

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

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DIRECTIVE ON ALLOWANCES FOR WITNESSES AND EXPERT WITNESSES

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I - PREAMBLE

The Registrar of the Tribunal,

Considering the Statute of the Tribunal as adopted by the Security Council under resolution 827 (1993) of 25 May 1993, as subsequently amended, and in particular Articles 20, 21 and 22 thereof;

Considering the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended, and in particular Rules 34, 54, 69, 71, 71 *bis*, 75, 89, 90, 90 *bis*, 92 *bis* and 98 thereof;

Considering the Agreement between the United Nations and the Kingdom of the Netherlands Concerning the Headquarters of the Tribunal signed at New York on 29 July 1994, and in particular Articles XVIII thereof;

Considering the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the General Assembly by Resolution 40/34 of 29 November 1985, and in particular Paragraph 6 thereof;

**ISSUES THE DIRECTIVE ON ALLOWANCES FOR WITNESSES AND EXPERT
WITNESSES AS FOLLOWS;**

II – GENERAL PROVISIONS

Article 1

Entry into Force

This Directive establishes the provision of allowances for witnesses and expert witnesses and shall enter into force on the 1st day of January two thousand and two (01 January 2002).

Article 2

Definitions

(A) Under this Directive, the following terms shall mean:

Chambers: The Chambers of the Tribunal referred to in Article 11 of the Statute;

Directive: Directive on Allowances for Witnesses and Expert Witnesses (IT/200);

Expert Witness: A person who provides or is due to provide expert testimony before the Chambers as a result of being called by the parties in accordance with Rule 94 *bis* of the Rules; or as a result of being summoned by the Chambers in accordance with Rule 54 or 98 of the Rules;

Parties: The Prosecutor and the Defence;

President: The President of the Tribunal referred to in Article 14 of the Statute;

Prosecutor: the Prosecutor appointed pursuant to Article 16 of the Statute;

Registrar: the Registrar of the Tribunal appointed pursuant to Article 17 of the Statute;

Rule 92 *bis* witness: a person who, under Rule 92 *bis* of the Rules, gives a declaration witnessed by a person authorised to witness such a declaration in accordance with the law and procedure of a State, or a Presiding Officer appointed by the Registrar of the Tribunal;

Rules: the Rules of Procedure and Evidence adopted by the Tribunal on 11 February 1994, as subsequently amended;

Statute: the Statute of the Tribunal adopted by the Security Council under Resolution 827 (1993) of 25 May 1993, as subsequently amended;

Victims and Witnesses Section: the Victims and Witnesses Section referred to in Rule 34 of the Rules;

Witness: a person who provides or is due to provide testimony before the Chambers as a result of being called by the parties; summoned by the Chambers under Rule 54 or 98 of the Rules; or ordered by the Chambers to give testimony by deposition under Rule 71 of the Rules or video-conference link under Rule 71 *bis* of the Rules;

Tribunal: the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

(B) In the Directive, the masculine shall include the feminine and the singular the plural, and vice versa.

(C) The Directive does not apply to witnesses who are awaiting relocation.

Article 3
Authentic Texts

The English and French texts of the Directive shall be equally authentic. In case of a discrepancy, the version which is more consonant with the spirit of the Statute, Rules and the Directive shall prevail.

Article 4
Amendment of the Directive

- (A) Proposals for amendment of the Directive may be made by a Judge, the Parties or the Registrar. Amendments shall be decided upon and promulgated by the Registrar.

- (B) Without prejudice to the rights of witnesses in any pending case, an amendment of the Directive shall enter into force seven days after the day of issue of an official Tribunal document containing the amendment.

Article 5
Responsibility for Payment of Allowances

The costs of allowances necessarily and reasonably incurred by witnesses and expert witnesses as a result of testifying before the Chambers shall be met by the Tribunal as set out in the Directive, subject to the budgetary provisions, rules and regulations, and practice set by the United Nations.

Article 6
Delegation of Authority

The Registrar may delegate any of his authority under the provisions of the Directive to the Chief of the Victims and Witnesses Section.

III – WITNESSES

Article 7

Attendance Allowance

- (A) The Tribunal shall provide witnesses with an attendance allowance as compensation for wages, earnings and time lost as a result of testifying. Witnesses shall not be required to submit a request or any supporting documentation in order to receive the attendance allowance.
- (B) The attendance allowance shall be calculated by multiplying: (i) the daily minimum wage rate applicable for United Nations personnel in the country in which the witness is residing at the time he testifies by (ii) the number of days the witness testifies, including days spent on journeys in connection with testifying. A part of a day used in connection with testifying will be considered a full day for the purpose of calculating the attendance allowance.
- (C) The daily minimum wage rate envisioned in paragraph (B) (i) shall be determined by dividing: (i) the annual salary of United Nations personnel at the General Services 1, Step 1 level in the country in which the witness is residing at the time he testifies by (ii) the number of days per year, as set out in the Annex. For witnesses residing in countries in which there are no United Nations personnel present, the daily minimum wage rate for witnesses residing in The Netherlands will be used. The Annex will be updated regularly as the Registrar deems necessary, but at least on an annual basis.

Article 8

Extraordinary Losses

- (A) A witness who will suffer or who has suffered undue hardship as a result of testifying may request the compensation of extraordinary losses. Such requests may be submitted before or after a witness testifies, but in all cases must be accompanied by supporting documentation.

- (B) The Registrar shall examine all requests for the compensation of extraordinary losses made in accordance with paragraph (A). In determining whether to grant compensation of extraordinary losses, the Registrar shall examine any supplementary information provided by the witness, the Victims and Witnesses Section, or the parties and consider such factors as:
- (i) the amount of the extraordinary losses claimed;
 - (ii) the sufficiency of the supporting documentation submitted with the request;
 - (iii) the existence of a direct link between the witness's giving of testimony and the extraordinary losses; and
 - (iv) the undue hardship which would be suffered if the witness were not compensated for the extraordinary losses.
- (C) All decisions of the Registrar under this Article are final and are not subject to review.
- (D) All decisions of the Registrar under this Article will be communicated to the witness in a timely manner.

Article 9

Travel

- (A) The Tribunal shall provide and arrange transportation necessary for witnesses to travel to and from the location where they testify, including arrangements and costs for any travel documents which may be required.
- (B) Travel shall be based on:
- (i) an economy class round trip air ticket by the shortest route or within limits laid down by or subject to prior authorisation of the Registrar;
 - (ii) first class public transportation tickets by the shortest route or within limits laid down by and subject to prior authorisation of the Registrar; or

- (iii) fixed rates as established by the United Nations Schedule of Rates of Reimbursement for Travel by Private Motor Vehicle applicable to different groups of Countries and Territories, per kilometre travelled on the outward and return journeys by the shortest route, on presentation of a statement of travel expenses using the form provided by the Registry.

Article 10

Accommodation

The Tribunal shall provide and arrange overnight accommodation for witnesses when required at the location where witnesses testify, and during travel to and from such location, provided they do not receive a daily subsistence allowance under Article 13 of this Directive.

Article 11

Meals

- (A) The Tribunal shall provide and arrange meals for witnesses who require overnight accommodation, provided they do not receive a daily subsistence allowance under Article 13.
- (B) Witnesses who do not require overnight accommodation shall be entitled to a meal allowance.
- (C) The meal allowance envisioned in paragraph (B) shall be twenty percent of the daily subsistence allowance determined in accordance with Article 13. In the case of witnesses testifying in The Netherlands, the meal allowance will be a fixed rate of forty Euros. This fixed rate will be updated regularly as the Registrar deems necessary, but at least on an annual basis.

Article 12

Incidental Allowance

- (A) The Tribunal shall provide an incidental allowance for reasonable personal expenses to witnesses who require overnight accommodation, provided they do not receive a daily subsistence allowance under Article 13.
- (B) The incidental allowance envisioned in paragraph (A) shall be calculated by multiplying (i) fifteen percent of the daily subsistence allowance determined in accordance with Article 13 by (ii) the number of nights of accommodation required at the location where the witness testifies, and during travel to and from such location. In the case of witnesses testifying in The Netherlands, the daily incidental allowance will be a fixed rate of thirty Euros. This allowance will be updated regularly as the Registrar deems necessary, but at least on an annual basis.

Article 13

Daily Subsistence Allowance

- (A) The Registrar may provide witnesses who require overnight accommodation a daily subsistence allowance in lieu of providing accommodation under Article 10, meals under Article 11 and an incidental allowance under Article 12. Witnesses who do not require overnight accommodation shall not be entitled to a daily subsistence allowance.
- (B) In determining whether to provide a witness with a daily subsistence allowance, the Registrar shall consider such factors as:
 - (i) the protection and support needs of the witness;
 - (ii) the capability of the witness to be self-sufficient; and
 - (iii) the profession and/or official position of the witness.
- (C) The daily subsistence allowance shall be calculated by multiplying: (i) a fixed rate based on the United Nations Schedule of Daily Subsistence Allowance applicable in the country where the witness testifies by (ii) the number of nights of accommodation required at the location where the witness testifies, and during travel to and from such location.

Article 14

Childcare

- (A) A witness who requires childcare or other forms of care for his dependants in order to testify may request reimbursement of childcare expenses. Such requests shall be submitted before a witness testifies before the Chambers.
- (B) The Registrar shall examine all requests for the reimbursement of childcare expenses made in accordance with paragraph (A). In determining whether to grant reimbursement, the Registrar shall examine any supplementary information provided by the witness, the Victims and Witnesses Section or the parties and consider such factors as:
 - (i) the existence of a direct link between a witness's giving of testimony before the Chambers and the availability of childcare;
 - (ii) the availability of alternative childcare arrangements; and
 - (iii) the reasonableness and appropriateness of the expenses claimed.
- (C) All decisions of the Registrar under this Article are final and are not subject to review.
- (D) All decisions of the Registrar under this Article will be communicated to the witness in a timely manner.

Article 15

Accompanying Dependants and Support Persons

- (A) Dependants and support persons who are authorised by the Registrar to accompany witnesses to and from the location where they testify shall not be entitled to the attendance allowance under Article 7.
- (B) Dependants and support persons who are authorised by the Registrar to accompany witnesses to and from the location where they testify are entitled to the provision of extraordinary losses, travel, accommodation, meals, incidental allowance, daily subsistence allowance and childcare under Articles 8, 9, 10, 11, 12, 13 and 14 respectively.

Article 16

Rule 92 *bis* Witnesses

- (A) Rule 92 *bis* witnesses who are not required to travel to and from the locations where they are making their declarations shall not be entitled to any allowances.
- (B) Rule 92 *bis* witnesses who are required to travel to and from the location where they are making their declarations are entitled to the provision of extraordinary losses, travel, accommodation, meals, incidental allowance, daily subsistence allowance and childcare under Articles 8, 9, 10, 11, 12, 13 and 14 respectively.

IV – EXPERT WITNESSES

Article 17

Attendance Allowance

- (A) The Tribunal shall provide expert witnesses with an attendance allowance as compensation for wages, earnings and time lost as a result of testifying. Expert witnesses shall not be required to submit a request or any supporting documentation in order to receive the attendance allowance.
- (B) The attendance allowance shall be calculated by multiplying: (i) the daily attendance allowance by (ii) the number of days the expert witness testifies, including days spent on journeys in connection with testifying. A part of a day used in connection with testifying will be considered a full day for the purpose of calculating the attendance allowance.
- (C) The daily attendance allowance envisioned in paragraph (B) (i) is a fixed rate of two hundred United States Dollars, regardless of the country in which the expert witness is residing at the time he testifies. This allowance will be updated regularly as the Registrar deems necessary, but at least on an annual basis.

Article 18

Travel

- (A) The Tribunal shall provide and arrange transportation necessary for expert witnesses to travel to and from the location where they testify, including arrangements and costs for any travel documents which may be required.
- (B) Travel shall be based on:
- (i) an economy class round trip air ticket by the shortest route or within limits laid down by or subject to prior authorisation of the Registrar;
 - (ii) first class public transportation tickets by the shortest route or within limits laid down by and subject to prior authorisation of the Registrar; or
 - (iii) fixed rates as established by the United Nations Schedule of Rates of Reimbursement for Travel by Private Motor Vehicle applicable to different groups of Countries and Territories, per kilometre travelled on the outward and return journeys by the shortest route, on presentation of a statement of travel expenses using the form provided by the Registry.

Article 19

Accommodation, Meals, Incidental Allowances and Daily Subsistence Allowance

The Tribunal shall provide expert witnesses with accommodation under Article 10, meals under Article 11 and an incidental allowance under Article 12. In lieu thereof, the Registrar may provide expert witnesses who require overnight accommodation a daily subsistence allowance in accordance with Article 13, *mutatis mutandis*.