



Administrative Instruction – Instruction administrative

Ref. ICC/AI/2015/003

Date: 18 May 2015

**DONATIONS AND LOANS OF ARTWORK
TO THE INTERNATIONAL CRIMINAL COURT
AND
ESTABLISHMENT OF THE ARTWORK COMMITTEE,
ITS COMPOSITION AND TERMS OF REFERENCE**

The Registrar, in consultation with the President and the Prosecutor, pursuant to Section 3.2 of ICC/PRESG/2003/001 (“Procedures for the promulgation of administrative issuances”), hereby promulgates the present Administrative Instruction:

Section 1

Definitions

For the purposes of this Administrative Instruction, the following terms will have the following meaning:

- 1.1 “Artwork” means original art in various mediums or forms, including but not limited to any portable or permanently fixed sculpture, mural, painting, drawing, mixed media work, or time-based work (moving images or sound-based art), created by an artist, artists or a collaborative team, and which has artistic value;
- 1.2 “Donation” refers to an Artwork or a series of Artwork gifted to the International Criminal Court (“Court”), on a permanent basis, for public use or display with intent to transfer title of ownership to the Court;

- 1.3 “Loan” refers to an Artwork or series of Artwork entrusted to the Court for a period of time, for public use or display, to be returned to the owner at the end of the use period.

Section 2

Purpose and Scope of Application

- 2.1 The purpose of this Administrative Instruction is to regulate Donations and Loans from States Parties to the Rome Statute (“State Party” or “States Parties”) made to the Court.
- 2.2 This Administrative Instruction does not apply to:
- 2.2.1 donations or loans made by States Parties for specific purposes such as sponsoring events, activities or renovations of parts of the Court’s premises;
 - 2.2.2 donations to the Trust Fund for Victims or to any other Trust Fund established either by the Court or by the Assembly of States Parties, which will be governed by the relevant internal legal provisions; or
 - 2.2.3 gifts given to elected officials, staff members or other individuals.
- 2.3 In case of ambiguity regarding a piece of Artwork entrusted to the Court in a different context than the one addressed in this Administrative Instruction, the Court shall clarify with the State Party the nature of the offer made and, subsequently, determine the related procedures and criteria to be followed in accordance with the provisions of this Administrative Instruction and other applicable provisions.

Section 3

General Criteria

The acceptance of Artwork to be donated or loaned to the Court shall be subject to the criteria set forth in this Section.

Number of pieces of Artwork to be donated or loaned

- 3.1 The Court shall accept not more than one piece of Artwork donated by each State Party.
- 3.2 The Court shall accept not more than one piece of Artwork at a time, loaned by each State Party, unless otherwise recommended by the Artwork Committee and approved by the Registrar. Such recommendation and further decision shall be duly justified and must take into account the best interests of the Court, a Donation made by that same State Party and the principles of fairness and equal treatment of States Parties.

Characteristics of the Artwork

- 3.3 The donated or loaned Artwork should be indigenous to the donor or lender State Party, as applicable, and of high artistic or historical value. The Artwork must epitomise the goals, values and principles represented by the Court, as reflected in the Preamble of the Rome Statute. It must not undermine the maintenance of peaceful and friendly relations among the States Parties.
- 3.4 The donor or lender State Party, as applicable, will ensure that the conditions set out in Section 3.3 are met before proposing a donation or a loan to the Court.

Costs associated to the delivery, installation, maintenance, cleaning and conservation

- 3.5 All costs related to the donated or loaned Artwork will be borne by the donor or lender State Party, as applicable, which includes, without limitation, delivery, installation and maintenance costs, and, if required by the nature of the Artwork, specialised cleaning or conservation charges.
- 3.6 The Court shall only support the regular running costs related to any electricity and water supply.

Insurance coverage and related costs

- 3.7 Unless it decides otherwise, the State Party will insure the Artwork and continue to bear all associated costs. Prior to the transfer of the Artwork to the Court, the Court will verify that evidence of the adequate insurance coverage is provided by the donor or lender State Party, as applicable.
- 3.8 Where the State Party has decided to not insure the donated or loaned Artwork, the Court shall not be obliged to do so.

Liability for damages to, or destruction of, the Artwork

- 3.9 The Court does not accept any liability for damages to, or destruction of, the Artwork.

Intellectual Property Rights

- 3.10 The Court will hold, to the extent permitted by law, all intellectual property rights in relation to the donated Artwork. The donor State Party will guarantee and secure that, prior to the transfer of the Artwork to the Court, no third party holds any intellectual property rights over the donated Artwork.
- 3.11 Loaned Artwork will remain the property of the lender State Party or the third party to whom the Artwork belongs, which will hold all related intellectual property rights, unless otherwise decided by the State Party or by the third party, upon granting to the Court, for

the period of the loan and to the extent permitted by law, a temporary intellectual property rights' license.

Section 4

Artwork Committee

- 4.1 An Artwork Committee ("Committee") is hereby established, whose mandate is to review offers of Artwork to be donated or loaned to the Court, in accordance with the criteria set out in this Administrative Instruction, and to make recommendations to the Registrar on their acceptance or rejection.
- 4.2 In close consultation with the donor or lender State Party, as applicable, the Committee will also advise on a location within the Court's premises where the accepted Artwork should be displayed. When reviewing the offers of Artwork, the Committee shall take into consideration legal, financial and practical implications arising from the acceptance of the donation or loan, as well as any related managerial, security and/or safety concerns.
- 4.3 The Committee shall be comprised of one Secretary, six members and six alternate members from the various organs of the Court. The Secretary of the Committee is not a member of the Committee and shall serve in a non-voting capacity.
- 4.4 A quorum of six members will be required for the review of each offer and submission of the related recommendations to the Registrar, under the terms set out in Section 4.1.
- 4.5 The members, alternate members and Secretary of the Committee will be appointed by the Registrar, in consultation with the President and the Prosecutor, for a twelve-month period, renewable. The appointment of the members and alternate members shall be based on their expertise and knowledge in the areas of art, public affairs, external relations, security and facilities management. Due consideration shall also be given to geographical representation and gender balance.
- 4.6 The Committee may include, in the context of a specific Formal Offer, when authorised by the Registrar or upon the Registrar's request, *pro bono* external experts who are certified and accredited authorities/specialists in the artistic domain or in a specific geographic region.
- 4.7 The recommendations of the Committee to the Registrar shall be adopted, whenever possible, by consensus. If such consensus is not possible, both the majority's considerations and decision and dissenting view(s) shall be submitted to the Registrar for his/her review and final decision.
- 4.8 The Committee shall develop Standard Operating Procedures on its working procedures, methodology and functions. These Standard Operating Procedures shall be submitted to the Registrar for approval and subsequent publication on the Court's website.

Section 5

Procedure for Accepting and Displaying Artwork

- 5.1 The Court shall seek a formal offer from the State Party that intends to donate or loan a piece of Artwork (“Formal Offer”), which shall contain the following information, data and documentation:
- (a) Indication whether the Artwork is to be donated or loaned to the Court;
 - (b) Statement on how the proposed Donation or Loan fulfils the conditions set out in Section 3.3 above;
 - (c) Artist(s)’s name and brief résumé with his/her/their biography(ies), qualifications, list of works and other pertinent information, as well as appropriate publicity material;
 - (d) Photographs, sketches or other images of the proposed Artwork, where applicable;
 - (e) Detailed description of the Artwork, including of the materials used, dimensions and weight;
 - (f) Background information on the origins of the piece and a warranty of its originality, as well as, if possible, documentation of its provenance.
 - (g) Period of the Loan, in case of loaned artworks;
 - (h) Estimated financial value of the piece;
 - (i) Confirmation of the State Party’s willingness and capacity to transfer, to the extent permitted by law, the intellectual property rights related to the Artwork in favour of the Court; and
 - (j) Confirmation of the State Party’s willingness to support any costs set out in Sections 3.5 and 3.7 above.
- 5.2 The final decision on an offer of Artwork from a State Party shall be made by the Registrar, upon the Committee’s recommendation. The Registrar shall inform the State Party proposing the Artwork, within six months of receipt of the offer, in writing of the decision to accept or reject the offer; in the latter case, an explanation of the decision shall be provided.
- 5.3 The Registrar, upon the Committee’s recommendation or on his or her own initiative, may request the State Party to provide clarifications or additional documents, information or data necessary for taking a final decision.

- 5.4 Once a proposed Artwork is accepted by the Court and the State Party has been informed, a donation or loan agreement will be entered into between the Court and the State Party, under the terms set out in Section 6, on the basis of which the necessary technical, operational and logistic arrangements will be made for the delivery of the Artwork to the Court.
- 5.5 Once received, the Artwork will be registered in an Artwork Collection Log maintained by the Registry.
- 5.6 The Artwork shall be displayed in an appropriate location on the Court's premises with an indication of the donor or lender State Party, full name of the artist(s), title and date of the Artwork, and a brief description of its artistic, cultural or historical relevance, in both English and French.

Section 6

Donation or Loan Agreement

- 6.1 All Donations and Loans shall be subject to a written agreement between the Court and the State Party.
- 6.2 The Donation or Loan Agreements shall contain the terms and conditions related to the Donation or Loan of the Artwork. They shall contain all information provided in the Formal Offer, as set out in Section 5.1, as well as:
 - (a) A description of the costs to be borne by the State Party, pursuant to Sections 3.5 and 3.7 above, including terms of payment and conditions related to the processes of cleaning, maintenance and conservation of the Artwork;
 - (b) Insurance coverage;
 - (c) The condition that Court does not accept any liability for damages to, or destruction of, the Artwork;
 - (d) Confirmation of the transfer of intellectual property rights, to the extent permitted by law;
 - (e) Confirmation whether any third party owns any intellectual property rights over the donated or loaned Artwork; and
 - (f) Other information, data, undertakings, warranties, and disclaimers as deemed necessary and appropriate by the Court or the State Party.

Section 7

Online Library of the Court's Collection of Artwork

The Court shall select photographs, images or recordings of Artwork donated or loaned to the Court for uploading to the Court's website for public access, with an indication of the donor or lender State Party, the full name of the artist(s), the title and date of the Artwork, and a brief description of its artistic, cultural or historical relevance.

Section 8

Offers for Donations and Loans made by States not Party to the Rome Statute and by intergovernmental organisations

The Court may also consider, if and as deemed appropriate, offers for Donations or Loans submitted by States not Party to the Rome Statute or by intergovernmental organisations. Such offers shall be subject to the regime of Donations and Loans set out in this Administrative Instruction.

Section 9

Final Provisions

This Administrative Instruction shall enter into force on 18 May 2015 and shall remain in force until reviewed or amended by another duly promulgated administrative issuance.

Herman von Hebel

Registrar

A handwritten signature in black ink, appearing to be 'HvH', written over a horizontal line.