

Sanctioning International Justice: The ICC and the Limits of State Power

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What happens when a State decides that an international court has gone beyond its mandate? The answer is exemplified by the sanctions imposed by the United States on 18 August 2026 against the International Criminal Court (ICC) President Tomoko Akane and senior ICC lawyer Abdoulaye Seye. The US froze their assets that were subject to US jurisdiction and restricted their access to US financial systems. These measures are just the latest development in Washington's broader campaign against the ICC.

This political confrontation hides a much less obvious legal question:

Under international law, is a State allowed to use its domestic frameworks to economically constrain officials of an international court, as a consequence of their exercising their mandate?

It is important to note that the US is not a party to the Rome Statute. The aforementioned sanctions find their legal basis in domestic law, namely Executive Order 14203, through which the White House is empowered to block property and assets of ICC personnel, following the issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Former Israeli Minister of Defense Yoav Gallant.

The US considered this an infringement of its sovereignty and that of its close ally, Israel, going directly against its interests. From the Presidency's perspective, however, these measures are not an exercise of authority over the ICC itself, but rather a territorial regulator of transactions, property and persons within the US jurisdiction.

Under international law, particular protections are awarded for the Court and its officials. Article 48 of the Rome Statute dictates that they enjoy privileges and immunities that are necessary for the fulfilment of their obligations, as pertains to Rome Statute State Parties. The judges, Prosecutor and Deputy Prosecutors are, in turn, additionally immunized against legal processes for actions performed in an official capacity. The Agreement on the Privileges and Immunities of the ICC further imposes privileges and immunities necessary for the independent performance of their functions.

But what if the interference is economic, rather than judicial?

The ICC's instruments do not expressly state that its officials are immune from foreign economic sanctions. There is an argument that freezing assets is fundamentally different from judicial proceedings. Yet, the aim of the privileges that ICC officials enjoy must be examined, as it poses a complicated conundrum: **the letter, or the spirit?** The protections exist not as personal benefits, but as means of ensuring the independence of the ICC as an institution. The ICJ has also weighed in, emphasizing this functional rationale, most notably in *Difference Relating to Immunity from Legal Process of a Special Rapporteur*.

Assuming that we abide by the spirit of the law, the question then becomes a much different one. Can economic measures even undermine that independence, when they do not constitute 'legal process'? The ICC has repeatedly characterised the latest sanctions as an attack on its judicial independence. The gap between the dogmatic arguments of each side is evident:

If immunity protects individual ICC officials from legal proceedings but not economic coercion, can international law protect the independence of international justice?

It is clear that States are reaching, more than ever, towards economic sanctions as a tool of international relations, where politics, and not law, takes precedence. The answer to the aforementioned question, therefore, may determine not only future judgements of international courts as such, but also whether or not international justice has become an illusory relic of a different global theatre.

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