

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Le Greffe

The Registry

Administrative Instruction

Ref. ICC/AI/2008/004

15 August 2008

Private legal obligations of staff members

The Registrar, in consultation with the Prosecutor, for the purpose of ensuring that staff members comply with local laws and honour their private legal obligations, promulgates the following:

Section 1

Purpose

1.1. The purpose of this Administrative Instruction is to set out procedures for handling cases of non-compliance by staff members with their private legal obligations, including judicially established family obligations and indebtedness to third parties, pursuant to Staff Regulation 1.1(f), Staff Rules 101.3(c) and 103.20.

Section 2

General provisions

2.1. Staff members are required to observe applicable national laws and regulations, to fulfill their private legal obligations, and honour orders of competent courts without involving the Court.

2.2. The privileges and immunities enjoyed by staff members are conferred in the interest of the Court and are in no way intended to derogate from the obligations of staff members to observe applicable laws and regulations.

2.3. In accordance with Article 48 of the Rome Statute and pursuant to Article 6 of the Agreement on Privileges and Immunities of the Court (APIC) and Article 11 of the Headquarters Agreement (HQA), the Court is immune from any form of legal process and any measure of execution. The salaries and allowances payable by the Court to staff members are therefore not subject to seizure or any other form of judicial interference.

2.4. Notwithstanding Section 5 of this Administrative Instruction and pursuant to Articles 3 and 16, paragraph 1, of the APIC and Articles 5 and 18 of the HQA, the Court shall enjoy such privileges and immunities as are necessary for the fulfillment of its purposes. A staff member shall therefore enjoy such privileges, immunities and facilities as are necessary for the independent performance of his or her functions and not for his or her personal benefit.

2.5. The privileges and immunities of the Court are not intended to derogate from the rights of legitimate claimants against a staff member. In accordance with Article 24, paragraph 1, of the APIC, and Article 34, paragraph 1, of the HQA, the Court shall cooperate with the competent authorities to facilitate the enforcement of the laws of the State in which it operates.

Section 3

Procedures applicable in cases of non-compliance with private legal obligations

3.1. The privileges and immunities of staff members may be waived in accordance with Article 48, paragraph 5, of the Rome Statute when, in any particular case, they would impede the course of justice.

3.2. When an external claimant communicates to the Court that a staff member has failed to meet his or her private legal obligations, the Court shall proceed as set out below.

3.3. The external claimant shall be advised of the Court's immunity, whereby the salaries and allowances payable by the Court to staff members are not subject to seizure of any other form of judicial interference. The external claimant shall also be informed of the Court's policy of requiring staff members to meet their private legal obligations.

3.4. The Human Resources Section (HR) shall inform the staff member of the request received from the external claimant and provide him or her with copies of the relevant correspondence. The staff member shall then be requested to take prompt action to settle his or her private legal obligations and notify HR on the action taken, within thirty (30) days of the date of receipt of the request of HR.

3.5. If the staff member notifies HR, with satisfactory written evidence, of the settlement of his or her private legal obligation, HR shall include all related correspondence in his or her Official Status file in accordance with the Administrative Instruction on Official Status file, ICC/AI/2008/002, and consider the case closed.

3.6. If the staff member fails to notify HR of the appropriate action taken within thirty (30) days from the date of the request made under paragraph 3.4, all related correspondence shall be placed in the staff member's Official Status file. The staff member shall be informed that the documents have been placed in his or her Official Status file and the Registrar or the Prosecutor, as appropriate, may initiate disciplinary proceedings against such staff member.

3.7. In the event of a request for information relating to total emoluments to which a staff member may be entitled, the Court may seek the consent of the staff member concerned before releasing such information.

Section 4

Procedures applicable in cases of non-compliance with family support court orders

4.1. In spouse and child support cases, the Court may, at its discretion, cooperate with a request from a competent judicial authority to provide relevant information to facilitate the

proper legal resolution of family claims, in a manner that the Court deems appropriate, even without the consent of the staff member.

4.2. The staff member shall be notified of the nature of the information provided, and shall be furnished with a copy of all such information.

4.3. When a staff member fails to comply with immediately enforceable family support orders of a competent court, or when he or she is in arrears with regards to his or her family support obligations, the staff member shall be required to submit satisfactory evidence within thirty (30) days from the date of receipt of the request from HR, that he or she has taken all necessary steps to discharge his or her outstanding arrears. This requirement shall be met if the staff member submits satisfactory evidence that:

- a. The entire amount of arrears has been paid; or
- b. An alternative arrangement has been agreed upon with the spouse, former spouse, dependent children or their legal representative(s) for payment of such arrears.

Section 5

Deductions from salaries and allowances

5.1. Deductions from total payments due to a staff member including salaries and allowances may be authorized by the Registrar or the Prosecutor, as appropriate, under Staff Rule 103.20 (b)(iii), to settle a staff member's indebtedness to third parties.

5.2. Where a staff member fails to settle his or her indebtedness to external claimants, the Court may voluntarily take the following actions, which in no way imply a waiver of the Court's privileges and immunities. When the Court receives a final judgment of a competent court against a staff member for the payment of outstanding debts:

- a. The staff member shall be requested to comply with the judgment immediately and to submit proof of compliance to HR within thirty (30) days from the date of receipt of the request from the Court;

- b. If the staff member does not submit proof of compliance within the period prescribed in paragraph 5.2(a) above, the Registrar or the Prosecutor, as appropriate, shall authorize the commencement of periodic deductions from the total payments due to the staff member in each payment period, in respect of the amounts included in the judgment or such other, lesser amounts as the Court may deem appropriate, until final satisfaction of such outstanding debt; and
- c. The amounts deducted shall be paid to the external claimant as deemed appropriate by the Court

5.3. The Court may, at its discretion, determine the amount to be deducted periodically provided such amount does not exceed the amount of the final judgment debt. In determining the amount to be deducted the Court shall take into account relevant considerations, including the financial needs of the staff member or any other relevant information provided by the staff member.

5.4. For the purpose of this Administrative Instruction, a judgment shall be deemed final if the only action left with regards to that judgment is to have it enforced.

5.5. If the staff member concerned considers the judgment unenforceable, he or she shall submit a judgment of a competent court, setting aside or vacating the original judgment or staying execution of the original judgment pending appeal, or evidence that he or she has otherwise amicably resolved the matter with the claimant. Until such judgment or evidence is submitted, the Court shall honour the original judgment.

5.6. Where the staff member fails to submit satisfactory evidence to HR as required by paragraphs 5.2(a) and 5.5 above, the Registrar or the Prosecutor, as appropriate, may institute disciplinary proceedings which may result in the imposition of disciplinary measures against the staff member.

Section 6

Order of precedence of deductions

6.1. The order of precedence of deductions shall be as follows:

- a. Deductions for indebtedness to the Court;
- b. Outstanding judicially established family obligations; and
- c. All other legally established indebtedness to third parties.

6.2. In case of conflicting claims in connection with deductions, including issues of priority or apportionment among and/or between claimants, the Court may, at its discretion, withhold payment until such conflicting claims are resolved by written agreement of the parties or the issuance of a final judgment by a court of competent jurisdiction.

Section 7

Final Provisions

7.1 This Administrative Instruction shall enter into force on 15 August 2008.



Silvana Arbia
Registrar