



**International Criminal Tribunal for Rwanda  
Tribunal Pénal International pour le Rwanda**

Arusha International Conference Centre  
P.O. Box 6016, Arusha, Tanzania - B.P. 6016, Arusha, Tanzania  
Tel: 255 57 4207-11/4367-72 or 1 212 963 2850 Fax: 255 57 4000/4373 or 1 212 963 2848/49

*The Registrar  
Le Greffier*

Arusha, 1 September 1998

All Defence Counsel

Dear Sir/Madam,

**Subject: Guidelines for the Remuneration of Counsel Appearing  
before the ICTR**

I would first like to thank all of you who have cooperated and collaborated with the Registry in ensuring the practical realization of the right of a suspect or accused detained by the Tribunal to be assisted by competent counsel.

I should like to inform you that, on 2 April 1998, a meeting was convened in Arusha by the Registrar of the Advisory Panel contemplated in Article 29 of the Directive on Assignment of Defence Counsel to review, inter alia, the entire issue of remuneration of defence counsel. Based on the recommendations of the Panel, we have put in place a consolidated framework (in the form of guidelines) for the management of defence lawyer issues. In elaborating these guidelines, we have taken into consideration the overall structure of remuneration for counsel and the possibility of your receiving - also at the Tribunal's cost - the assistance of co-counsel, assistants, investigators, experts, etc.

I have instructed the Lawyers and Detention Facilities Management Section to implement these guidelines in order to ensure transparency and uniformity in the Tribunal's practice in this area of work.

I look forward to your continued co-operation in pursuing our common objective of ensuring fair and expeditious trials before the Tribunal.

Yours sincerely,

  
Agwu Ukiwe Okali  
Assistant Secretary-General  
Registrar

cc: All Judges

Mr. Alessandro Caldarone  
Officer-in-Charge

Lawyers and Detention Facilities Management Section



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## **GUIDELINES FOR SETTLEMENT OF DEFENCE ACCOUNTS**

The following guidelines are issued in the framework of the permanent process of maintaining a sustainable «legal assistance programme» through improved assistance to Defence teams and an increasingly rational management of the limited resources available. They are aimed at providing the partners involved in this process, members of defence teams in particular, with information on the procedure, practice and policies of the Registrar in settling defence accounts and thereby ensuring uniformity and transparency in those matters. The guidelines are an interpretation of the Directive as agreed on by the Advisory Panel set up in conformity with article 29 of the Directive on assignment of Defence Counsel.

### **1. Remuneration of Counsel for services rendered**

**1.1. The statement of fees.** The statement of fees submitted by the Counsel must be in conformity with article 24 of the Directive and clearly indicate the names of suspect or accused, the registration number in the Record Book, the stage of the procedure, the date, the time spent and the nature of the activity performed, including enough information to show the necessity and reasonableness for the preparation of the case as stipulated by article 17 of the Directive. The proper form must be submitted together with the statement of fees.

**1.2. Fixed rate as per article 22 (A) (I) of the Directive.** The fixed rate paid at each stage of the proceedings to cover the time spent by Counsel to familiarize themselves with the pertinent documents of the case and the applicable law. The stages are as follows: Pre-Trial, Trial, Pre-Sentencing Hearing<sup>1</sup>, Appeal and Review. This fixed rate, thus covers readings of: the indictment, the ICTR rules and regulations (Statute, Rules of Procedure and Evidence, Directive on assignment of defence counsel, Detention Rules, etc.) and the various aspects of the law applicable to an international tribunal. Further reading of such texts will, therefore, not be remunerated separately. The fixed rate, pursuant to article 23 of the Directive, has been raised from \$US400 (four hundred) to \$US2,000 (two thousand).

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<sup>1</sup> Where applicable.

**1.3. Hourly rate, article 22 (A) (ii) of the Directive.** The fixed hourly rate covers time spent in the *direct preparation of the case* and any court appearances. Additional study and research that is not linked to the direct preparation of the case is included in this rate, as are «office overhead expenses». Thus, preparation for meetings, note taking and compilation of own notes will not be reimbursed as a separate activity. Direct preparation is understood, among other activities, to mean preparation of a motion or examination of a witness.

**1.4. Background reading on Rwanda and the Great Lakes region (history, politics, etc.).** Recognizing the particularity of the cases before the ICTR, some hours can be remunerated when spent on specific reading of the history and politics of Rwanda in the relevant period. A maximum of 50 hours can be remunerated, and payment is subject to respect for the provisions of article 24 of the Directive.

**1.5.1. Co-counsel.** Lead Counsel can be assisted by a Co-counsel when the trial is about to begin or in exceptional cases where the bulk of work so justifies. The Co-counsel is appointed by the Registrar upon a request made by the assigned counsel as per article 15 of the Directive, using the approved application form. The preference for a Co-counsel should reflect the need to form a team with experience in the tradition of both common law and civil law and knowledge of the two working languages of the Tribunal.

**1.5.2. Claims for payment of fees or reimbursement of expenses for Co-counsel** must be certified by Lead Counsel prior to submission to the Registry. Direct submission by co-counsel is only acceptable on the basis of written authorization from lead counsel.

**1.6 Duplication of work.** The Lead Counsel is responsible for the case. He must ensure that the team functions as such and that the members of the team supplement each other and do not duplicate the work. If the Lead Counsel and/or the Co-counsel has already covered an activity, other members of the team can in exceptional circumstances only be reimbursed for similar activities. If other members of the team perform a task, Lead Counsel or Co-counsel can only be reimbursed for supervising, assisting and coordinating this activity.

**1.7 Meetings.** Meetings between all the members of the team can be reimbursed when spent on streamlining and coordinating the work efforts of the team. Working sessions between team members can also be reimbursed when the time spent has been shown by Counsel to be reasonable and necessary. Meetings with third parties should be limited, as far as possible, to one team member. Meetings attended by more than one member of the team with a third party can be reimbursed when necessity has been shown by Counsel.

**1.8. Witnesses.** In order to ensure consistency between the number of witnesses interviewed and the number of witnesses presented at trial, an identification code should be allocated to any potential witness for whom reimbursement is claimed. This code letter/number must accompany the witness all the way throughout the proceedings. If possible, Counsel should indicate in the statement of claim whether the witness has agreed to appear in court. This will facilitate the Tribunal's efforts to plan ahead of time its logistic support to Counsel before appearance in court.

**1.9. Daily Subsistence Allowance (DSA).** DSA is meant to cover unspecified costs related to remaining outside the place of residence in connection with the case. As with any other cost reimbursed by the Tribunal, it has to be documented with original invoices and needs to be authorized prior to the travel as well as fulfilling the requirement of being necessary and reasonable for the preparation of the case. The proper form must be filled out and be submitted together with the claim. Claims for DSA will be processed together with the pertinent claims for reimbursement of travel expenses.

## **2. Reimbursement of travel expenses.**

**2.1.** Written authorization from the Registrar should be obtained prior to any official travel. Requests should be made using the proper form, and be submitted in due time to allow for adequate processing.

**2.2.** Although authorized in principle, journeys to Arusha for hearing purposes should still necessitate prior authorization, especially with regard to the duration of the stay component of the trip.

**2.3. Duration of travel to Arusha for hearing or other purposes.** Counsel should arrive in Arusha not more than two days prior to the hearing date and leave by the next available flight. Exceptions to this principle should be explained and requested in writing.

**2.4.** In accordance with article 27 of the Directive, travel expenses are reimbursed on the basis of one economy class round-trip air ticket by the shortest available route. Travel is also reimbursable on the basis of either first class public transportation tickets or fixed rates as established by the United Nations for travel by private motor vehicle. For all travel claims the *original* ticket, the *original* invoice, the travel authorization and any receipts related to payments with credit cards must be produced by the counsel. All travel claims must be submitted using the appropriate form established by the Registrar. Taxi fares are not reimbursed.

## **3. Assistant and investigator**

**3.1.** Counsel must seek, using the proper form, written authorization from the Registrar prior to the recruitment of an assistant or an investigator. Such a request

should be justified and include, *inter alia*, the specific assignment for which the person is recruited as well as the estimated time of duration of the work.

**3.2.** Assistant and investigator are remunerated at an hourly flat rate of \$US25, with a monthly maximum payment of 100 (one hundred) hours.

**3.3.** Travel requests for assistant and investigator should be submitted by Counsel following the same procedure as described in clause 2 above, in the case of Counsel.

**3.4.** Claims for payment of fees and reimbursement of expenses for assistant and investigator should be certified by Lead Counsel prior to submission to the Lawyers and Detention Facilities Management Section (LDFMS).

#### **4. Expense not reimbursed by the Tribunal**

**4.1. Medical expenses.** More medical and other personal expenses are not reimbursed by the Tribunal. It is the responsibility of each member of a defence team to arrange and pay for his medical coverage.

**4.2.** Expenses incurred for the purchase of items to be owned by counsel such as books and newspapers, etc., will not be reimbursed.

#### **5. Processing of fees and expenses**

**5.1** The statement of fees and/or expenses submitted by counsel is reviewed by the LDFMS using the attached list of standard acronyms, informing the Counsel, where applicable, the grounds on which additional justification is required, payment is disallowed, hours claimed reduced, etc. A copy of the reviewed statement is sent to counsel shortly after the issuance of the cheque, order of bank transfer given, other form of payment effected.

The above guidelines will be updated as required on the basis of experience.