be composed in line with section 5 of the Recruitment Guidelines and shall consist of three members, in addition to a representative of HRS acting in an *ex-officio* capacity.⁴ Guidelines on how to conduct the interview process and on the composition of the panel will be prepared and provided to the interview panels.
32. In accordance with section 6.3 of the Recruitment Guidelines, gender and geographical representation shall also be taken into account. A Selection Review Committee shall be convened by the Registrar to review the selection process prior to any recommendation being made to the Registrar. A set of guidelines detailing the Selection Review Committee process shall also be produced.

Priority in Recruitment for candidates whose posts are abolished

33. Any newly created positions shall be advertised, following classification in accordance with the above procedure. Priority consideration shall be given to staff whose positions have been abolished (Priority Candidates) for any recruitments arising as a direct result of the Project until the conclusion of the Project. This priority consideration shall not apply to staff members who have opted to take the Enhanced Agreed Separation Package.
34. All candidates must apply for available positions within the deadline specified in the VA which shall normally be 30 days from the date of posting. Priority Candidates shall be notified by the Human Resources Section of the opening of a recruitment process for the vacant position and shall apply within 15 days (15 day mark) of such notification in order to benefit from the preferential recruitment provisions set out below. In the event that Priority Candidates apply after the 15 day mark their applications shall be considered, but their preferential treatment cannot be guaranteed.
35. At the conclusion of the 15 day mark, HRS shall transmit only the applications of Priority Candidates who meet the minimum educational requirements and relevant work experience

⁴ A HRS staff member may be appointed from the OTP if there are insufficient staff members in the Registry HRS.

to the interview panel for their consideration in creating a short list. The remaining candidates' applications shall be retained by HRS on a confidential basis and shall only be released to the interview panel in the event that no suitable candidate from amongst the pool of Priority Candidates is identified.

36. In the event that the interview panel determines that a written test, or other assessment method not including an interview, is necessary, all short listed Priority Candidates who meet the minimum educational and relevant work experience requirements shall be subjected to that assessment method. In the event that a short-listed Priority Candidate does not succeed in passing the assessment method, they shall nonetheless be included in the group of candidates who shall be interviewed for the position. The results of the examination shall be taken into account, in addition to the interview process, in determining whether the Priority Candidate is suitable for the position.
37. Short-listed Priority Candidates shall be interviewed and in the event that suitable candidate(s) is/are identified, a selection and appointment shall be made.⁵ Only where no suitable candidate is identified from among the Priority Candidates, shall the procedure set out in paragraphs 40-41 below apply.
38. In the event that a suitable candidate whose position has been abolished is identified pursuant to the procedure above, the interview process for the remaining candidates may nonetheless proceed for roster purposes.
39. In the event that a staff member is notified that their position is to be abolished while a recruitment exercise for a position arising from the Project is ongoing, the staff member may be included in the recruitment process at any time prior to a selection decision being signed.

Recruitment in the event that a suitable Priority Candidate is not identified

40. Only where a suitable candidate is not identified from amongst the group of Priority Candidates, shall the remaining candidates' applications be transmitted to the interview panel. The interview panel shall create a short-list and shall administer the written test, or other assessment method not including interview, in the event that such assessment method was required in relation to candidates whose posts have been abolished.
41. Those remaining candidates who are successful in the written test or other assessment method shall then be interviewed. Following the interview of the short-listed remaining candidates, in the event that suitable candidate(s) is/are identified, a selection and

⁵ See section 10 Recruitment Guidelines.

appointment shall be made which shall include giving due regard to those candidates who are already staff members of the Court.⁶

Reduction of positions with Generic Job Profiles

42. Where the number of positions with the same generic job profile within a section, or as a result of the merger of two or more sections, will be reduced, the existing set of incumbents shall participate in a selection process which will include only those incumbents, following the same procedures applicable to recruitment set out above, in order to determine whose positions shall be abolished. There shall not be any recruitment exercise for other staff members or external candidates in situations of reduction of posts with generic job profiles.
43. For the purposes of this section, generic job profile means a group of related jobs within the same section for which the major characteristics of the job are the same in duties and responsibilities, education, work experience, technical skills and essential core competencies.
44. Staff made redundant through this process, will be offered the same options as those whose positions are abolished as described in paragraphs 17 to 23 and 33 to 39 of the Principles.

Following the Re-Advertisement exercise

45. Any staff member whose position has been abolished and who has not secured a position following a competitive recruitment exercise shall receive termination indemnity as provided for under Staff Rule 109.2 (g) as follows:

Completed Period of Service	Months of base salary
Less than 6 years	One week for each month of uncompleted service subject to a minimum of six weeks and a maximum of three months' indemnity pay.
6	3
7	5
8	7
9	9
10	9.5
11	10
12	10.5
13	11
14	11.5
15 or more	12

⁶ See section 10 Recruitment Guidelines.

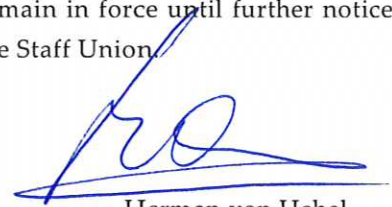
46. Staff members whose appointments are terminated in the context of the restructuring process and whose service has been fully satisfactory, other than those who have separated due to an enhanced agreed separation, shall be included on a roster for a period of a total of 12 months after their separation during which time they shall be considered as internal candidates within the meaning of Section 2.3 of the Recruitment Guidelines and Staff Rule 104.18, for positions for which they meet the minimum educational and relevant work experience and for which they submit an application through the e-recruitment system.

Support Mechanisms

47. The Administration will provide support to staff members affected by decisions made as part of the Project. The support provided will depend on the needs of the individual staff member and may include the following areas:
- a. Confidential counselling services may be provided by HRS.
 - b. Advice will be provided to help staff consider their options and make informed decisions (for example, in relation to pension, health insurance, visa and tax issues etc.). It is the staff member's responsibility to confirm the status of their particular pension, medical insurance and, if applicable, income tax requirements and visa/permanent resident status.
 - c. Relevant career transition workshops will be offered so that affected staff members have access to support in searching for jobs. Such workshops could include how to source jobs, CV writing, preparing for interviews, etc.
 - d. Training may be offered to staff to enable them to better meet qualifications for suitable positions within the Court, including, for example, language training and training in IT tools.
 - e. Information with useful links and contact persons may be provided to staff members.

Closing provision

48. These Principles shall take effect immediately and shall remain in force until further notice. They may be amended subject to prior consultation with the Staff Union.


Herman von Hebel
Registrar