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Report to the Assembly of States Parties on options for ensuring adequate defence counsel for accused persons

1. The present report is submitted pursuant to paragraph 52 of the report of the Committee on Budget and Finance of 8 August 2003, in which the Committee on Budget and Finance (“the Committee”) recommended that the International Criminal Court (“the Court”) provide a separate report to the Assembly of States Parties (“the Assembly”), through the Committee, presenting options for ensuring adequate defence counsel for accused persons.
2. The payment system being put forward will ensure that each person entitled to legal assistance paid by the Court receives equal treatment, logistical support and appropriate counsel in keeping with the requirements of the case. The system further guarantees objectivity and transparency in the administration of legal aid in order to ensure that control is maintained over the resources available.

I Background

3. With a view to developing such a payment system, the Registrar has carried out consultations with various organizations, including the ad hoc tribunals and the Special Court for Sierra Leone. Questionnaires were also sent out as of January 2003 to more than 50 experts and independent bodies representing legal counsel and lawyers’ associations. Concurrently, bilateral consultations were carried out with NGOs. Moreover, a delegation of the ICC undertook an exploratory mission to the Bars of civil and common law judicial cultures. Lastly, on 23 and 24 October 2003 and on 11 and 12 May 2004, a seminar on defence-related issues was held at ICC headquarters and was attended by more than 40 experts and representatives of lawyers’ associations.
4. Throughout these consultations, the following **options** were envisaged:
 1. Delegate the management of legal aid to an independent body or an already established body;
 2. Establish a public defender office;
 3. Implement the same payment system as that used by any of the ad hoc Tribunals;
 4. Design a new payment system.
5. **Option 1** was part of the recommendation contained in a comprehensive report published in 2003 on the progress made by the ICTR in reforming its legal aid system.¹ This report had been requested by the United Nations General Assembly at the fifty-seventh session, at the plenary meeting held on 20

¹ The “Report on legal aid programme for defence teams at ICTR” by Master G.N. Pollard, Costs Judge, United Kingdom (2003)

December 2002 (resolution 57/289). The possible implementation at the ICC of the recommendations made by the author was given due consideration.

6. This option was not retained for the following two reasons:
 1. As per rule 20, sub-rule 3 of the Rules of Procedure and Evidence of the ICC, the Registrar is responsible for the management of legal assistance. This includes the management of public funds used to pay legal aid. Delegating such a responsibility to an independent body is not possible.
 2. The costs of establishing an independent body could be substantial. Not only would there be no gains in terms of efficiency but there would only be a shift in terms of workload and no savings in terms of staff costs.
7. **Option 2** was first proposed on the basis of the experience of the Special Court for Sierra Leone. The history and structure of the Defence Office of the Special Court were thoroughly studied. Such an office is ideal for the Sierra Leone situation because of the mandate of the Court as well as the fact that the number of accused persons to be brought before the Court was already decided upon prior to the establishment of the Office (initially 12 accused persons). The Defence Office only provides initial assistance prior to the assignment of counsel. Assigned counsel only represents the accused during the trial phase.
8. In order to have a more complete picture of the public defender concept, national public defender systems were studied. Special attention was paid to the public defender systems in the United Kingdom, the United States and Germany. An exploratory mission was also conducted at the office of the Official Solicitor in London. This office is run as a private solicitors' office, although it is funded by the United Kingdom legal aid budget. Lengthy discussions on the public defender also took place during the Judges' meetings and Judges' plenary as well as during both seminars.
9. Given ICC's specificities as compared to the Sierra Leone Special Court and any national jurisdiction, a public defender office at the ICC would only be able to assist all accused and co-accused persons without any risks of conflict of interest if a new public counsel was recruited and assigned for every accused person. Otherwise, since the number of situations before the Court is likely to be limited, and the cases might be closely interrelated, this would ultimately result in conflicting interests for the public defender representing more than one accused person. Besides, a public defender office providing full representation of the accused person would not be cost-effective in the long term, as ultimately support team members, such as legal assistants and investigators, would have to be recruited so as to ensure effective preparation of the defence case. This would necessarily entail a significant increase in staff costs, including not only the salary but also all other allowances to which the staff of the Court is entitled.
10. However, both for the victims and for the accused person, the availability of an in-house counsel at any stage of the procedure for advice and effective representation on an ad hoc basis would not only further guarantee the rights of the accused but would also be highly cost-effective. As regards permanent representation of the accused person, given the potential risk of conflict of interests within a public counsel office, it would be preferable to assign counsel from the list to represent the accused.
11. The tasks of an office of public counsel for the defence and of an office of public counsel for victims would include representing and protecting the rights of the defence and victims. Both offices would also provide support and assistance to defence counsel, accused persons and victims, including, where appropriate, legal research and advice, and appearances before a Chamber in respect of specific issues.
12. In the Regulations of the Court, adopted by the Judges' plenary held from 17 to 28 May 2004,² it was decided to create an Office of Public Counsel for the defence (regulation 77) and an Office of Public Counsel for victims (regulation 81). Pursuant to the Regulations, the judicial functions of the two Offices are similar, i.e. legal representation in limited cases, legal research and advice. The OPCs will neither be involved in the administrative and financial management of the legal aid programme, nor be responsible for the logistic or administrative support to defence and victims' representatives teams.

² On Thursday, 17 June 2004, the Regulations of the Court were sent to the States Parties. According to article 52, paragraph 3 of the Rome Statute, "If within six months there are no objections from a majority of States Parties, they shall remain in force."

13. **Option 3** was seriously contemplated. The legal systems of the ad hoc tribunals, including the contracting system in place at the Special Court for Sierra Leone, which is indeed similar to the “lump sum” system implemented during the trial phase at the ICTY, were thoroughly studied.³ Reports, whether from the Expert Group, consultants or the Office of Internal Oversight Services, were scrutinized. These payment systems were further discussed during the seminar on defence issues held in October 2003 and May 2004 as well as during the exploratory missions.
14. It resulted from these studies, assessments and discussions that the payment systems of the ad hoc tribunals would set the path for the establishment of a new payment system at the ICC (**option 4**).
15. Instead of using the hourly rate with a monthly ceiling as at the ICTR or the “lump sum” system and “ceiling” (allotment of hours) system with case-ranking criteria (Level 1 (medium), Level 2 (difficult), Level 3 (very difficult) or Level 3.5 (extremely difficult/leadership)) of the ICTY, which have create potential risks of erroneous assessment of time sheets, overbilling, disputes over case-ranking levels, dilatory measures delaying the proceedings and increased costs for both Tribunals, the ICC would save resources by implementing a monthly fee, proactively negotiated as soon as the counsel is assigned and handed the case file. This fee would be reviewed every three months.

II Principles for a payment scheme at the International Criminal Court

16. It emerged from these precedents and consultations that for the development of a payment system, the following criteria should be taken into account in order to meet the expectations of the defence teams:
 - **Equality of arms:** The payment system must contribute to maintaining equilibrium between the resources and means of the accused and those of the prosecution. In this respect, the fees of the members of the defence team are based on the salaries paid in the Office of the Prosecutor (OTP) of the ICC and at the ad hoc Tribunals, increased by 40% to compensate for the increment in professional charges resulting from an appointment.
 - **Objectivity:** The payment system must allocate resources on the basis of the requirements of the case and not the individual requirements of the members of the defence team.
 - **Transparency:** The payment system must be structured and operated in such a way that it complies with the requirements of budgetary oversight and auditing in the management of public funds without interfering with the confidentiality of defence work or the autonomy of defence teams.
 - **Continuity:** The payment system must provide for mechanisms that are flexible enough to adapt to situations as they arise in order to preclude any paralysis prejudicial to the interests of the due administration of justice.
 - **Economy:** Legal aid must cover only necessary and reasonable expenditure arising from the defence of the person against whom proceedings are directed.

The phases of the proceedings to which the legal aid programme will apply are the following:⁴

- I. Pre-trial phase
- II. Trial phase
- III. Appeals phase

III. Work planning

17. The defence’s designated general counsel will submit to the Registrar a detailed “action/stage plan” to allow for initial budgeting of the costs of the case. For the sake of good management and realistic budgeting, this action/stage plan will be reviewed on a quarterly basis in coordination with the Chamber assigned to the case. If necessary, the Registrar will call on external commissioners to assess action plans.

³ See annex 1.

⁴ See annex 2.

IV. Composition of defence teams

18. The number of team members is left to the judgement of general counsel, who should in any event adhere to the budget ceiling imposed. General counsel must nevertheless choose his/her team of legal advisers, assistants and investigators from the lists (assistants and professional investigators) maintained by the Registrar.

V. Payment arrangements

V.1. Payment arrangements for fees (salary + compensation of professional charges)

V.1.a. Payment of salaries

19. The salaries are calculated on a three-monthly basis in accordance with the "action plan". The payment of fees shall be effected on a monthly basis upon presentation of the original copy of the itemized statement of activity for each team member (time sheet), which will be countersigned by counsel if the statement relates to support staff.
20. When the monthly ceiling is not reached, the remaining funds can be used by the defence team during the proceedings.

V.1.b. Compensation of professional charges

21. The increase in salaries may take account of the disparities inherent in each of the systems within which counsel works and of the need to respect the principles underlying the payment system.
22. The professional charges covered by the Court include the following fees:
 - Office operating costs (secretarial work, office rental costs, stationery, photocopier, fax, telephone, documentation, mail, procedural costs), payment of clerks by means of a fixed or hourly rate, payment of outside associates where necessary (replacement in domestic cases in which he/she cannot appear);
 - Bar fees, which may well increase in the event of appointment to the Court since they are calculated according to income;
 - Contributions to the social security and pension schemes to which counsel belongs;
 - Contributions to the health insurance schemes to which counsel belongs, including international hospitalization coverage for high-risk countries;
 - The salaries of counsel are increased by 40% to compensate for the increment in professional charges resulting from an appointment.

V.2. Fixed-rate payment arrangements

23. Payment of the fixed rate shall be effected upon presentation of receipts by counsel. Counsel shall provide as much information as possible on the nature of the services rendered, the date and the duration.
24. When the monthly available fixed rate is not entirely spent, the remaining funds shall be carried forward and added to the following month's fixed rate.

VI. Approval of missions

25. At every stage of proceedings, the approval of missions will be effected on the basis of mission programmes submitted by counsel. These will set forth in detail the grounds for the mission, such as the need to collect documentary evidence or to identify and locate potential witnesses, without however revealing confidential information.

VI.1. Missions at the seat of the Court

26. For missions at the seat of the Court given prior approval by the Registrar, DSA shall be paid on the basis of the rate applying in the place where it has its seat. Travel expenses and DSA will be covered by the fixed-rate funds available.

VI.2. Fact-finding missions

27. For missions given prior approval by the Registrar that form part of defence investigations, DSA shall be paid on the basis of the rate applying where the mission is effected. Travel expenses and DSA will be covered by the € 52,029 provided for in the investigation budget (see point IV).

Annex 1

Reference to the legal aid system of the ad hoc Tribunals

I International Criminal Tribunal for the former Yugoslavia

1. The International Tribunal for the former Yugoslavia established its legal aid system in 1995. The system has its legal basis in article 21 of the Statute of the Tribunal, the Rules of Procedure and Evidence (RPE), the Directive on Assignment of Defence Counsel, and the administrative practice of the Registry as elaborated in Tribunal case law. The Tribunal's legal aid system bears the cost of a defence for indigent accused and ensures that the defence is given quality representation to secure equality of arms with the Tribunal's Prosecutors.

2. The legal aid payment scheme has been modified several times since the Tribunal's inception. Between 1995 and 2001 assigned counsel were paid an hourly rate of US \$80 to US \$110 depending on experience. The maximum billable hours that can be claimed by counsel was 175 hours per month. Counsel invoiced the Tribunal for as long as proceedings lasted. The system was vulnerable to some abuse by some counsel, who invoiced for work not directly related to the preparation of the case or for work that was never completed. In addition, in cases where the pre-trial phase was lengthy, the costs of a defence sometimes assumed excessive proportions.

3. The system was changed in 2001 with the introduction of a ceiling payment regime (allotment of hours system). This was the first step towards the implementation of a "lump sum" payment system. The key objectives of the Registrar while working on the ceiling system were the following:

- To provide Counsel with an incentive to assist their client in an efficient and effective manner;
- To give due consideration to the actual workload of defence teams;
- To allow more flexibility in defence team organization and to place no ceiling on the number of defence team members;
- To minimize the opportunity for filing dilatory or vexatious motions;
- To reduce paperwork;
- To provide certainty in planning the budget for defence and to ensure that invoices are processed in an expeditious manner.

4. The ceiling system is based on the allocation by Registry of a maximum allotment, paid out on the basis of monthly invoicing.

5. **This ceiling system was applied to the pre-trial and appeal stages.** It ensured proportional allocation to cases by linking payment to their level of complexity, ranking cases as (1) difficult, (2) very difficult and (3) leadership. The ranking system guaranteed the appropriate allocation of funds, while the review by the Registry of the invoices ensured that the defence counsel resources were used efficiently.

6. Despite the fact that, in practice, the average duration of a pre-trial phase ranges from 8 months minimum to 2 years maximum, the ceiling payment system was based on the assumption that pre-trial stages would last between 4 and 8 months and that appeal stages would last between 3 and 6 months.

7. However, in 2003 the defence teams of 25 of the 27 accused currently in pre-trial were being paid by the ceiling system. Six of the defence teams being remunerated by the ceiling system had nearly reached their maximum quota of hours, if not already the maximum, well before their trials were due to commence. Seven defence teams had been authorized additional hours on top of their quota because of the complexity of their cases.

8. In cases where it was justified, i.e. in the event of an additional and unforeseen important disclosure from the OTP under articles 66 and 68 RPE, extra hours would be given to the defence teams after

consultation with the Chambers and OTP. If these extra hours were not granted, the defence teams would file a request for a review of the Registrar's decision. In February 2003, seven defence teams had already been given extra hours on top of their quota.

9. In addition, there were some grounds for believing that counsel might threaten to withdraw from a case if no extra hours were authorized. Some defence teams would even use up their quota, regardless of whether the complexity of the case justified it.

10. Because this situation was not only frustrating the proceedings but also hampering the proper administration of justice and jeopardizing the legal aid programme, consultations took place with these counsel.

11. Thus, the ceiling system did not reduce the scope for withdrawal of counsel. In cases where the withdrawn counsel had used up most of the quota, the Registrar might need to add extra hours to enable the newly assigned counsel to familiarize himself/herself with the case and complete the necessary pre-trial work.

12. However, despite the fact that the ceiling system approach did not achieve the expected results, in 2002 the Tribunal endorsed the next step, implementing a true **“lump sum” system for the trial phase**. The British and Australian “lump sum” systems were reviewed with the aim of improving their mechanisms so as to render them more appropriate to the specificities of the ICTY.

13. The following key objectives were addressed while working on this system:

- To provide Counsel with an incentive to assist their client in an efficient and effective manner;
- To minimize the opportunity for fee-splitting;
- To minimize the incentive for filing dilatory or vexatious motions;
- To reduce paperwork;
- To provide certainty in planning the budget for defence and ensure that invoices are processed in an expeditious manner;
- To maintain a degree of control over the expenditure of public funds;
- To ensure that defence counsel do not exhaust their entire allotment in the early stage of proceedings, and then conduct minimal preparation for the remainder of the trial or request to be withdrawn as counsel.

14. Prior to the commencement of the trial, the Registrar meets with representatives of the Chamber seized of the case, the defence team and the OTP team. The purpose of these meetings is to estimate the number of OTP witnesses and exhibits that will be submitted, the estimated duration of the OTP case, and the complexity of the legal arguments involved.

15. On the basis of the information provided during these meetings, the case will be ranked as Level 1 (medium), Level 2 (difficult), Level 3 (very difficult) or Level 3.5 (extremely difficult/leadership).

16. A lump sum will be fixed for defence taking into account: (a) the duration of the OTP case ; and (b) the level of difficulty.

17. The trials are then broken down into stages and a separate lump sum is set for each stage. Under this system – still in its initial implementation stage – the lump sum will be distributed in equal monthly instalments as long as the stage lasts, avoiding the need for detailed monthly invoices.

18. Whilst caution may be appropriate at this early stage, nevertheless some comments may be pertinent regarding the “lump sum” system, given the experience gathered.

19. As there will be no need for the Registrar to continually review and assess the “necessary and reasonable” aspect of the legal work carried out by defence team members, the “lump sum” system will significantly reduce the paperwork. Defence team members will submit claims only for reimbursement of expenses. In addition, it seems that such reviews and assessments could be interpreted as being too interventionist and could lead to arbitrary reductions of fees in some cases.

20. On the basis of the problems ICTY is experiencing with the pre-trial and appeal payment system where defence teams have already used up all their allotment of hours within a very short period of time, it is

possible that the Registrar may have to tackle situations where defence teams will be requesting an increase in lump sum midstream. Given the fact that the “lump sum” system does not allow for a regular audit of defence activities, the report submitted by defence teams to support their request for an increase in the “lump sum” may give the Registrar an incomplete or erroneous picture of the work already carried out by defence team members while making his determination on whether or not to grant this request.

21. The planned budget of legal aid for 2002 was approximately US \$10 million and the deficit was approximately US \$2 million. The Registrar had stopped payment to defence teams that had reached their quota and had sent letters to defence teams about to reach their quota to inform them that no additional hours would be allotted.

II. International Criminal Tribunal for Rwanda

22. Initially the ICTY and the ICTR had a similar system. The legal aid system at the ICTR has remained fundamentally the same since its inception.

23. Counsel is paid an hourly rate. The hourly rate is based on counsel’s years of experience. For counsel with 10 to 14 years’ experience the rate is US \$90 per hour, for those with 15 to 19 years’ experience US \$100 per hour and for those with 20 or more years’ experience US \$110 per hour. The maximum number of billable hours that can be claimed by counsel is 175 hours per month. This maximum applies to all stages of the proceedings, amounting to a maximum of 2,100 hours per year.

24. The fixed hourly rate covers the direct preparation of the case and all court appearances. Preparation for meetings, note-taking and the compilation of notes are not reimbursed as separate activities. Work that is duplicated is not paid for, but counsel and co-counsel can be reimbursed for supervising or coordinating various activities. Meetings between team members are reimbursed when they are spent on co-ordinating the work. Working sessions between team members are also paid for provided that they are deemed to be reasonable and necessary. Meetings between counsel or persons representing co-defendants are also reimbursed where they are considered to be reasonable and necessary. In addition, all members of the defence team are paid travelling expenses. Written authorization has to be obtained from the Registrar for all travel, on the basis of a detailed explanation of why the travel is necessary. Travel costs are paid on the basis of one economy-class air ticket. Counsel must submit with their claim their original ticket and the original invoice, together with any receipts for payments made by credit card. Counsel are also entitled when away from home to a daily subsistence allowance (DSA). When at the ICTR the defence teams are provided with office accommodation and other office facilities at the ICTR. Their expenses are therefore very low.

25. The Tribunal, in addition, pays lead counsel a maximum of 50 hours for time spent on reading material on the history and politics of Rwanda during the relevant period.

26. If co-counsel is appointed, he/she is entitled to a maximum of 50 hours for reading about the history of Rwanda, and a maximum of 200 hours for reading the case file of the accused. He/she is allowed an hourly rate of US \$80 per hour regardless of years of experience, with a maximum of 175 billable hours per month. Counsel is allowed travelling expenses and DSA at a similar rate to that of lead counsel.

27. Legal assistants/investigators, when authorized, are entitled to a flat hourly rate of US \$25 per hour with a maximum of 100 billable hours per calendar month. In addition, they are entitled to travel expenses and to a DSA which is the same as that of lead counsel.

28. Legal assistants and investigators are also entitled to travel expenses for hearings, and expenses for investigation purposes, measures taken for the production of evidence, ascertaining the facts, consultancy and expert opinions, translation of documents to be filed with the Tribunal, transportation and accommodation of witnesses, registration, visa fees and similar taxes.

29. In addition to an allowance for travel to motion hearings and travel expenses and DSA, the ICTR allows lead or co-counsel to be reimbursed for the cost of travel to Arusha on a maximum of three occasions before the trial begins.

30. Article 22(A)(i) of the Directive on the Assignment of Defence Counsel provides that a fixed rate shall be paid for each stage of the proceedings. The fixed rate is US \$2,000 and covers reading of the indictment, the ICTR Rules and Regulations and the law applicable to International Tribunals.

31. At the ICTR the payment system at present requires counsel, on claiming their remuneration, to submit a statement of fees in accordance with the Directive. This gives sufficient information enough to show that the time claimed is for work that was necessary and reasonable for the preparation of the case.

32. Pursuant to article 24(A) of the Directive, the Registrar is entitled to call for any documentation in order to assess whether work done for the preparation of the case was necessary and reasonable. This would cover the defence team's papers.

33. In practice, defence teams are reluctant to send their papers to the Registrar when making a claim. This reluctance appears to be based on the perceived risk of a breach of confidentiality. However, a system of producing papers is essential so that a proper audit can be carried out.

34. Although the monthly check on fees, as implemented at ICTR, is a cumbersome mechanism and is criticized as too interventionist and arbitrary, it does discourage the inflation of fees. The Registrar is vested with discretionary powers when it comes to the assessment of legal work carried out by defence team members. Defence teams can seek a review of the Registrar's assessment, and can also provide explanations of the legal work for which payment has been denied. This provides the members of the defence team with a guarantee that no arbitrary decisions will be taken. If counsel remains in disagreement with the Registrar's assessment, an appeal is possible under article 30 of the Directive on the Assignment of Defence Counsel.

35. However, because the majority of counsel have invoiced 175 working hours from the day of initial appearance to the closing of an appeal, a practice which seems inappropriate, there have been strenuous attempts to tighten up the system and discourage overbilling and dilatory measures which slow down the pace of judicial proceedings.

36. The planned budget of legal aid for 2002 was US \$7,848, 6000 and the deficit was approximately US \$5 million. The Registrar has been implementing a series of measures to discourage excessive lawyering. In response to these strong measures, some counsel have been threatening to withdraw from their cases or have even gone on strike.

Annex 2

Payment details of the ICC legal aid scheme

I. Pre-trial phase

A. INVESTIGATION TO INITIAL APPEARANCE

1. In the event of aid for the purposes, inter alia, of questioning and intervention before the Pre-Trial Chamber, the payment shall be on a pro rata basis, with as a proposal the sum of € 700 + compensation of professional charges up to a maximum of 40 % of the fees (€ 280) per day in conjunction with a monthly ceiling of € 7,733,17 (*corresponding to the salary of a (UN/ICC) P5 level official – senior legal officer/senior prosecutor*) + compensation of professional charges up to a maximum of 40% of the salary (€ 3,093.27).

B. INITIAL APPEARANCE TO FIRST STATUS CONFERENCE BEFORE THE TRIAL CHAMBER

2. The breakdown of the payment for each category of staff member within the defence team is as follows:

- The proposed payment is € 15,076.34 + compensation of professional charges up to a maximum of 40% of the salary (€ 3,093.27) = € 18,169.61 per month for the whole team.
- General counsel: € 7,733.17 (*corresponding to the salary of a (UN/ICC) P5 level official – senior legal officer/senior prosecutor*) + compensation of professional charges up to a maximum of 40 % of the salary (€ 3,093.27).
- Assistant: €3,343.17 (*corresponding to a (UN/ICC) G5 level official – legal/administrative/language assistant*).
- Flat-rate amount available: € 4,000.

II. Trial phase

A. FIRST STATUS CONFERENCE BEFORE THE TRIAL CHAMBER TO COMMENCEMENT OF TRIAL

3. The proposed payment is €19,294.51 + compensation of professional charges up to a maximum of 40% of the salary (€4,780.54) = €24.075.05 per month for the whole team.

4. The breakdown of the payment for each category of staff member within the defence team is as follows:

- General counsel: €7,733.17 (*corresponding to the salary of a (UN/ICC) P5 level official – senior legal officer/senior prosecutor*) + compensation of professional charges up to a maximum of 40% of the salary (€ 3,093.27).
- Legal adviser: € 4,218.17 (*corresponding to the salary of a (UN/ICC) P2 level official - associate legal officer*) + compensation of professional charges up to a maximum of 40% of the salary (€1,687.27).
- Assistant: €3,343.17 (*corresponding to a (UN/ICC) G5 level official – legal/administrative/language assistant*).
- Flat-rate amount available: € 4,000.

B. COMMENCEMENT OF TRIAL TO CLOSING ARGUMENTS

5. At commencement of trial, given the intensity of the work to be performed by the members of the defence team and their total availability in terms of hearings and work on the case throughout the trial, the proposed payment is €23,862.86 + compensation of professional charges up to a maximum of 40% of the salary (€8,512.65) = €32,375.51 per month for the whole team.

6. The breakdown of the payment for each category of staff member within the defence team is as follows:

- General counsel: €7,733.17 (*corresponding to the salary of a (UN/ICC) P5 level official – senior legal officer/senior prosecutor*) + compensation of professional charges up to a maximum of 40% of the salary (€ 3,093.27).
- Legal adviser: €6,343 (*corresponding to the salary of a (UN/ICC) P4 level official – legal officer/prosecutor*) + compensation of professional charges up to a maximum of 40% of the salary (€2,537.20).
- Legal adviser: €4,218.17 (*corresponding to the salary of a (UN/ICC) P2 level official - associate legal officer*) + compensation of professional charges up to a maximum of 40% of the salary (€ 1,687.27).
- Assistant: €3,343.17 (corresponding to a (UN/ICC) G5 level official – legal/administrative/language assistant).
- Flat-rate amount available: € 4,000.

C. CLOSING ARGUMENTS TO DELIVERY OF DECISIONS

7. In the event of intervention at this stage, the payment should be on a pro rata basis, with as a proposal the sum of € 700 + compensation of professional charges up to a maximum of 40 % of the salary (€280) per day.

III. Appeals phase

8. The proposed payment is €19,294.51 + compensation of professional charges up to a maximum of 40 % of the salary (€ 4,780.54) = € 24,075.05 per month for the whole team.

9. The breakdown of the payment for each category of staff member within the defence team is as follows:

- General counsel: € 7,733.17 (*corresponding to the salary of a (UN/ICC) P5 level official – senior legal officer/senior prosecutor*) + compensation of professional charges up to a maximum of 40% of the salary (€ 3,093.27).
- Legal adviser : € 4,218.17 (*corresponding to the salary of a (UN/ICC) P2 level official - associate legal officer*) + compensation of professional charges up to a maximum of 40% of the salary (€1,687.27).
- Assistant: €3,343.17 (corresponding to a (UN/ICC) G5 level official – legal/administrative/language assistant).
- Flat-rate amount available: € 4,000.

IV. Investigations

10. The proposed payment is € 52,029 for 90 days of investigation.
11. The breakdown of the payment is as follows:
 - Professional investigator for 90 days of investigation: € 19,029 = € 6,343 per month (corresponding to the salary of a (UN/ICC) P4 level official – senior legal officer/senior prosecutor).
 - DSA: € 23,000 (corresponding to 90 days of missions).
 - Travel: € 10,000.

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