



United Nations
Nations Unies



International
Criminal Tribunal
for the Former
Yugoslavia
Judicial Support
Services Division
Registry

Tribunal Pénal
International pour
l'ex-Yougoslavie
Division des
services d'appui
judiciaire
Greffé

3 March 2008

I General Invoicing Policies

Invoices must be submitted to OLAD as soon as possible, but no later than 120 days from the last day of the month during which work was performed, or an expense was incurred, and approved by the Registrar, in accordance with Article 23(D) of the *Directive on Assignment of Defence Counsel*. Invoices submitted after the deadline may not be processed for reimbursement. The Invoice should cover a one month period starting on the first day of a calendar month.

Defence team members receive payment into their individual bank accounts. Defence team members must submit their account information to the Registry upon assignment on a Bank Information Form (electronic copies available through OLAD staff).

Lead counsel is responsible for ensuring the most efficient use of resources allocated under the ICTY legal aid system. Lead counsel is therefore responsible for allocating work assignments efficiently, avoiding, for instance, any duplication of work by the same team member or by different team members.

The Registry thus requires that work performed by defence teams, which is paid from public funds through the legal aid system, is necessary and reasonable and that the invoices submitted to the Registry reflect this. The Registry's controls on the spending of legal aid funds are subject to control by the United Nations ACABQ and OIOS. In order to make a determination, the Registry reserves the right to request details and perform checks into the work performed which may require the production of the Defence files for verification by both internal and external auditors. The invoices of a Defence team will be kept confidential by the Registry. Under no circumstances will they or any of their contents be shared with the Office of the Prosecutor (OTP) or any other third party.

II Invoicing under the lump sum system (Pre-Trial and Trial Stage)

Defence teams submit a pro-forma invoice each month, signed by lead counsel, indicating the exact portion of the monthly stipend to be distributed between the officially assigned defence team members. Payments will then be made directly into the accounts of the respective defence team members.

At the end of the phase or stage the defence team will be required to account for the work performed and the results achieved over the course of pre-trial and trial in a detailed report presented to the Registrar in accordance with the relevant payment policy. In terms of the format, please see the "End of Stage Model" as approved by the Registrar after consultation with the ADC-ICTY attached to these guidelines.

III Invoicing under the Ceiling System

The hourly invoicing as explained below is mainly applicable to the appeals stage of the proceedings or contempt proceedings, but may be relevant to the payment of other specific periods, such as recess periods.

Defence teams are required to submit monthly invoices to OLAD. Invoices must be completed on a template invoice and accompanied by a completed Cover Sheet for Statement of Fees (electronic copies available through OLAD staff). The cover sheet must be signed by the defence team member submitting the invoice and counter-signed by lead counsel. By signing the invoice, lead counsel certifies that the work was performed as billed.

Monthly invoices must be submitted jointly and at the same time by all team members to facilitate the auditing process and to clarify the division of hours among team members; this is especially relevant in cases where the allotments are shared between the members of the team.

Invoices must include a detailed description of the work, which would allow both a jurist and non-jurist to assess the reasonable and necessary character of the work performed and the remuneration claimed. General descriptions such as “reading disclosure material” and “interviewing potential witnesses” are not considered sufficiently detailed. In addition, the invoice should demonstrate the time spent *per separate activity per day*, and the hours of the day in which the activity was performed (e.g. 9:00 – 11:15 meeting with client, 2:15 hours).

Details that must be provided include, but are not limited to:

- the type of documents that have been reviewed, read, researched or analysed, (including titles, filing dates (if applicable) and names/ initials/ pseudonyms of witnesses);
- the approximate number of pages of documents that have been reviewed, read or analysed, (e.g. 50 pages out of 250 read);
- the general subject matter of material drafted (and whenever possible the number of pages drafted);
- the names, pseudonyms or initials of (potential) witnesses located, met or interviewed, with locations where interviews took place;
- the work product or result of the conducted task (such as: number of pages of notes that have been taken during a meeting, providing members of the defence team with tasks upon reviewing their work report etc);
- the subject of meetings and correspondences (except those with the accused) (general indications may suffice);
- the relevance of each activity to the preparation of the defence case (if not apparent from the task itself).

An invoice may be refused in part if it includes non-reimbursable items. Only the time spent on reimbursable items on the invoice will be reimbursed, subject to the availability of funds to the defence team. The Registry may also refuse payment temporarily and

return the invoice to the defence team member in order to obtain further details. In both cases, a routing slip will be faxed to the lead counsel with an indication of the reasons for refusal, the number of hours that are refused and possibly the required follow-up. The defence team member has 30 days to provide the requested information (the exact deadline will be indicated on the routing slip). The Registry reserves the right to refuse payment if insufficient or no additional information is received by the deadline.

A. Remunerated Activities

The following lists include the items that the Registry remunerates. These lists are not considered exhaustive.

i. Lead Counsel and Co-counsel

- Prepare and submit motions
- Review OTP submissions
- Confer with client
- Review selected witness statements
- Interview expert witnesses and high level witnesses
- Review work reports and work products of team members
- Prepare for hearings
- Attend hearings
- Prepare work plans and invoices
- Facilitate the production of evidence

The Registrar reserves the right to decrease the level of remuneration, i.e. the hourly rate, of counsel should he/she repeatedly invoice for activities that are significantly below his/her expertise and would usually be expected to be performed by a support staff member.

ii. Legal Assistants

- Research case law and doctrine
- Draft filings/motions
- Study of disclosure material and witness statements
- Prepare summary of disclosure material for counsel
- Review OTP submissions and witness statements
- Summarise witness statements
- Study transcripts
- Case Mapping
- Prepare invoices

iii. Investigators

- Locate potential witnesses
- Interview witnesses
- Draft witness statements
- Search and collect evidence
- Draft mission reports
- Study OTP witness statements

- Prepare summary of witness statements
- Interpret and translate
- Prepare invoices

iv. Case Managers

- Organize exhibits, e-Court
- Case Mapping
- Interpret/translate
- Perform searches in transcripts, defence databases and disclosure material
- Prepare invoices

v. *Ad hoc* assigned individuals (e.g. *amicus curiae*)

- Remunerated activities with regard to *ad hoc* assignments by the Registrar are those necessary and reasonable for the performance of the tasks outlined in the respective assignment letter.

The defence is encouraged to limit their participation in meetings with third parties (potential witnesses, OTP, etc...) to one defence team member. A second defence team member will be remunerated for his/her attendance only where lead counsel has shown necessity and reasonableness.

B. Non-Remunerated Activities

- Travel time
- Breaks
- General office costs which have been factored into counsel's fees such as phone and mail or express mail, photocopies, books and journals, lease of office space, purchase of office equipment, office supplies and secretarial support, arranging visits to UNDU, arranging visas, correspondence with OLAD (Article 23(C) of the Directive)
- Reading books or articles (exceptions are parts of books that are submitted as evidence or exhibits, or that demonstrate a direct link to the case)
- Recruitment of team members
