



Administrative Instruction – Instruction administrative

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Date: 6 October 2015

**DISCLOSURE REQUIREMENTS – FINANCIAL DISCLOSURE PROGRAMME OF THE
COURT (“ICC-FDP”) AND IPSAS RELATED PARTY DISCLOSURES**

The Registrar, in consultation with the President and the Prosecutor, pursuant to Presidential Directive ICC/PRES/G/2003/001, and for the purpose of implementing the Financial Disclosure Programme of the ICC, as set out in Section 6.1 of the Presidential Directive ICC/PRES/G/2014/002 and Staff Rule 101.6 (c), and the International Public Sector Accounting Standards (IPSAS) - Related Party Disclosures, hereby promulgates the following:

PART I - GENERAL

Section 1

Purpose

The purpose of this policy is to detail the overall disclosure requirements to be complied with by ICC’s staff members and elected officials, as applicable, in relation to:

- 1.1 The Financial Disclosure Programme of the ICC (“ICC-FDP”), administered on behalf of the ICC by the United Nations Ethics Office (“UNEO”), consisting of one of the following means:
 - a) Financial Disclosure Statement; or
 - b) Declaration of Interest Statement.

- 1.2 The International Public Sector Accounting Standards (“IPSAS”) - Related Party Disclosures, administered by the Court in accordance with IPSAS 20 – Related Party Disclosures Standards and related provisions.

Section 2

Definitions

The following definitions shall apply for the purpose of the present Administrative Instruction:

- a) Spouse / dependent child: an individual whose personal status has been recognised as such by the ICC for the purpose of ICC entitlements;
- b) Relative: a spouse, father, mother, son, daughter, brother and sister;
- c) Stock option: a right or option to buy a specific number of shares at a later date and price;
- d) Key Management Personnel: persons having the authority and responsibility for planning, directing, and controlling the activities of the ICC and key advisors of such persons; they include, but are not limited to: the President, elected officials in the Office of the Prosecutor and the Registry and all staff members at the D-1 level and above;
- e) Key advisors: staff members having a significant advisory role to Key Management Personnel and access to privileged information, allowing them to exercise control or influence;
- f) Substantial ownership interest or significant influence: the power to participate in the financial and operating policy decisions of an entity, but not control those policies; significant influence is presumed to exist where 20 percent or more of the voting power is held; if less than 20 per cent of the voting power is held, significant influence is presumed not to exist, unless such influence can be clearly demonstrated; significant influence may be exercised in several ways, usually by representation on the board of directors or equivalent governing body but also by, for example, participation in the policy making process, material transactions between entities within an economic entity, interchange of managerial personnel or dependence on technical information. Other than by ownership significant influence may be gained by statute or agreement;
- g) Related party: parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions, or if the related party entity and another entity are subject to common control. Related parties include:

- i. Entities that directly, or indirectly through one or more intermediaries, control, or are controlled by the ICC;
 - ii. Associates, in accordance with IPSAS 7 "Investments in Associates" provisions;
 - iii. Individuals owning, directly or indirectly, an interest in the ICC that gives them significant influence over the entity, and close members of the family of any such individual;
 - iv. Key Management Personnel, and close members of the family of Key Management Personnel; and
 - v. Entities in which a substantial ownership interest is held, directly or indirectly, by any person described in (iii) or (iv), or over which such a person is able to exercise significant influence.
- h) Related party transaction: transfer of resources or obligations between related parties, regardless of whether a price is charged. Related party transactions exclude transactions with any other entity that is a related party solely because of its economic dependence on the ICC; and
- i) Close family members of Key Management Personnel:
- i. A spouse, domestic partner, dependent child or relative living in a common household;
 - ii. A grandparent, father, mother, non-dependent child, grandchild, brother and sister; and
 - iii. The spouse or domestic partner of a child, a parent-in-law, a brother-in-law, and a sister-in-law.

PART II – FINANCIAL DISCLOSURE PROGRAMME OF THE COURT

Section 3

Obligation to file a financial disclosure statement or a declaration of interest statement

- 3.1 The following individuals shall file an annual financial disclosure statement:
- a) The President, Prosecutor, Deputy Prosecutor, Registrar and Deputy Registrar, as applicable;
 - b) All staff members at the D-1 level and above;

- c) All staff members who are procurement officers, or whose principal occupational duties are associated with the procurement of goods and services for the ICC;
 - d) All staff members whose principal occupational duties relate to the investment of the assets of the ICC;
 - e) Other staff members and elected officials whose direct access to confidential procurement or investment information warrants the filing of a financial disclosure statement;
 - f) All staff members serving in the Independent Oversight Mechanism and the Internal Audit Office; and
 - g) Certifying Officers of the ICC.
- 3.2 Staff members holding short-term appointments who fall within the scope of Section 3.1 above shall file a declaration of interest statement instead of a financial disclosure statement. Persons who are not staff members but perform any functions mentioned in Section 3.1 (b) to (g) may be required to file a declaration of interest statement.
- 3.3 The Registrar and the Prosecutor, in consultation with the Chief of Human Resources Section, shall determine the persons who, in accordance with Sections 3.1 and 3.2, shall file financial disclosure statements or declaration of interest statements, and provide these names to the UNEO.

Section 4

Scope of review in respect of financial disclosure statements

- 4.1 Persons who are required to file a financial disclosure statement pursuant to Section 3.1 above shall report the following in respect of themselves, their spouse and any dependent children:
- a) Assets held that have a market value of \$10,000 or above per asset, or the equivalent in local currency at the operational rate of exchange. Assets include stocks, bonds, mutual fund investments and real estate. Personal property, such as motor vehicles, boats, livestock, furniture, carpets, jewellery and art, should be reported only if it is held for investment or business purposes;
 - b) Any profit of more than \$10,000 on the sale of personal property that is held for investment or business purposes;
 - c) All stock options, publicly listed or private, regardless of value;

- d) Income earned from sources other than the ICC in the reporting period, including from investments listed in subparagraph (a) above, any form of deferred emoluments from prior employment (but excluding pension benefits received from prior employment), or profit shares from prior employment partnerships, if the total of all such income is over \$10,000 in the reporting period;
- e) Any form of supplement, direct or indirect, to ICC emoluments, including provision of housing or subsidised housing, or any gift, per diem, reimbursements, entertainment or travel expenses, allowance, favour, benefit, remuneration or in kind contribution from any Government, governmental agency or other non-ICC source aggregating \$250 or more from a single source during the reporting year, other than dependency benefits under national laws, travel and per diem for approved outside activities and residential accommodation that has been approved by the Registrar or Prosecutor, as appropriate, for its staff members and elected officials. Gifts from relatives are not required to be reported;
- f) Liabilities over \$50,000 owed to any creditor, including a mortgage on the person's personal and/or vacation residence, as well as liability to a former spouse. Liabilities owed to a parent, brother, sister, or dependent child are excluded;
- g) Involvement in any other activity or business, whether or not the activity or business is subject to approval by the Registrar or Prosecutor, as appropriate, that could have a direct or indirect impact on the objectivity or independence of the staff member or elected official in the performance of his/her official duties at the ICC or otherwise affect the image or reputation of the ICC; and
- h) A spouse's or dependent child's financial or other interest in, or association with, any entity with which the staff member or the elected official may be required to have dealings on behalf of the ICC, or any entity which has any commercial interest in the work of the ICC or a common area of activity with the ICC.

4.2 Persons who shall file a financial disclosure statement pursuant to Section 3.1 above shall also report the following:

- a) Any participation, leadership or policymaking role they have in any other entities or organisations (including membership on any corporate board); and
- b) Any relatives employed in the ICC.

4.3 Persons who are not able to comply with the disclosure requirements in respect of their spouse shall submit a detailed justification to the UNEO. The UNEO shall consider whether such justification is reasonable, with regard to the particular

circumstances of each case, and may make recommendations to the person and/or to relevant Head of Organ, in respect of each case.

Section 5

Scope of review in respect of declaration of interest statements

5.1 Persons who are required to file a declaration of interest statement, pursuant to Section 3.2 above, shall report the following:

- a) Any financial or other interest in, or association with, any entity with which the person anticipates or should reasonably anticipate he or she may be required to have official dealings on behalf of the ICC, or any entity that has a commercial interest in the work of the ICC or a common area of activity with the ICC, in respect of themselves, their spouse and dependent children (if any);
- b) Any participation, leadership or policymaking role they have in any other entities or organisations (including membership on any corporate board);
- c) Current or past involvement of the person in any other activity or business, whether or not the activity or business is subject to approval by the Registrar or Prosecutor, as appropriate, under the applicable Staff Regulations and Rules, which could have a direct or indirect impact on the objectivity and independence of the person in the specific performance of the functions for which the person has been contracted by the ICC or otherwise affect the image of the ICC; and
- d) Any relatives employed in the ICC.

PART III – IPSAS RELATED PARTY DISCLOSURES

Section 6

Obligation to file a declaration of related party transaction

6.1 The following Key Management Personnel are required to file a “Declaration of Key Management Personnel Related Party Transactions” (“declaration of related party transaction”):

- a) The President, Prosecutor, Deputy Prosecutor, Registrar and Deputy Registrar, as applicable;
- b) All staff members at the D-1 level and above;

- c) Any other staff members who have the authority and responsibility for planning, directing and controlling the activities of the ICC. Where they meet this requirement, Key Management Personnel include the related key advisors.
- 6.2 The Registrar or Prosecutor, as appropriate, in consultation with the Chief of Finance Section and Chief of Human Resources Section, shall determine the persons who shall file declarations of related party transactions identified in Section 6.1. These elected officials and staff members shall be informed by way of memorandum and provided with the relevant declaration forms.
- 6.3 The Human Resources Section shall place the finalised declarations of related party transactions in the Official Status Files of involved staff members and elected officials, as applicable.

Section 7

Scope of review in respect of declarations of related party transactions

- 7.1 Persons who are required to file a declaration of related party transactions, pursuant to Section 6.1 above, shall report the following:
- a) Aggregate remuneration as employees of the ICC;
 - b) Loans advanced by the ICC;
 - c) Total of all other remuneration and compensation derived from the ICC other than as employees (e.g. consultancy arrangements);
 - d) Total of all remuneration and compensation provided, and loans advanced, to close family members of Key Management Personnel by the ICC;
 - e) Details of related party relationships, irrespective of whether there have been transactions between the related parties; and
 - f) Related party transactions.

PART IV – FILING PROCEDURES AND FORMALITIES

Section 8

Applicable date for values and rates of exchange

For the purposes of making the statements and declarations associated with the ICC-FDP pursuant to the present Administrative Instruction, the applicable date for all values and rates of exchange is the date of disclosure.

Section 9

Submission of Forms

Persons who are required to file a financial disclosure statement, a declaration of interest statement or a declaration of related party transactions, pursuant to Sections 3 to 6 above, shall submit the respective forms through the established procedures and mechanisms outlined under this Administrative Instruction and, in case of financial disclosure statements and declaration of interest statements, as determined by the UNEO. Persons required to report shall be informed by focal points within the ICC and provided with the relevant forms.

Section 10

Filing procedures

- 10.1 Persons who are required to file a financial disclosure statement, a declaration of interest statement or a declaration of related party transactions, pursuant to Sections 3 to 6, shall do so by the last day of March, in respect of the period from 1 January to 31 December of the preceding year.
- 10.2 Any person offered an appointment at a level or position that would require disclosure, pursuant to Sections 3.1 and 3.2 above, is required to file an initial financial disclosure statement or declaration of interest statement. Such a statement shall be made in respect of the immediately preceding 12 months period and be submitted to the UNEO, where possible, before the starting date of the appointment. Failure to submit an initial statement may result in a withdrawal of the offer of appointment.

Section 11

Confidentiality

- 11.1 The financial disclosure statements and/or declaration of interest statements are confidential and will be accessible to and used only by the relevant Head of Organ, UNEO and/or by offices or persons specifically authorised in writing by the relevant Head of Organ who shall provide the reasoning for such access.
- 11.2 The declarations of related party transaction are confidential and will be accessible only to designated staff members of the Finance Section, the Human Resources Section

and the Court's external auditors. These declarations shall be placed in the Official Status File of involved staff members and elected officials, as applicable.

Section 12

Obligations of filers

- 12.1 Persons making disclosures pursuant to the present Administrative Instruction shall certify that the information disclosed is true, correct and complete to the best of their knowledge and belief.
- 12.2 In respect of the ICC-FDP implementation, persons making disclosures shall be required to comply with the procedures of the UNEO.
- 12.3 Persons who continually fail to comply with the disclosure requirements set out in this Administrative Instruction may be subject to disciplinary measures, as applicable.

Section 13

Final Provisions

- 13.1 As a transitional measure for 2015, annual financial disclosure or declaration of interest statements for the period between 1 January to 31 December 2014 shall be submitted at the date indicated by the Registrar, in consultation with UNEO.
- 13.2 The present Administrative Instruction shall enter into force on 6 October 2015.



Herman von Hebel
Registrar