



**Cour
Pénale
Internationale**

**International
Criminal
Court**

Guide for applicants to the ICC List of counsel and Assistants to counsel

PLEASE NOTE

It is of utmost importance to fully understand and properly follow the instructions provided in the present guide, as incomplete or wrongly completed applications cannot be processed.

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THE ICC LISTS OF COUNSEL AND ASSISTANTS TO COUNSEL

The International Criminal Court (ICC or the Court) has a mandate to prosecute and punish persons responsible for the most serious crimes of concern to the international community. In so doing, its proceedings follow highest standards of due process and procedural fairness. The Rome Statute guarantees victims, accused persons and under certain conditions suspects the right to be assisted by counsel. As part of this aim, the Court endeavours to offer these individuals a pool of highly qualified counsel.

Experienced lawyers who wish to represent defendants, victims or witnesses (i.e. duty counsel and counsel appointed in the framework of rule 74 of the Rules of Procedure and Evidence (“Rules”)) as counsel before the Court must be admitted to the List of counsel. Lawyers at an early stage of their career, as well as professors of law with relevant expertise, can apply for admission to the List of Assistants to counsel.

ADMISSION CRITERIA

1

LIST OF COUNSEL

To be admitted to the List of counsel, candidates must meet the following requirements set forth in rule 22 RPE and regulation 67 of the Regulations of the Court (“RoC”):

COMPETENCE

Candidates shall have proven competence and expertise in international or criminal law and procedure.

EXPERIENCE

Candidates must have a minimum of ten years of relevant experience in criminal proceedings as a judge, prosecutor, advocate or in other similar capacity. The category of ‘other similar capacity’ includes necessary relevant experience in the conduct of criminal proceedings (whether in the courtroom or in a supporting capacity). This is to ensure that defendants, as well as victims, benefit from representation by counsel who are not only competent in international or criminal law and procedure, but are also sufficiently experienced in handling criminal proceedings considering the inherent complexity of the Court’s proceedings as well as the statutory requirements of fairness and expeditiousness of proceedings.

Professors of law meet this requirement only where they have intervened in criminal proceedings for a minimum of ten years in one of the capacities listed above; otherwise, they can be admitted to the List of Assistants to counsel.

LANGUAGE SKILLS

Applicants must have excellent knowledge of and be fluent in at least one of the two working languages of the Court, namely English or French.

RECORD OF HIGH STANDING REQUIRED OF THE PROFESSION:

Candidates must not have been convicted of any serious criminal or disciplinary offence considered to be incompatible with the nature of the office of counsel before the Court. In cases where candidates have been the object of such a conviction, the Registrar will assess whether the imposed sanction is of a nature that impedes the candidate’s ability to act before the Court in accordance with the relevant provisions of the legal texts of the Court. Candidates in this situation are invited, at the time of submitting their applications, to provide the Court with a copy of each relevant decision, as well as any observations they deem appropriate.

To be admitted to the List of Assistants to counsel, candidates must meet one of the following two requirements, listed in regulation 124 of the Regulations of the Registry (“RoR”):

FIVE YEARS OF RELEVANT EXPERIENCE IN CRIMINAL PROCEEDINGS

Lawyers who have insufficient experience to be admitted to the List of counsel can provide very useful assistance to counsel in preparing and presenting the case before the Chamber.

SPECIFIC COMPETENCE IN INTERNATIONAL OR CRIMINAL LAW AND PROCEDURE

The Court also seeks to allow counsel to receive the assistance of professors and other academic experts who have relevant expertise in international or criminal law. Even where these persons may have insufficient or no experience in criminal proceedings, their theoretical knowledge of the relevant law and jurisprudence makes them an invaluable asset to legal teams.

The second criterion has to be understood as seeking individuals with a certain level of expertise. For example, a candidate must have a higher academic degree than mandatory for admission to practice and that the specific competence be in an area of direct relevance for the work of the Court. The nature of such specific competence must bear an approximate equivalence to the first criterion and amount to at least five years of relevant experience in order for a candidate to qualify for admission to the list.

These two alternative criteria are assessed on an exclusive basis. This means that insufficient experience in criminal proceedings cannot be invoked to justify by itself that the candidate meets the other, alternative requirement of specific competence, and cannot be computed when evaluating the specific competence of a candidate.

APPLICATION PROCESS

1

LIST OF COUNSEL

The following documents must be submitted in order for the applications to be considered complete and ready for assessment. The required forms are available on the relevant [ICC webpage](#):

- 1 Candidate application form, dated and signed
- 2 Detailed curriculum vitae, allowing for appraisal of the candidate's competence and experience
- 3 List of counsel additional information form
- 4 Original of the certificate issued by the relevant authority of each State of which the person is a national or where the person is domiciled stating the existence, if any, of criminal convictions
- 5 Original of the certificate of good standing form
- 6 Original or certified copy of registration with governing body
- 7 Legible copy of birth certificate
- 8 Legible copy of passport/travel document
- 9 Two passport size photographs
- 10 Valid copy of professional insurance policy (where applicable)

2

LIST OF ASSISTANTS TO COUNSEL

- 1 Candidate application form, dated and signed
- 2 Detailed curriculum vitae, allowing for appraisal of the candidate's competence and experience
- 3 Original of the certificate issued by the relevant authority of each State of which the person is a national or where the person is domiciled stating the existence, if any, of criminal convictions

- 4** Legible copy of birth certificate
- 5** Legible copy of passport/travel document
- 6** Two passport size photographs

In addition to the documents above, applicants who are either have been called to the bar at the national level or professors must provide the following documents, as applicable:

- 7** Original or certified copy of the certificate issued by the bar association, professional association and/or the controlling administrative authority
- 8** Original of the certificate of good standing form
- 9** For academics: An official letter issued by the institution where a candidate is acting as an adjunct-, part-, or fulltime- professor, certifying the tenure and specialty as an instructor

Candidates must submit a duly completed application along with all required supporting documents as outlined above to the attention of the Counsel Support Section at the following address:

ICC – Counsel Support Section
P.O. Box 19519
2500 CM The Hague
The Netherlands

Candidates should address their questions **ONLY** to the ICC Counsel Support Section

Tel: +31 70 515 8787,
Fax: +31 70 515 8555;
e-mail: css.lists@icc-cpi.int

For more information on the applications, please consult the relevant [ICC webpage](#).

After the application is received, the Counsel Support Section within the Registry proceeds to a preliminary verification check for completeness. Complete applications are then transmitted to a three member evaluation panel of the Registry for assessment of the qualifications of the applicant in accordance with the admission criteria. Should the appraisers need additional information and explanations, they may revert back to the candidate. In practice, this can occur in the following non-exhaustive circumstances:

- the information furnished by the candidate does not provide sufficient details about their competence in international/domestic criminal law and procedure;
- the application of the candidate casts doubt on their (English or French) language skills, or
- the applicant was the subject of disciplinary action, but no further documentation is provided.

The years of claimed relevant experience are considered as follows: professional experience acquired on a part-time basis is credited proportionally to the time worked; internships, fellowships and volunteer work are counted at half credit.

The panel adopts its resolutions by consensus, and communicates to candidates the appropriate decision.

IMPORTANT

Incomplete applications will cause delays in processing and issuing of the ultimate decision. It is therefore imperative that interested candidates carefully read the application instructions and provide a complete application form along with all the requisite supporting documentation with the originals where applicable.

4

DECISION ON REFUSAL AND RIGHT TO REVIEW

Where an applicant is refused admission, he or she will be duly notified with sufficient details of the reasons for the refusal. The refusal letter will also highlight the right of the candidate to seek review of the decision.

Applications for review may be made within 15 days of notification of the Registrar's decision and shall be sent to the Court Management Section at judoc@icc-cpi.int

PRACTICING BEFORE THE ICC

1

FREEDOM OF CHOICE AS A PRINCIPLE

The right to freely choose counsel for legal representation is well safeguarded and entrenched in the legal regime of the Court both for defendants and for victims. Where a person in need of legal representation wishes to appoint his or her own lawyer, the latter must nevertheless prove that he or she meets the conditions required by the legal texts of the Court, and therefore to present a complete application to the services of the Registry as indicated above.

The Registry of the Court facilitates the exercise of this freedom of choice by providing any person in need of legal representation with the List of counsel, which contains detailed information, permitting the individual concerned to make a preliminary shortlist of suitable counsel whose complete files he or she wants to examine for an ultimate appointment.

This short-list is then provided to representatives of the Registry, who will in turn make available to him or her, in the shortest possible time, the complete files of the short-listed counsel for the purpose of detailed review, and eventually, a final decision on the choice of counsel.

After an examination of the files and, if need be, having liaised with counsel by telephone or personally, the person concerned notifies the Registrar of the Court of the name of the lawyer he or she would like to have appointed as counsel. The Registry then contacts the named counsel to notify him or her that they have been chosen and requests their availability.

The procedure is finalised when the chosen counsel confirms his or her acceptance and communicates it to the Registrar. The Registry then seals the appointment by arranging for the formalities of the appointment and other logistical matters.

To guarantee the rights of participants in proceedings before the Court, the Registry takes all appropriate measures to ensure that the chosen counsel is entirely capable of exercising his or her mandate (i.e. by ensuring that the counsel is available and free to properly discharge his or her duties towards the client etc.).

Appointed counsel is responsible for structuring his or her team, including the selection of the associate counsel, who must also be admitted to the List of counsel.

2

AD HOC COUNSEL

A Chamber can appoint *ad hoc* counsel to represent the general interests of the defence where there is a unique opportunity to take testimony, a statement from a witness or to examine, collect or test evidence which may not be available subsequently for the purposes of a trial or, finally, where the interests of justice so require. This type of appointment is especially relevant where there is no person charged but investigative activities are being carried out by the Prosecutor, in particular where victims apply to participate in the proceedings at this preliminary investigation stage. The mandates of *ad hoc* counsel are limited in time and scope and have a clear purpose in the context of a situation or case under the jurisdiction of the Court.

3

DUTY COUNSEL

Where any person requires urgent legal assistance and has not yet secured legal assistance, or where his or her counsel is unavailable, the Registrar can appoint duty counsel. Duty counsel can be appointed in various circumstances, including at the initial appearance; to assist persons being interviewed in the field by the Office of the Prosecutor in accordance with article 55(2) of the Rome Statute; where counsel has not yet been appointed or where counsel has withdrawn or has been taken off the case and no replacement counsel has yet been appointed.

During the appointment process, the Registrar takes into account all relevant factors, such as geographical proximity of and languages spoken by potential counsel and checks their availability.

4

OTHER INSTANCES WHERE COUNSEL ARE APPOINTED

A Chamber of the Court can appoint counsel where the interests of justice so require. This power includes the possibility of appointing counsel for uncooperative accused to ensure the person benefits from adequate legal representation. It may also be used where a person has not yet been charged and the Chamber deems that the general interests of the defence must be represented by counsel. Still other instances include situations where there is a person against whom charges have been brought by the Prosecutor, and this person has not yet appeared before, or been transferred to the custody of the Court and there are procedural issues which require the intervention of counsel.

The same need to protect the interests of justice may give rise to other situations where the Court will appoint counsel *proprio motu*. For instance, where the Chamber, for the purposes of ensuring the effectiveness of the proceedings requests all or specific groups of victims to choose one or several common representatives and the victims recognised by the Court are unable to reach an agreement. In that case, the Chamber may request the Registrar to choose one or more common legal representatives. The Registrar may also appoint duty counsel in other instances as outlined above.

Where the Chamber intends to appoint counsel, the Registrar assists in identifying counsel who meet the requirements set by the Chamber and who are available to accept the mandate. A short-list is then forwarded to the Chamber so that it can make the appropriate decision.

REMUNERATION AND SUPPORT

1

THE LEGAL AID SYSTEM OF THE COURT

A key component in guaranteeing the rights of participants in ICC proceedings is the legal aid system of the Court, which provides financial assistance to those who lack sufficient means to pay for their legal representation.

While any defendant has the right to have legal assistance paid by the Court, victims' parallel right is not absolute. In both cases, the provision of legal aid has to be balanced against the available resources within the Court's budget.

Another fundamental difference between defendants and victims regarding the legal aid system stems from the fact that the former stands to lose his or her liberty, and the presumption of innocence requires that they benefit from legal representation even if the person so concerned lacks sufficient means to cover the costs of their defence. Moreover, victims' participation in the proceedings is limited to the extent that the relevant Chamber authorises them to present their views and concerns, and therefore the scope of legal aid depends on the actual forms of participation decided in each case.

The Court's legal aid system: Guiding principles

EQUALITY OF ARMS

The payment system must contribute to maintaining a balance between the resources and means of the accused and those of the prosecution.

OBJECTIVITY

The payment system allocates resources on the basis of the requirements of the case and not on the basis of subjective requirements.

TRANSPARENCY

The payment system is 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 the work undertaken or the autonomy of counsel or legal team members.

CONTINUITY AND FLEXIBILITY

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

In conformity with the legal texts of the Court, specifically regulation 83(1) of the RoC, the legal aid system covers only costs that are reasonably necessary for an effective and efficient legal representation.

Team composition

As it would be impossible for a single person to manage a case before the Court due to the complexity and amount of tasks and materials involved, the Court's legal aid system provides for assistance to counsel by several persons throughout the proceedings.

The composition of a team depends on the nature of the person to be represented (defendant or victim) and the stage of the proceedings. In addition, a counsel can request additional resources on the basis of actual needs of the case, including the number of charges, the number of victims participating, the number of pages in the case file *et cetera*.

In addition to counsel, members of the team can include, *inter alia*: associate counsel (also admitted to the List of counsel), legal assistant (admitted to the List of Assistants to counsel) and case manager.

Payment to counsel and team members

Counsel and team members receive remuneration on the basis of a pre-determined lump-sum. The monthly remuneration is as follows:

Counsel	€8,221
Associate counsel	€6,956
Legal assistant	€4,889
Case manager	€3,974

In addition to this lump-sum, members of the legal teams may, upon furnishing supporting documentation, receive compensation for professional charges incurred directly tied to their work at the Court in accordance with the Court's legal aid system.

Investigations and other expenses

The need for counsel to carry out investigative work related to the case makes it necessary for the legal aid system to allocate sufficient resources for this task. The current budget for investigations of the Defence teams is of €73,006 per team, which counsel can use in the way he or she deems more effective in the client's representation.

Counsel can also request additional resources pursuant to regulation 83(3) of the RoC, which may be allocated if the previously allocated funds were used judiciously and, more importantly, if the needs of the case justify such a supplement.

Finally, counsel receive an allocation of €3,000 per month for the expenses of the team, such as travel to and from the seat of the Court for counsel and associate counsel, office supplies, et cetera. Unused sums are carried over to the following month.

2

ADMINISTRATIVE AND LOGISTICAL SUPPORT

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Another fundamental difference between defendants and victims regarding the legal aid system stems from the fact that the former stands to lose his or her liberty, and the presumption of innocence requires that they benefit from legal representation even if the person so concerned lacks sufficient means to cover the costs of their defence. Moreover, victims' participation in the proceedings is limited to the extent that the relevant Chamber authorises them to present their views and concerns, and therefore the scope of legal aid depends on the actual forms of participation decided in each case.

Administrative assistance

Several sections of the Court will provide counsel and other members of the legal team with a series of administrative services. Some of these are directed at enabling counsel and team members to comply with the national requirements for their stay in the Netherlands; services aimed at facilitating their official missions to other countries related to investigative work; ensuring access to the Court's premises including the detention centre.

Counsel and team members also receive information on various services at their disposal for the length of their involvement in cases before the Court such as submitting formal requests for assistance, information technologies and communications, facilities management, travel, interpretation and translation.

Counsel can also benefit from the assistance of interns in the framework of the internship programme of the Court.

Logistical assistance

Legal teams are provided with the facilities at the Court premises, equipped with the necessary office supplies including telephone, computer, relevant hardware and software, internet access, *et cetera*.

In order to ensure confidentiality and security of the work, the Court has set up separate networks for each team. Moreover, recognising that counsel have active practices in their home jurisdictions, to ease the burden on counsel to be permanently based in The Hague, and to generally facilitate the work of legal teams, the Court has put in place a secured remote access system, through which counsel can access their files and work real-time on the case from a distance.

The ICC is a state of the art international court with the latest technologies. It operates as an e-Court. Appropriate training regarding the specific software related to the e-Court system is provided to counsel and their team members.

Assistance in the field

Cases before the Court necessarily entail travelling to the field in order to perform investigative work. The Court has established field offices in or near countries with situations under investigation before the Court and provides counsel and their teams with assistance and support in the execution of their investigative requirements. These services include office use, security support, liaison with national authorities and organisation of local and national transport. Locally based members of the legal team working with counsel also benefit from this assistance.

Seminars and Training opportunities

Persons admitted to the List of counsel are able to participate in seminars and training opportunities offered by the Registry. These activities include the seminar and training for counsels organized annually and free of charge, in which counsels can attend presentations and discussions with international experts and Court representatives. The seminar of at least two days duration is complemented by training on issues and topics related to professional practice before the Court. Financial support is provided, to a limited extent, to counsels who are nationals of developing countries to ensure their participation in these important activities.

Substantive assistance: the Offices of Public Counsel

With two independent offices of public counsel the Court has introduced an important innovation for international criminal courts and tribunals. These permanent offices reinforce the efficiency of counsel before the Court, assist the Chambers when called upon to do so and, where applicable, persons in need of legal assistance.

Their staff consists of specialised professionals, who are permanently updated on the work and jurisprudence of the Court and who can provide immediate substantive legal assistance.

THE OFFICE OF PUBLIC COUNSEL FOR THE DEFENCE (OPCD)

The OPCD can represent and protect the rights of the defence during the initial stages of the investigation. In addition, it can provide support and assistance to defence counsel and to suspects and accused persons entitled to legal assistance by furnishing legal research and advice and appearing before a Chamber in respect of specific issues.

THE OFFICE OF PUBLIC COUNSEL FOR VICTIMS (OPCV)

The OPCV undertakes to protect the interests of victims through attempting to raise the general awareness on victims' issues. The Office provides support and assistance to legal representative of victims and to victims, including, where appropriate, legal research and advice; and appearing before a Chamber in respect of specific issues. The Office can also act as legal representative of victims in the proceedings.

