

Guidelines on the Submission of Hourly Invoices and Remunerable Activities for Assistants to Self-Represented Accused

25 May 2016

I. General Provisions

1. These guidelines are applicable to the invoices of persons who have been assigned by the Registrar to assist in the defence of indigent, self-represented accused before the Mechanism for International Criminal Tribunals (“MICT”).
2. The Registry is responsible for enabling access of self-represented accused to quality legal assistance while at the same time ensuring that the administration of public funds results in a rationalised system that minimises the potential for waste or abuse. Subject to the availability of resources allocated to the assistants of a self-represented accused, and in accordance with paragraph 36 of the *Remuneration Policy for Persons Assisting Indigent Self-Represented Accused before the Mechanism for International Criminal Tribunals* and Article 24 of the *Directive on the Assignment of Defence Counsel*, the Registry thus requires that the work performed by assistants to self-represented accused is reasonable and necessary to facilitate the accused’s participation in proceedings and that the reasonableness and necessity of their work is reflected in their invoices.
3. Invoices should cover a one-month period starting on the first day of the calendar month and need to be submitted to the Registry as soon as possible, but no later than 60 days from the last day of the month during which the work was performed or the expense was incurred. The Registry will not process invoices submitted after the deadline unless compelling reasons for the delay are shown.
4. The self-represented accused, or one of his/her assistants, must submit monthly invoices jointly for all assistants in order to facilitate the review process and to clarify the division of tasks and hours among the assistants.
5. The Registry will directly deposit payments to assistants to self-represented accused into their individual bank accounts. Each assistant must submit their account information to the Registry on the Umoja HR Business Partner Mini Master Form provided by Registry staff upon assignment. This form should be fully completed upon submission.
6. The self-represented accused is responsible for ensuring the most efficient use of resources allocated under the MICT legal aid system. The accused is therefore responsible for allocating work assignments efficiently and avoiding the duplication of work by the same or different assistants.
7. The Registry’s controls on the spending of legal aid funds are subject to control by the UN Office of Internal Oversight Services. 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 of the work performed. The Registry shall keep confidential the invoices of a Defence team, though the Registry may share them with internal and external auditors. Under no circumstances will the Registry share the invoices, nor any of their contents, with the Office of the Prosecutor (OTP) or any other third party.

II. Hourly Invoicing

8. An assistant to a self-represented accused must complete invoices on an invoice template and submit a completed Cover Sheet for Statement of Fees. Electronic copies are available through Registry staff and the MICT website. Each assistant must sign his/her cover sheet and the self-represented accused must counter-sign it. By signing the invoice, the self-represented accused certifies that the work invoiced has been requested by him/her and that the assistant performed the work as billed.
9. Invoices must include a detailed description of 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 materials” 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. 09:00 – 11:15 meeting with the accused, 2:15 hours).
10. 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 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 (e.g. the number of pages of notes that have been taken during a meeting);
 - the subject of meetings and correspondences, 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).
11. 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 assistant to a self-represented accused in order to obtain further details. In both cases, the Registry will provide a routing slip to the assistant, which will indicate the reasons for refusal, the number of hours that are refused and the required follow-up. The assistant 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.

A. Remunerable Activities

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

i. Meetings

The Registry may remunerate working sessions between assistants to a self-represented accused if the invoice demonstrates that the time spent on work was reasonable and necessary. Assistants to self-represented accused are encouraged to limit their participation in meetings with third parties (e.g. witness or potential witnesses or the OTP) to one assistant. A second assistant will be remunerated for his/her attendance only where he/she has shown necessity and reasonableness.

ii. Legal Associates

- Assisting the accused in drafting motions and briefs
- Reviewing OTP submissions and witness statements
- Conferring with the accused
- Assisting in the preparation for hearings
- Researching case law and doctrine
- Studying disclosure material, witness statements, and transcripts
- Preparing summaries of disclosure material and witness statements for the accused
- Preparing invoices¹

iii. Legal Assistants

- Assisting in drafting motions and briefs
- Reviewing OTP submissions
- Researching case law and doctrine
- Reviewing and summarising disclosure material, witness statements, and transcripts
- Preparing invoices

iv. Investigators

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

v. Case Managers

- Organising exhibits
- Performing searches in disclosure material, transcripts and defence databases
- Maintaining the defence filing system by recording and classifying evidence and disclosure material
- Scanning and uploading defence exhibits, or otherwise ensuring that all the relevant documents are available for proceedings
- Preparing invoices

vi. Language Assistants

- Providing interpretation during meetings and interviews of witnesses and between client and counsel²
- Translating documents and other relevant materials³
- Preparing invoices

¹ The Registry will reimburse a maximum of two hours per month per team member for preparation of monthly hourly invoices.

² 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.

³ Id.

vii. Experts

- Performing research necessary for the preparation of an expert report
- Preparing an expert report
- Performing other tasks necessary to assist the accused in understanding case-related material and evidence relevant to the field of expertise
- Preparing invoices

B. Non-Remunerated Activities

13. 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
 - Breaks⁴
 - General office costs which have been factored into the 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; the 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 assistants

⁴ In cases where an invoice shows a block of eight (8) hours of continuous work without indication of a break, the Registry shall deduct 30 minutes as non-remunerable break time.