



Office of Internal Oversight Services

INTERNAL AUDIT DIVISION

AUDIT REPORT

Audit of the management of the legal aid assistance programme at ICTY

Overall results relating to effective and efficient legal aid assistance to indigent defendants before the Tribunal were initially assessed as satisfactory.

FINAL OVERALL RATING: SATISFACTORY

18 May 2012

Assignment No. AA2011/270/03

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AUDIT REPORT

Audit of the management of the legal aid assistance programme at ICTY

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of the management of the legal aid assistance programme at the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague.
2. In accordance with its mandate, OIOS provides assurance and advice on the adequacy and effectiveness of the United Nations internal control system, the primary objectives of which are to ensure (a) efficient and effective operations; (b) accurate financial and operational reporting; (c) safeguarding of assets; and (d) compliance with mandates, regulations, and rules.
3. The Security Council mandated ICTY to bring to justice individuals who are responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991. The Security Council also mandated that the accused be entitled to the highest standards of fair trial. Article 21(4)(d) of the ICTY Statute entitles an accused to defend himself in person or through legal assistance of his own choice and to have legal assistance assigned to him in any case where the interests of justice so require and without payment by him if he does not have sufficient means to pay for it. The ICTY Rules of Procedure and Evidence provide for the assignment of counsel to the indigent accused and specifies the qualifications that must be satisfied before counsel can be assigned to represent accused persons whose indigence has been established and in order to remunerate counsel through the legal aid system.
4. As of 30 September 2011, there were 35 accused with ongoing judicial proceedings before the Tribunal. Thirty-two (32) out of the 35 accused applied for legal aid assistance from ICTY. ICTY determined that 22 applicants were partially indigent, four were fully indigent, while the other six were still being processed. ICTY partially funds the defence costs of the accused that are partially indigent while for those determined to be fully indigent, the Tribunal meets all the accused's defence costs.
5. Approved budget and disbursements for biennium 2008-2009 and 2010-2011 under the programme were as follows:

Table 1: Budget and disbursements for 2008-2009 and 2010-2011

	2008-2009	2010-2011
Approved budget	\$34,265,200	\$21,046,000
Disbursements as of 30 Sept 2011	\$33,571,806	\$14,911,871

Note: Disbursements for 2010-2011 up to 30 September 2011

II. OBJECTIVE AND SCOPE

6. The audit of ICTY legal aid assistance programme was conducted to assess the adequacy and effectiveness of ICTY governance, risk management and control processes in providing reasonable assurance regarding the **effective and efficient management of the legal aid assistance programme to the indigent defendants before the Tribunal.**

7. This audit was selected because the ICTY legal aid assistance programme is an essential function of the Tribunal.

8. The key control tested for the audit was **regulatory framework**. For the purpose of this audit, OIOS defined this key control as controls that provide reasonable assurance that the regulatory arrangements are in place and working as intended, including ensuring that efficiency and effectiveness is attained through implementation of policies and procedures established to govern the legal aid assistance programme and that these policies and procedures are compliant with the ICTY Statute and United Nations Financial Regulations and Rules.

9. The key control was assessed for the control objectives shown in Table 2.

10. OIOS conducted this audit from October to December 2011. The audit covered the period from 1 January 2010 to 30 September 2011.

11. OIOS conducted an activity-level risk assessment to identify and assess specific risk exposures, and to confirm the relevance of the selected key controls in mitigating associated risks. Through interviews, analytical reviews and tests of controls, OIOS assessed the existence and adequacy of internal controls and conducted necessary tests to determine their effectiveness.

III. AUDIT RESULTS

12. ICTY governance, risk management and control processes examined were assessed as **satisfactory** in providing reasonable assurance regarding the **effective and efficient management of the legal aid assistance programme to the indigent defendants before the Tribunal**. Adequate controls were in place and implemented in the main components of the ICTY legal aid assistance programme, to ensure: (a) efficient and effective operations; (b) accurate financial and operational reporting; (c) safeguarding of assets; and (d) compliance with mandates, regulations, and rules. The Tribunal established adequate controls for the admission and maintenance of defence counsels and ensured their professional conduct. The Tribunal was aware of which defence counsels were in good standing with the Association of Defence Counsel and which were not. The Tribunal also paid the defence counsels in accordance with established policies and guidelines. The approval of payments was performed satisfactorily and decisions in relation to payments were subject to appropriate review. Moreover, adequate controls were in place in determining the financial means of the indigent and the corresponding extent of legal assistance provided by ICTY. In a sample of claims received, the Registry made the necessary external inquiries through the respective governments of the defendants and other organizations.

13. The initial overall rating was based on the assessment of the key control presented in Table 2 below. The final overall rating is satisfactory.

Table 2: Assessment of key controls

	Key controls	Control objectives			
		Efficient and effective operations	Accurate financial and operational reporting	Safeguarding of assets	Compliance with mandates, regulations and rules
Effective and efficient management of the legal aid assistance programme to the indigent defendants before the Tribunal	Regulatory framework	Satisfactory	Satisfactory	Satisfactory	Satisfactory

IV. ACKNOWLEDGEMENT

14. OIOS wishes to express its appreciation to the Management and staff of ICTY for the assistance and cooperation extended to the auditors during this assignment.



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