

Guidelines on the Submission of Hourly Invoices and Remunerable Activities

November 2015

I. General Invoicing Policies

1. Hourly invoicing is mainly applicable to contempt and false testimony proceedings (pursuant to Rules 90 and 108 of the MICT Rules of Procedure and Evidence), revocation proceedings pursuant to Rule 14. Hourly invoicing may also apply to *ad hoc* assigned individuals, such as *amici curiae*. Hourly invoicing will further apply to post-conviction proceedings, but only upon the issuance of a judicial order for the allocation of legal aid funds. Hourly invoicing may also be required in recess periods, during which detailed hourly invoices may be required for payment.
2. A Defence team member must submit hourly invoices to the Registry as soon as possible, but no later than 60 days from the last day of the month during which work was performed, or an expense was incurred. The Registry will not process invoices submitted after the deadline unless counsel shows compelling reasons for the delay.
3. Each invoice should cover a one-month period starting on the first day of a calendar month. A Defence team member must submit monthly invoices jointly for all team members to facilitate the review process and to clarify the division of tasks and hours among team members.
4. The Registry will directly deposit payments to Defence team members into their individual bank accounts. Defence team members must submit their account information to the Registry on a form provided by Registry staff upon assignment. Electronic copies of this form are available through Registry staff.
5. Lead counsel is responsible for ensuring the most efficient use of resources allocated under the legal aid system of the Mechanism for International Criminal Tribunals (MICT). Lead counsel is therefore responsible for allocating work assignments efficiently, avoiding, for instance, any duplication of work by the same or different team members.
6. In accordance with Article 24 of the *Directive on the Assignment of Defence Counsel*, the Registry requires that work performed by Defence teams, paid through the legal aid system from public funds, be reasonable and necessary for the preparation and presentation of the Defence, and that the submitted invoices reflect this. The Registry's controls on the spending of legal aid funds are subject to audit by the United Nations OIOS.¹ The Registry reserves the right to request details and perform detailed checks into the work performed which may require the production of the Defence files for verification of the work performed. The invoices of a Defence team will be kept confidential by the Registry, though they may be shared with internal and external auditors. Under no circumstances will the invoices nor any of their contents be shared with the Office of the Prosecutor (OTP) or any other third party.

¹ The Office of Internal Oversight Services.

II. Hourly Invoicing

7. A Defence team member must complete invoices on a template invoice and submit a completed Cover Sheet for Statement of Fees. Electronic copies of these forms are available through Registry staff. The Defence team member submitting the Cover Sheet must sign the invoice and lead counsel must counter-sign it. By signing the invoice, lead counsel certifies that the Defence team member in fact performed the work as billed.
8. Invoices must include a detailed description of the work that 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 insufficient. Invoices should indicate the time spent *per* separate activity *per* day, and the hours of the day in which the activity was performed (e.g. 09:00–11:15 meeting with client, 2:15 hours).
9. Required details include, but are not limited to:
 - the type of documents reviewed, read, researched or analysed (including titles, and where applicable, filing dates and names);
 - the number of pages of documents reviewed, read or analysed (e.g. 50 pages 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 (e.g. 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 correspondence, except those with the accused (general indications may suffice), and
 - the relevance of each activity to the preparation of the defence case (if not apparent from the task itself).
10. The Registry may refuse an invoice in part if it includes non-reimbursable items. The Registry will only authorise payment for time spent on remunerable activities, 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, the Registry will provide a routing slip to lead counsel which will indicate the reasons for refusal, the number of hours that are refused and the required follow-up. The Defence team member has 30 days to provide the requested information and the routing slip will indicate the exact deadline. The Registry reserves the right to refuse payment if insufficient or no additional information is received by the deadline.
11. The Registrar also reserves the right to decrease the hourly rate of remuneration for counsel for activities that do not require counsel’s expertise and are more fittingly performed by a support staff member.

A. Remunerable Activities

12. The following, non-exhaustive lists include the activities that the Registry remunerates.

i. Lead Counsel and Co-counsel

- Conferring with client
- Preparing and submitting motions and briefs
- Reviewing OTP submissions
- Preparing for hearings
- Attending hearings
- Reviewing selected witness statements
- Interviewing expert witnesses and high-level witnesses
- Facilitating the production of evidence
- Preparing work plans for the team
- Reviewing work reports and work products of team members
- Preparing invoices²

ii. Legal Assistants

- Researching case law and doctrine
- Drafting filings/motions/briefs
- Studying of disclosure material and witness statements
- Preparing summaries of disclosure material for counsel
- Reviewing OTP submissions, briefs and witness statements
- Summarising witness statements
- Studying transcripts
- Case Mapping
- Preparing invoices

iii. Investigators

- Locating potential witnesses
- Interviewing witnesses
- Drafting witness statements
- Searching, collecting and analysing evidence
- Drafting mission reports
- Studying OTP witness statements
- Preparing summaries of witness statements
- Preparing invoices

iv. Case Managers

- Organising exhibits, e-Court, if applicable
- Case Mapping
- Performing searches in transcripts, defence databases and disclosure material
- Preparing invoices

² The Registry will reimburse a maximum of two hours per month per team member for preparation of monthly hourly invoices.

v. Language Assistants

- Providing interpretation during meetings and interviews of witnesses and between client and counsel³
- Translating documents and other relevant materials⁴

vi. *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.

B. Non-Remunerable Activities

13. The Registry will not ordinarily remunerate more than one Defence team member for the participation in meetings with third parties (potential witnesses, OTP, etc.). The Registry will remunerate a second Defence team member for his/her participation in such meetings only where lead counsel has shown necessity and reasonableness.

14. The Registry will assess whether the work performed and the remuneration claimed is reasonable and necessary. The Registry may decline payment for work that is excessive or duplicative. The Registry may assess the same tasks performed in different languages as duplicative work. While not exhaustive, activities such as the following are not remunerable:

- Travel time
- Breaks⁵
- General office costs which have been factored into counsel's fees, such as phone, mail, express mail, photocopies, books, journals, lease of office space, purchase of office equipment, office supplies, secretarial support, arranging visits to the detention facilities, arranging visas, arranging document storage and/or destruction, and correspondence with the Registry (Article 24(C) of the Directive)
- Reading books or articles (with the exception of parts of books that are submitted as evidence or exhibits, or that have a direct link to the case)
- Reading or researching the founding documents of the MICT, the International Criminal Tribunal for the former Yugoslavia (ICTY) or the International Criminal Tribunal for Rwanda (ICTR), for example: the Statute; Rules of Procedure and Evidence; the Directive on the Assignment of Counsel; the Rules of Detention, Registry legal aid policies, Practice Directions and any other rules and regulations issued by the MICT, ICTY or ICTR
- Recruitment of team members

³ Further to the applicable policies and in accordance with Article 19(4)(b) of the Statute, strictly client-counsel related interpretation and translation may be remunerated over and above the legal aid allotment.

⁴ Id.

⁵ In cases where an invoice shows a block of eight (8) hours of continuous work without indication of a break, 30 minutes shall be deducted as non-remunerable break time.