



Office of Internal Oversight Services
Internal Audit Division II

AUD: AA-ICTY (014/05)

21 October 2005

TO: Mr. Hans Holthuis, Registrar
International Criminal Tribunal for the former Yugoslavia (ICTY)

FROM: *J* Egbert C. Kaltenbach, Director *mm annb*
Internal Audit Division
Office of Internal Oversight Services (OIOS)

SUBJECT: **Audit of ICTY Administration of Entitlements (AA2005/270/01)**

1. I am pleased to submit the final report on the audit of ICTY Administration of Entitlements, which was conducted between January and June 2005 in The Hague by Mr. Bharat B. Manocha, Ms. June Tan and Ms Anna Nyaoro. A draft of the Audit Report was shared with Chief Administrative Officer on 13 September 2005 whose comments, which were received on 6 October 2005, are reflected in the attached final report, in italics.
2. I am pleased to note that most of the audit recommendations contained in this final report have been accepted and that the Human Resource Section, ICTY has initiated their implementation. The table in paragraph 68 of the report identifies those recommendations, which require further action to be closed. I wish to draw your attention to recommendations 02 and 03, which OIOS considers to be of critical importance.
3. OIOS will be sending a separate memo to OHRM, New York to seek their opinion on the Special Post Allowance issue discussed in paragraphs 25 to 36 of the report.
4. I would appreciate if you could provide Mr. Manocha with an update on the status of implementation of the audit recommendations not later than 31 May 2006. This will facilitate the preparation of the twice-yearly report to the Secretary-General on the implementation of recommendations, required by the General Assembly resolution 48/218B.
5. Please note that OIOS is assessing the overall quality of its audit process. I therefore kindly request that you consult with your managers who dealt directly with the auditors, complete the attached client satisfaction survey form and return it to me.
6. I would like to take this opportunity to thank you and your staff for the assistance and cooperation extended to the audit team.

Attachment: Final Audit Report and client satisfaction survey form

Copy: Mr. C. Burnham Under-Secretary-General for Management (by e-mail)
Mr. S. Goolsarran, Executive Secretary, United Nations Board of Auditors (by e-mail)
Mr. K. St. Louis, Chief Administrative Officer, ICTY (by e-mail)
Mr. M. Tapio, Programme Officer, OUSG, OIOS (by e-mail)
Mr. C. F. Bagot, Chief, Nairobi Audit Section, IAD II, OIOS (by e-mail)
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**Office of Internal Oversight Services
Internal Audit Division II**

Audit Report

**Audit of ICTY Administration of Entitlements
(AA2005/270/01)**

Report date: 21 October 2005

**Auditors: Bharat B. Manocha
Hui Ming June Tan
Anna Nyaoro**

DRAFT AUDIT REPORT

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Office of Internal Oversight Services
Internal Audit Division II

AUDIT OF ICTY ADMINISTRATION OF ENTITLEMENTS (AA2005/270/01)

EXECUTIVE SUMMARY

Between January and June 2005, OIOS conducted an audit of ICTY Administration of Entitlements including non-removal allowance, special post allowance (SPA), repatriation grant, commutation of annual leave, dependency allowance, mission subsistence allowance (MSA), home leave and education grant. The audit reviewed entitlements totaling approximately US\$7.5 million in 2004.

The overall conclusion was that while current arrangements were generally in compliance with United Nations Regulations and Rules, there was scope for cost savings, as well as improving efficiency and effectiveness.

ICTY has accepted most of the recommendations made and has initiated action in the majority of the areas identified.

Processing and payments of staff entitlements

Staff Administration Unit (SAU) was prompt in processing payments and more than 80 percent of entitlements were certified within two weeks of the effective date.

The use of Excel by the Finance Section to process entitlements of professional staff should be discontinued to reduce risk of incorrect payments. As the Integrated Management Information System (IMIS) is not likely to be implemented in ICTY, OIOS agreed with ICTY that the best option is to migrate to the same software that is currently used for General Service staff, within a time bound frame and establish mitigating controls to cover the risk due to lack of integration between Human Resource Section and Finance Section modules.

Non removal Allowance

OIOS suggested, and ICTY promptly corrected, the entry on duty (EOD) dates of 60 staff. OIOS estimated that the correction prevented overpayment of non-removal allowances of approximately US\$47,000 and underpayments of US\$19,000. OIOS also discovered two cases of overpayments totalling approximately US\$7,500 and ICTY initiated recovery action.

Repatriation Grant

Review of repatriation grants paid to staff, revealed underpayments of approximately US\$21,000 and three cases of overpayment amounting to approximately US\$1,200. While the overpayments were due to calculation errors, the underpayments were mainly due to incorrect repatriation rates approved.

Commutation of Annual Leave and Dependency Allowance

ICTY appeared to have adequate controls over the processing of commutation of annual leave and dependency allowance during 2004. However, OIOS recommended and ICTY promptly issued a final notice to 52 staff that dependency allowance would be discontinued if they did not submit their dependency status information. ICTY also initiated recovery in two cases where the staff member submitted no information.

Education Grant

OIOS recommended, and ICTY agreed, to ensure all claims for special education grants are supported by evidence that staff had exhausted all other sources of benefits that may be available, including those that may be obtained from state and local Governments and from the United Nations contributory medical insurance plans.

Special Post Allowance (SPA)

Despite Office of Human Resources Management (OHRM) recommendations in April 2003, ICTY continued to approve SPA to staff members till February 2005 that were in contravention of Staff Rule 103.11 and ST/AI/1999/17. OIOS noted 21 cases of SPA in 2003-2004 that were wrongly approved and which cost ICTY approximately US\$200,000. ICTY explained that the special conditions of a temporary organization led ICTY to implement the SPA to recognize outstanding performance in an environment that is characterized by heavy workload, yet is unable to reward such performance. Hence, ICTY did not agree, to OIOS suggestion, to recover the incorrect SPA payment from the staff. OIOS is therefore approaching OHRM to seek their opinion on the issue.

Mission Subsistence Allowance (MSA)

ICTY had installed staff recruited for field offices, at The Hague instead of the field offices. This entitled the staff to both the post adjustment of The Hague and MSA for the field office resulting in extra expenditure of approximately US\$1.5 million. In January 2005, ICTY planned to install these staff in the respective field offices; however, OHRM advised that it could not change the official duty station unilaterally during the period of the existing contract. OHRM therefore suggested that before renewal of the staff contracts, ICTY explain the rationale of the change of duty station so that staff could give an informed decision. As ICTY believed that staff would not willingly accept a major reduction in remuneration, it did not consult the staff as advised and renewed their contract on existing terms.

OIOS estimated that ICTY could save approximately US\$380,000 per year or US\$760,000 per biennium if the staff were installed at their respective field offices. Further, as other United Nations agencies have already installed their staff in the former Yugoslavia and MSA is paid only for temporary assignments, led OIOS to conclude that ICTY needs to revisit the issue with OHRM as to the best way forward.

Recovery of amounts due from former staff members

OIOS recommended that ICTY undertake more rigorous follow up to recover amounts due from staff members who separate and to initiate write-off action, if the amount cannot be recovered, or it is not cost effective to do so.

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I. INTRODUCTION

1. This report discusses the results of an OIOS audit of ICTY administration of the following entitlements: non-removal allowance, special post allowance (SPA), repatriation grant, commutation of annual leave, dependency allowance, mission subsistence allowance (MSA), home leave and education grant. The audit was carried out between January and June 2005, in accordance with the International Standards for the Professional Practice of Internal Auditing.

2. ICTY was established by the United Nations Security Council by Resolution 827 of 25 May 1993 with the mandate to prosecute persons responsible for serious violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since January 1991. It comprises three organs Chambers, Office of the Prosecutor and Registry. As of 31 December 2004, ICTY had 1079 staff comprising of 439 Professional (P) staff and 640 General Service (GS) staff based in The Hague, and its five field offices. The ICTY Staff Administration Unit (SAU) of Human Resources Section (HRS) is responsible for administering staff entitlements including monitoring the contractual status; providing advice and guidance with regard to entitlements, administrative procedures, processes and practices; reviewing and processing requests for entitlements. The SAU is headed by a P-3, assisted by seven GS staff, of which one post is vacant. The head of SAU reports to the Chief, HRS.

(a) Non-Removal Allowance

3. In accordance with Staff Rule 103.22, non-removal element of the mobility and hardship allowance shall be payable to eligible staff members who, on assignment to a duty station, did not have an entitlement to full removal costs, provided that an entitlement to the assignment grant exists. Payment of the non-removal element shall be limited to a period of five years at one duty station, with a possible extension of up to two years on an exceptional basis.

(b) Special Post Allowance

4. Pursuant to Staff Rule 103.11, a staff member who is called upon to assume the full duties and responsibilities of a post at a clearly recognizable higher level than his or her own for a temporary period exceeding three months may, in exceptional cases, be granted a non-pensionable special post allowance from the beginning of the fourth month of service at the higher level. When a GS staff member is required to serve in a higher level post in the Professional category, or when a staff member in any category is required to serve in a post which is classified more than one level above his or her level, the allowance may be paid immediately when the staff member assumes the higher duties and responsibilities.

(c) Repatriation Grant

5. Pursuant to Annex IV of the Staff Regulations and Rules and Section 2 of ST/AI/2000/5, former staff members who were internationally recruited shall be eligible for payment at separation when the staff member:

- a) had one year or longer of qualifying service;
- b) resides outside his or her home country and country of nationality while serving at the last duty station; and

- c) has not been summarily dismissed or separated from service for abandonment of post.

(d) Commutation of Annual Leave

6. In accordance with Staff Rule 109.8, upon separation from service, a staff member shall be paid for his/her accrued annual leave up to a maximum of sixty working days.

(e) Dependency Allowance

7. In accordance with Staff Regulation 3.4, staff members shall be entitled to receive dependency allowances for a dependent child, for a disabled child and for a secondary dependent at rates approved by the General Assembly. The established annual rates for 2004 for a dependent child and a secondary dependent in Netherlands are Euro 2,271 and Euro 773, respectively.

(f) Mission Subsistence Allowance

8. Mission subsistence allowance (MSA) is a daily allowance payable by the Organization for living expenses incurred by staff members in the field in connection with their temporary assignment or appointment to a special mission (Rule 103.21).

(g) Home Leave

9. Staff members regarded as international recruits under staff rule 104.7 (a) and not excluded from home leave under staff rule 104.7 (c), who are residing and serving outside their home country and who are otherwise eligible, shall be entitled once in every two years of qualifying service to visit their home country at the expense of the United Nations.

(h) Education Grant

10. Education grant is an expatriate benefit which is payable to staff members in respect of the education expenses of each of their dependent children. A staff member is entitled to education grant if (i) he or she is regarded as an international recruit under Staff Rule 104.7 and resides and serves at a duty station, which is outside his or her home country. In addition to that (ii) the child concerned has to be in full time attendance at school, university or similar education institution, and (iii) the appointment or assignment of the staff member is for a minimum of six months or if initially for a period of less than six months, is extended so that total continuous service is at least six months with an appointment of a minimum period of six months (Staff Rule 103.20 (b)).

11. This was the first comprehensive OIOS review of staff entitlements in ICTY. The findings and recommendations contained in this draft report were discussed with the officials responsible for the audited activities during various meetings held between May and August 2005. A draft of this report was also shared with Mr. Kevin St. Louis, Chief Administrative Officer, ICTY on 13 September 2005, whose comments, which were received on 06 October 2005 have been reflected in this final report, in italics

12. *ICTY has accepted most of the recommendations made and has initiated action in the majority of the areas identified.*

II. AUDIT OBJECTIVES

13. The overall objective of the audit was to advise the Registrar of ICTY on the adequacy of arrangements for processing staff entitlements. This included:

- (a) Evaluating the adequacy, effectiveness and efficiency of internal controls;
- (b) Determining the reliability and integrity of the data available from the present systems; and
- (c) Determining compliance with United Nations Regulations and Rules and Administrative Instructions.

III. AUDIT SCOPE AND METHODOLOGY

14. The audit focused on entitlements processed during 2004 and involved interviewing staff, reviewing available documentation, assessing control procedures where documentation was available and computer analysis of data. The total expenditure for staff entitlements reviewed is shown in table 1 below:

Table 1: Total expenditure for staff entitlements and number of staff who received these entitlements in 2004.

ENTITLEMENT	EXPENDITURE (\$ 2004)	No of staff in receipt of entitlement
Non Removal allowance	568,452	445
Special post allowance	Note 1	52
Repatriation grant	1,158,491	96
Commutation of Annual leave	845,163	222
Dependency allowance	1,555,325	548
Mission subsistence allowance	861,809	77
Home leave	838,356	184
Education grant (including education grant travel)	1,640,911	146
TOTAL	7,468,507	

Source: Reports from ICTY accounting system (SUN System).

Note 1: The total amount of special post allowance paid to staff members in 2003-2004 was included in the salaries costs and was not separately identifiable in ICTY accounting system.

IV. AUDIT FINDINGS AND RECOMMENDATIONS

A. Organization and Management

(a) Structure

15. SAU operated on a section-based portfolio structure, which appeared to OIOS to be an adequate structure to meet the needs of ICTY. Each of the four G-5 Personnel Assistants was responsible for administering all staff entitlements for the staff members in the sections under his or her portfolio; except for home leave travel and education grant travel, which were handled by two G-4 Personnel Clerks. Based on the staffing reports in July 2005, each Personnel Assistant was administering between 250 and 350 staff members.

(b) Processing and certifying staff entitlements

16. SAU used Personnel Information Management System¹ (PIMS) to maintain and record staff members' eligibility for entitlements. The Personnel Assistant in SAU prepared the personnel action (P.5 forms) in PIMS; the Head, SAU authorized them and forwarded them to the Chief, Human Resources Section for certification. After certification, SAU sent the P.5 forms to Finance Section for processing. For processing entitlements such as repatriation grants and annual leave payments for separation cases, SAU uses the Personnel Payroll Clearance forms (P.35 forms) that were prepared manually, outside PIMS.

17. SAU was very prompt in approving staff entitlements. OIOS noted that 90 percent of the P.35s and 80 percent of P.5s were certified within two weeks of the separation date or the effective date of P.5. However OIOS found that of the 3,932 P.5s certified in 2004, 547 (14 percent) P.5 were raised to amend previous P.5s issued.

18. *ICTY reviewed 58 of the amendments and commented that all amendments (with the exception of the 1.8 percent) were made to change the last action according to the current circumstances or decisions. This is a common occurrence in a dynamic organisation and, in ICTY's view, does not require a review.* OIOS appreciates that some amendments such as changes in management decisions or failure of the staff member to provide the correct information to SAU earlier were beyond the control of SAU.

(c) Processing payments of staff entitlements

19. The Payroll Unit of Finance Section was responsible for processing payments of staff entitlements² together with their monthly salaries. Payroll Unit used an off-the-shelf programme, Progen to process salaries and entitlements for GS staff members and Microsoft Excel to compute salaries and entitlements for P staff members. As the systems used by SAU and Payroll Unit were not integrated, Payroll Unit had to re-enter the changes in the staff members' profile based on approved P.5 and P.35 in Progen and Excel to process payments of salaries and staff entitlements. As a result, there were risks of incorrect data entry that could subsequently generate incorrect payments of entitlements. OIOS noted that the payments of staff entitlements for P staff in Excel were more prone to errors as compared to payments of staff entitlements for GS staff in Progen. This is because there were approximately 17,000 fields in the monthly worksheets for computation of salaries and entitlements for P staff that could be changed without leaving a trail. Although the Head, Payroll Unit reviewed these worksheets before approving the payments, it was not feasible that the Head, Payroll Unit could detect all unauthorized changes and mistakes on these spreadsheets considering the number of fields and formulas.

20. Payroll Unit had been in the process of migrating the payroll of P staff from Excel to Progen since 2004. Although OIOS agreed that the migration to Progen would reduce the number of computation errors, OIOS is of the opinion that it will not solve all problems. This is because the current version of Progen is not capable of processing staff entitlements such as repatriation grant, commutation of annual leave and rental

¹ An in-house application developed by ICTY Information Technology and Support Section.

² Except for education grant that was processed by Accounts Unit of Finance Section.

subsidy unless ICTY builds additional modules. More importantly, the problems and risks associated with the lack of integration between PIMS and Progen remain.

21. The Integrated Management Information System (IMIS) used by other United Nations Headquarters duty stations can ensure that the records approved by SAU are the ones processed by Payroll Unit for payment. ICTY informed OIOS that Information Technology Support Division, (ITSD) New York had informed them that the ITSD priority was to implement IMIS in peacekeeping missions and it was not expected to be implemented in ICTY before 2008 and therefore might not be implemented at all, in view of ICTY's completion strategy to wind-up by end of 2010. In the view of OIOS, this means that the best option open to ICTY is to use Progen.

Recommendation:

To improve the integrity of information and accuracy of payments of salaries and staff entitlements to ICTY staff, Finance Section should: cease using the Microsoft Excel for processing payroll for Professional staff and migrate to a more secure environment such as Progen within a time bound program; and establish mitigating controls to prevent, if not detect the errors arising due to the lack of integration between Personnel Information Management System and Progen (Rec. 01).

22. *ICTY Finance Section commented that the migration is scheduled for October 2005, with parallel runs in November and December 2005 and going live in January 2006.* OIOS thanks ICTY for the prompt action taken and will close the recommendation upon notification that the payroll for Professional staff is processed in Progen and details of the arrangements established to prevent, if not detect the errors arising due to the lack of integration between Personnel Information Management System and Progen.

B. Non removal allowances

23. ICTY had received an exemption to the five-year limit for payments of non-removal element at one duty station from OHRM³ and all eligible staff in ICTY can receive payments for non-removal allowances for a maximum period of seven years.

24. OIOS reviewed EOD dates of all P staff and above in 2004 recorded by Payroll Unit and compared them to the EOD dates that SAU recorded in PIMS. OIOS found 60 cases of incorrect EOD dates, of which 15 of the 60 staff members had been separated before reaching the seven-year limit or were not entitled to non-removal allowances. Thus, there were no cost implications for these cases. However, for the remaining 45 current staff members of ICTY, OIOS estimated that the correction of the EOD dates had prevented 32 cases of overpayments of non-removal allowances of approximately US\$47,000 and 13 cases of underpayments totalling to US\$19,000. As Payroll Unit had taken the corrective actions, OIOS is making no recommendations, but will record the saving of US\$47,000 in its database for inclusion in its annual report.

25. OIOS also found the two cases of overpayments of non-removal allowances totalling approximately US\$7,500, of which ICTY can only recover approximately

³ Interoffice memorandum dated 7 August 2000 from Chief, Common System and Inter-Agency Policy Unit, Office of Human Resource Management, United Nations to Chief Administrative Officer, ICTY.

US\$5,000 as recovery of overpayments is the date of notification sent to staff for recovery.⁴ As ICTY had initiated the necessary action for recovery, OIOS is making no recommendation, but will record savings of US\$5,000 in its database.

C. Special Post Allowance

26. OIOS noted that despite OHRM recommendations in April 2003, ICTY had continued to approve special post allowance (SPA) in contravention of the provisions of Staff Rule 103.11 and ST/AI/1999/17 until February 2005. OHRM in its report stated that “many staff members in ICTY were on SPA for long periods on post they were subsequently promoted to, with clear notations regarding the need to keep those staff members against those posts until they acquire the required seniority for promotion to the post. This is in contravention of both spirit and the letter of the policy regarding the granting of SPA. This practice should not be repeated in future.” Considering the financial implications, OIOS reviewed SPA cases in 2003 as well as 2004.

27. During the year 2003 and 2004, 52 staff members received SPA and the duration of their SPA were as shown in Annex 1 of this report. OIOS found 21 cases (41 percent) were wrongly approved that cost the Tribunal approximately US\$201,000 and potential future estimated cost of US\$18,000⁵. In 18 cases, ICTY had approved SPA even though there were no vacancies involved. ICTY had used SPA to reward its staff members that were recruited at a level lower than the post they are encumbering until they are eligible for promotion. In three other cases, ICTY had not initiated recruitment process to fill vacancies and had approved SPA to the preferred staff member until the staff member is eligible for the promotion.

28. HRS informed OIOS that there were no administrative errors in approving the 21 SPA cases and provided the following explanation for approving SPA under each category.

Table 2: ICTY justification for grant of SPA to 21 cases

Category	ICTY Explanation for grant of SPA	No. of cases
Old cases	Cases approved between 1 Jan 2003 and 7 April 2003, prior to the receipt of OHRM report.	3
Extension	Cases on extension of the period of SPA to staff members already in receipt of SPA at the date of OHRM report	7
New cases	New SPA cases approved after 7 April 2003	7
Completion Strategy	SPA granted to staff members considering the abolition of posts in OTP due to completion strategy.	3
Redeployment of post	Staff member in Registry granted SPA following a redeployment of a higher-grade post from OTP.	1
	Total	21

29. For the “old cases”, HRS stated that *OHRM findings and recommendations were issued on 7 April 2003. Consequently, the observations and recommendations cannot be addressed prior to that date.* However, OIOS found documentation dated January 2003 with written comments by the Chief, HRS referring to the observations and recommendations of OHRM. This led OIOS to believe that OHRM had shared their

⁴ Section 3.1 of ST/AI/2000/11 (Recovery of overpayments made to staff)

⁵ Please refer to Table 2 on Annex 1.

observations and recommendations with ICTY prior to the issuance of their report on 7 April 2003.

30. For cases on “extension” of SPA, HRS stated that they had understood that OHRM recommendations would not affect those staff members already in receipt of SPA based on the statement in OHRM’s report that “This practice should not be repeated in future.” OIOS disagreed with HRS and based on the context of OHRM report as mentioned in paragraph 26 of this report, OIOS is of the opinion that “future” refers to future requests for SPA regardless whether it was a request for an extension of SPA or grant of SPA for the first time to the staff.

31. For new cases, HRS stated that *“the seven cases were approved as a result of recommendations by SPA panel which felt strongly that staff should not be disadvantaged as a result of a less than pro-active approach by their supervisors who failed to submit the recommendations for promotion for their staff on a timely basis. The SPA panel concurred with the view that it would not be fair that promotions were held up due to no fault of the staff member. In hindsight, we probably should have requested OHRM for permission. However, we felt that the treatment of the seven cases was appropriate as the new staff selection system had not yet been implemented at that time.”* Contrary to HRS’s statements, OIOS noted that in one of the SPA requests submitted by the supervisors stated *“she is ineligible for a promotion . I hereby request that she be granted an SPA as soon as possible... until such time she is eligible for promotion to the level of ...”*.

32. For cases under the “completion strategy” category, HRS explained that these were cases of SPA granted to staff members against higher-level posts that may be abolished in view of the completion strategy. HRS stated *“promoting staff members to these posts may affect their ability to be retained in the organization should a downsizing exercise be required.”* OIOS is of the opinion the actions described seem like a self-imposed recruitment freeze initiated by the supervisor of the three SPA recipients as no recruitment process was initiated. There were also no documents approved by the Prosecutor and Registrar that listed these posts as “temporary vacant posts” as defined in ST/AI/1999/17. OIOS is concerned that the same condition may arise as ICTY downsizes, in view of the completion strategy.

Recommendation:

To ensure transparency and proper approval of special post allowance, ICTY should seek approval from the Registrar and the Prosecutor before freezing the recruitment process for the posts that were to be abolished within a set period due to the completion strategy. ICTY should also establish guidelines as to the length of the period and seek approval from OHRM, New York to include such posts as “temporary vacant posts” as defined in ST/AI/1999/17 (Rec. 02).

33. ICTY made no specific comment on the recommendation, which will be kept open pending clarification whether ICTY intends to establish procedures for seeking approval from the Registrar and the Prosecutor before freezing the recruitment process for the posts that were to be abolished due to the completion strategy, which will be approved by OHRM.

34. For the case under the "redeployment of post" category, HRS explained that the staff member was carrying out duties at a level above her classified grade of P-3 and Chambers had recommended the staff member for SPA when they received a P-4 post that was redeployed from Office of the Prosecutor (OTP). OIOS is of the opinion that the approved classification grade of the function of the staff member was P-3 and the job should be reclassified if HRS and Chambers believes that she was performing duties higher than her own level. The assignment of SPA in this case did not comply with the provisions stated in ST/AI/1999/17.

35. OIOS also found two cases where ICTY had approved SPA to staff members that had less than one year of continuous service under 100 series Staff Rules; and two cases where ICTY had pre-dated the effective date for SPA for more than one year from the date of original request for SPA. This is in contravention of ST/AI/1999/17 as well as their own ICTY/2001/39.

Issue of information circular by ICTY

36. On 19 April 2001, ICTY issued an Information Circular "Guidelines for Special Post Allowance" (ICTY/IC/2001/39) that was adapted from the administrative instruction on SPA (ST/AI/1999/17). ICTY amended the section on eligibility for SPA by omitting the criteria of temporary assignments to a vacant post of higher position when considering the eligibility for SPA.

37. OHRM had advised ICTY not to repeat such practice and strongly recommended that the Tribunal issue information circular immediately confirming that the only legal documentation is the one issued by the Secretary-General, and discontinue immediately the practice of re-promulgating the administrative instruction. OHRM also commented that the ICTY HRS needed to ensure that there was documentation that stated (i) an explanation of how vacancy occurred and the status of the vacancy (ii) a justification for the selection of a recommended staff member. OIOS found that HRS did not implement these recommendations and had continued to advise both the SPA panel and the Registrar to refer to the information circular (ICTY/IC/2001/39) as the "basic principles governing the granting of special post allowance."

38. As there is a two-year limit for recovering of overpayments, OIOS had suggested HRS in May 2005 to initiate recovery actions for these cases. HRS explained that *the special conditions of a temporary organization led ICTY to implement the SPA to recognize outstanding performance in an environment that is characterized by heavy workload, yet is unable to reward such performance and hence did not take action for recovery. They also informed that they consulted OHRM who advised such recoveries may result in financial damages to the organization in the likely event that the staff members appeal the decision.* OIOS appreciates the difficulty the recoveries may cause, but noted that OHRM had already authorized ICTY special privileges for its status of a "temporary organization." This included seven years grant of non removal allowances to all professional staff instead of five years and one year post occupancy instead of two years for consideration for promotion. Furthermore, OHRM in its report of April 2003 had advised ICTY that "In any case, when ICTY management considers some elements of the ST/AI may not be directly applicable to ICTY, they should consult with OHRM as provided under the terms of delegation of authority". OIOS is therefore sending a separate memo to OHRM to seek their opinion on the issue.

39. ICTY commented that further guidance has been sought from OHRM as they do not agree with the conclusions in the report. The number of instances where recovery should take place, if one were to follow the logic in the OIOS analysis, should be seven. OHRM advised them that if they were to follow recommendations to recover SPA payments from staff, any subsequent appeal of such recovery would likely result in an award to the staff members. ICTY reiterated their concern that the special conditions of a temporary organization in this case led them to implement the various SPA cases to recognize strong performance (at the higher level), in an environment that and is characterized by heavy workload, yet is unable to reward such performance with job security or long term career advancement as is the case in the normal UN Secretariat. They believe that proposed recovery for staff members would be detrimental to the spirit and motivation that they were trying to advance, and at the same time may result in financial damages to the Organization in the likely event that the staff members appeal the decision. In addition, as opposed to recovery of a normal staff entitlement (e.g. education grant, rental subsidy, etc.) for which the organization would have lost money, in these cases the organization did not lose money as the posts were budgeted and funded at the SPA level. If ICTY had not authorized the SPA, the Organization would have gained money at the expense of the staff members involved, whereas now staff were rightfully being paid for performing higher level functions.

40. OIOS thanks ICTY for the comments and for seeking clarification from OHRM, which OIOS understands was only verbal and not formal. OIOS would also like to reiterate that, whilst appreciating the position expressed by ICTY, this does not excuse the fact that ICTY chose to ignore specific instructions from OHRM, and knowingly established procedures which were not in accordance with United Nations Regulations and Rules.

D. Repatriation Grant

41. Based on information from PIMS, 99 out of 109 professional staff that were separated during 2004 were eligible to repatriation grant if they provided evidence of relocation within one year from their effective date of separation. In accordance with the concept of accrual accounting, ICTY had provided for repatriation grant for all 99 staff, and, at the time of the audit, had paid the grant to 11 staff. For these staff, OIOS recomputed the amount provided and/or paid by Payroll unit based on the rates of the repatriation grant shown in Annex IV of the Staff Regulations. The results of the review revealed:

- (a) three cases of overpayments amounting to approximately US\$1,200;
- (b) six cases of underpayments amounting to approximately US\$21,000;
- (c) one case of under provision amounting to US\$6,800
- (d) 27 cases of incorrect steps on the grade of the staff in PIMS report;
- (e) five cases of incorrect COB dates of the separating staff in PIMS report;
- (f) one case of repatriation grant of approximately US\$15,000 used to offset the receivables due from the staff member although the staff member had not provided ICTY with any evidence of relocation; and,
- (g) one case of a staff member with two EOD dates.

42. Whilst the cases of overpayment were mainly due to the incorrect calculations by Payroll Unit, the cases of underpayments were mainly attributable to the incorrect repatriation rates approved by HRS in the P.35 forms. As HRS agreed to take the

corrective actions, OIOS is making no recommendations, but will record the saving of US\$1,200 in its database.

E. Commutation of annual leave

43. In 2004, 222 staff members were paid annual leave amounting to approximately US\$845,000. OIOS found that the payments to GS staff processed using the payroll system, Progen were accurate. However, from a sample of 38 cases for P staff, OIOS found two cases of overpayments totaling approximately US\$2,000 due to computation errors. As Payroll Unit had taken the corrective actions, OIOS is making no recommendations other than to record the saving of US\$2,000 in its annual report.

F. Dependency Allowances

44. OIOS analysis revealed that there were no discrepancies in the number of dependents recorded in PIMS and that recorded by Payroll Unit in Progen for GS staff and in Excel for P staff. OIOS appreciates that SAU had deducted the entitlements of dependency allowances of staff who were also receiving child allowance from the Dutch government. OIOS also performed a re-computation of dependency allowances for 298 P staff and noted that Payroll Unit had taken the necessary corrective actions to deduct overpayments and processed underpayments in subsequent months.

45. OIOS was pleased to note that Chief, HRS had issued an information circular every year reminding staff members of their obligation to fill out the dependency status questionnaire. HRS had also established a database to monitor the replies from staff members. OIOS noted that as of July 2005, 109 staff members or approximately 20 percent of ICTY staff members did not reply to the 2004 dependency status questionnaire although the deadline was 1 April 2005. Although ICTY had stated in its information circular ICTY/IC/2005/17, that "Failure to do so may result in discontinuance and/or recovery of dependency benefits payment" ICTY had continued to pay dependency allowances to these staff members. Therefore, OIOS suggested and HRS issued a reminder to all 52 staff in August 2005 with a deadline of 31 August 2005. *HRS informed OIOS that since September 2005, they have discontinued payment of allowances and initiated recoveries from two staff members.* OIOS appreciates the corrective action taken, and is making no recommendation on this issue.

G. Mission Subsistence Allowance (MSA)

46. According to information available in the SUN accounts 77 staff members received MSA during 2004 totalling approximately US\$862,000. OIOS established that ICTY appeared to have adequate controls over processing of MSA except for the issue discussed below

(a) Assignment of staff to field offices

47. OIOS observed that ten staff recruited for field offices in the former Yugoslavia, were recruited with The Hague as their duty station and their work in the field offices was done on the basis of mission travel. Hence, these staff were entitled and continue to draw both the post adjustment for The Hague as well as the MSA for the respective field

office. By not recruiting the staff with the field office as their duty station, ICTY paid approximately US\$1.5 million more than required.

48. ICTY informed OIOS that this arrangement was based on OHRM advice received in 1997, which it considered would also resolve issues when staff were re-assigned to The Hague, as the plan was to rotate staff.

49. While OIOS appreciates the ICTY response, it is of the opinion that OHRM advice to install the staff in The Hague was based on the information provided by ICTY that they had already issued Letters of Appointment that included post adjustment for The Hague. OHRM in its response had also advised that in normal circumstances staff recruited for these offices should not receive both MSA and post adjustment.

50. As the frequency of staff rotation was less than that originally envisaged, and ICTY was concerned with the high cost involved, ICTY management planned to install the staff at the respective field missions instead of in The Hague. ICTY therefore approached OHRM in January 2005 who advised that as the ICTY proposal would reduce the emoluments of the staff, it could not change the official duty station unilaterally during the period of the existing contract, and such a change would require the consent of the staff member.

51. OHRM therefore advised ICTY that the contracts be allowed to run until their expiration date. Well in advance of renewal, ICTY should give a full explanation to the staff members of the proposed change, its rationale, and its consequences so that the staff member would be in a position to give an informed consent to the terms of the new appointment showing the "true" duty station, as opposed to The Hague, as the "official duty station". ICTY explained that they could not implement the OHRM proposal because:

- (a) It was not reasonable to believe that staff would willingly accept a major reduction in remuneration;
- (b) A situation where staff had different remuneration packages within one duty station is less than desirable;
- (c) With the remaining limited time that the field offices will stay in operation, the financial incentive to move to a field-post-adjustment payment, is less of a consideration as we would first install the staff at the field duty station, which would result in some additional expenditures in the first year; and
- (d) Office of the Prosecutor (OTP) stressed the importance of continuity during the remaining time of the field offices and would not wish to introduce measures that could impact on that continuity, unless absolutely necessary.

52. ICTY therefore ceased their plan to install the staff in their true duty stations and therefore renewed and extended the contract terms of these staff to 2006⁶ without any change in official duty station. Further, ICTY continues to install new staff recruited for the field office with The Hague as their duty station and entitled to MSA of the field office.

⁶ Contract of staff with Index no. 590730 scheduled to expire on 04 March 2005 was extended in March 2005 for another one year to 04 March 2006. The contract of staff with Index no. 161673 scheduled to expire on 09 August 2005 was extended on 08 March 2005 for another one year till 09 August 2006. Contract of staff with Index no. 897262 scheduled to expire on 12 Oct 2005 was extended in March 2005 for another one year to 12 October 2006.

53. OIOS appreciates the initiatives taken by ICTY management to address the issue and the practical difficulties it faces in changing the status of the staff assigned to the field offices. However, considering that MSA is payable only for temporary assignments, the significant financial implications and the facts below, OIOS is of the opinion the issue needs to be reviewed.

54. OIOS enquiries reveal that except for Kosovo, UNHCR have installed their international staff based in the former Yugoslavia with the post adjustment of the respective duty stations⁷. In fact staff in Belgrade were installed as of 01 June 2001 and those in Bosnia and Herzegovina in August 2002. ICTY was also aware that other United Nations organizations in the Balkans had installed their staff in the field missions as opposed to paying them MSA.

55. Further as ten staff are receiving post adjustment in The Hague and MSA at the field office, OIOS estimated that ICTY could save approximately US\$380,000 per year or US\$760,000 per biennium.

56. OIOS is of the opinion that considering the financial implications involved ICTY should have followed up on the OHRM advice to consult the staff before renewing their contracts. If the staff did not agree to the change and the management believed that the retention of these staff was crucial to the completion strategy, HRS should have submitted a detailed note to the OTP management outlining the extra cost involved in retaining them so that the management could take an informed decision. For new staff recruited for field offices, HRS should ensure that the correct duty station is applied and those staff do not receive post adjustment at the The Hague rate. Even if ICTY considers different remuneration packages at one duty station is less than desirable, this cannot justify the incorrect application of Staff Regulations and Rules for newly recruited staff members.

57. OIOS is also concerned that while ICTY wishes to retain these staff even at extra cost – there is however no assurance that the staff will not resign and leave at their convenience. In fact, one staff⁸ permanently assigned to field office since his recruitment in May 1995, who continued to draw both the post adjustment and the MSA, resigned in April 2005 even though ICTY had extended his contract on similar lucrative terms until 2006.

58. In view of the significant financial implications and considering that the staff can resign at any time by giving one month notice, and that other United Nations agencies have installed their staff with the post adjustment of their respective duty stations, OIOS is of the opinion that ICTY should revisit the issue with OHRM as to the best way forward.

Recommendation:

To ensure economical and efficient utilization of ICTY resources, ICTY, Human Resources Section should revisit the issue of

⁷ UNHCR has a policy that staff assigned to family duty stations for more than six months are installed in the respective duty stations with the entitlement. Only staff assigned or period less than 6 months are assigned on a mission basis.

⁸ Index no. 161673

assignment of ICTY staff to field offices with OHRM as to the best way forward; and submit a detailed note outlining the extra cost involved in installing the staff at The Hague but assigned to field offices, to enable the ICTY management to take an informed decision before renewing the contract of staff assigned to field offices but installed at The Hague. In addition for new staff recruited for field offices, Human Resources Section should ensure that the correct duty station is applied and those staff do not receive post adjustment at The Hague rate. (Rec. 03).

59. *ICTY commented that the initial suggestion to address this issue was launched by HRS itself. However following the response received from, OHRM and upon further reflection of the current situation, we would like to argue in favour of retaining the present arrangement. The number of P staff in field offices is small (less than ten) and the number of staff who would be affected by a new arrangement even smaller. It is highly unlikely that staff already in receipt of the The Hague post adjustment will agree to a post adjustment in the field offices. To assign staff at this point and resort to replacing The Hague post adjustment with that from the field office would have two negative results. One, there would be two different categories of P-staff which would not benefit morale; second as we are coming closer the completion date and must increase our cooperation with local courts for transfer of cases, it is pivotal that we retain those staff with great historical knowledge of the region. Also, new staff assigned (mainly from within because of the requirements for extensive knowledge of and experience with ICTY and its procedures) must be of the highest calibre. By making these assignments less attractive, we run a serious risk in not being able to fill these positions with the appropriate candidates at this crucial time. ICTY would therefore like to retain the status quo for operational expediency.* OIOS thanks ICTY for the clarification, and whilst it appreciates that ICTY would like to retain the status quo, OIOS is of the view that the issue needs to be discussed and a formal position adopted by ICTY management after consultation with OHRM. Given the financial status of the Tribunal and the significant financial implications OIOS is of the view that this issue should be discussed with OHRM and ICTY management should be apprised of the financial implications and the OHRM advice. OIOS will therefore keep the recommendation open pending clarification why this issue should not be discussed with OHRM and a paper presented to ICTY management informing them of the outcome and the financial implications of retaining the status quo.

H. Home Leave

60. According to information available in the SUN accounts 184 staff members were paid approximately US\$838,000 for Home Leave. OIOS established that ICTY appeared to have adequate controls over processing of Home Leave cases as well as monitoring of staff who did not submit their claims on return from Home Leave or did not complete six months of service after return from Home Leave.

61. However, OIOS observed that ICTY did not have a consistent policy for the recovery of lump sum option. While the Finance Section had usually recovered the amount of Euros paid to the staff, in one case the equivalent US dollars were recovered. OIOS also noted that the lump sum entitlement is to a dollar amount and processing of the entitlement should be in dollars and is independent of the currency it may be paid in, which is a favour done for the staff member. OIOS therefore suggested that ICTY

Finance Section should state and obligate the entitlement in US dollars and accordingly the recovery, if any, must be based on US dollars. If the staff request for payment or recovery in Euro, this should be done based on the dollar amount to be recovered converted to Euros at the prevailing rate of exchange when the payment / recovery is made.

62. The ICTY, Finance Section did not agree that home leave travel entitlement is a US dollar entitlement and should be processed in dollars. ICTY expressed the view that for consistency of application and with due regard to the operational / practical concerns of being within the Euro zone, ICTY, has decided that as air fare lump sum calculations are issued locally in Euros, Finance will now obligate the amount in the quoted Euro amount and any subsequent recovery from the staff will be based on the Euro amount. OIOS accepts the argument and thanks ICTY for establishing a policy to ensure consistent treatment of Home Leave lump sum payments.

I. Education Grant

(a) Processing of Education Grant Claims

63. According to information available in the SUN accounts 117 staff members were paid Education Grant during 2004 at a cost of approximately US\$1,500,000. OIOS reviewed 20 cases processed by ICTY during 2004 for payment. ICTY appears to have adequate controls to ensure the accuracy of the calculation of education grant. There was good cooperation between HRS and Finance Section to ensure the accurate application of rules on the education grant amount. Further, there was an adequate review procedure to check the accuracy of education grant calculation.

(b) Education Grant Travel

64. According to information provided by ICTY, 29 education grant travel requests for approximately US\$75,000 were processed in 2004. OIOS reviewed eight cases and found no problems with the arrangements for granting the education grant travel, which included ensuring the eligibility and the accuracy of the entitlement to travel in terms of itinerary and lump sum amount. However, OIOS noted that some staff did not inform ICTY at least two months in advance of their planned travel dates as required according to ST/IC/2001/43 (paragraph 9). Further, a few staff did not submit the certification on completion of travel within two calendar weeks after completion of travel as required according to ST/IC/2001/43 (paragraph 13). In some cases, this was due to the fact that the children completed the travel at the place of education and hence the boarding passes had to be sent to The Hague by post – that delayed the submission of the final claim. While making no recommendation, OIOS would encourage ICTY to take steps to comply with the information circular.

(c) Special Education Grant

65. OIOS reviewed claims of two staff members in receipt of special education grant in 2004 and concluded that the handling of these cases appeared to be adequate except, that the staff had not provided evidence that they had exhausted all other sources of benefits that may be available, including those that may be obtained from state and local Governments and from the United Nations contributory medical insurance plans as required under ST/AI/2004/2 section 15.1 (Education grant and special education grant

for children with a disability), and Paragraph 55 of ST/IC/2002/5 (Education grant and special education grant for disabled children). As ICTY agreed to obtain a declaration, from staff in receipt of a special education grant, confirming that there is no alternative source of benefits open to them, OIOS is raising no recommendation.

J. Recovery of amounts due from former staff members

66. HRS informs Finance Section promptly when it receives the resignation letter of a staff member, so that appropriate action is taken to withhold the last salary or other entitlements to recover amount that might be due from the staff member. However when the amount due is substantial the last salary payable may not be sufficient as discussed in the two cases below:

(a) OIOS observed that effective action was not taken to recover approximately US\$28,000 from a staff member⁹. Finance Section recovered US\$5,906 from salary leaving a balance of US\$ 22,448 to be recovered. Further as referred to in paragraph 37 (f) above, ICTY applied the repatriation grant of approximately US\$15,000 to offset the amount due from the staff member although the staff had not provided ICTY with any evidence of relocation.

(b) In another case, a staff member was paid assignment grant of US\$11,591 on joining ICTY. However, as the staff left (on 30 September 2002) before completing one year, the proportionate amount of assignment grant was to be recovered from him. ICTY wrote to the staff on 21 November 2002 for the net recovery of outstanding amount of Euro 3,419.21 (US\$4,500 approx). Though the former staff did not respond, there was no follow-up from ICTY for the recovery of the outstanding amount. Where write-off action is not cost effective or if the receivables prove to be irrecoverable, ICTY should obtain approval from the UN Controller for their write-off, in accordance with UN Financial Rule 106.8 and ST/AI/2004/1 of 8 March 2004.

Recommendation:

To maximise the possibility of recovery of amounts due from ICTY staff members who separate, ICTY Human Resources Section should develop and implement follow-up procedures for recovery of amounts due, which include write off action where follow up is not cost effective or irrecoverable (Rec. 04).

67. *ICTY commented that they concur with OIOS and will vigorously pursue the recovery of amounts due from the former staff members.* OIOS thanks ICTY for the response and will close the recommendation upon receipt of the procedures established for recovery of amounts due from ICTY staff which include write-off action upon approval from the UN Controller where follow up is not cost effective or irrecoverable.

⁹ Index number 37979

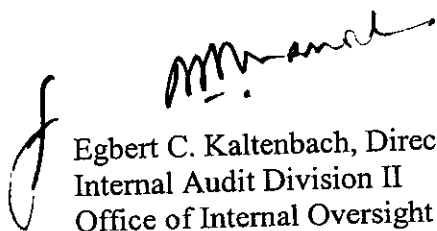
V. FURTHER ACTIONS REQUIRED ON RECOMMENDATIONS

68. OIOS monitors the implementation of its audit recommendations for reporting to the Secretary-General and to the General Assembly. The responses received on the audit recommendations contained in the draft report have been recorded in our recommendations database. In order to record full implementation, the actions described in the following table are required:

Recommendation No.	Action Required
Rec. 01	Receipt of report that the payroll for Professional staff is processed in Progen and the list of mitigating controls established to prevent, if not detect the errors arising due to the lack of integration between Personnel Information Management System and Progen.
Rec. 02	Receipt and review of (i) procedures established for seeking approval from the Registrar and the Prosecutor before freezing the recruitment process for the posts that were to be abolished within a set period due to the completion strategy and (ii) approval from OHRM, New York to include such posts as "temporary vacant posts" as defined in ST/AI/1999/17.
Rec. 03	Receipt and review of the correspondence between ICTY and OHRM regarding the assignment of staff to field offices (or a clarification why this issue should not be discussed with OHRM) and the paper presented to ICTY management informing them of the outcome and the financial implications of retaining the status quo..
Rec. 04	Receipt and review of the procedures established for recovery of amounts due from ICTY staff which include write-off action upon approval of the UN Controller where follow-up is not cost effective or irrecoverable

VI. ACKNOWLEDGEMENT

69. I wish to express my appreciation for the assistance and cooperation extended to the audit team by the staff of HRS, Finance Section and ITSS of ICTY.


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SPECIAL POST ALLOWANCES**Table 1: Number of staff on SPA during 2003-2004 and the duration of their SPA.**

Duration	Number of staff on SPA
Over 2 years	5
Between 1.5 years and 2 years	3
Between 1 year and 1.5 years	15
6 months and 1 year	16
Less than 6 months	13
Total staff on SPA during 2003-2004	52

Sources: (i) Recommendation letters from SPA panel with approval from Registrar during 2003 and 2004
(ii) Approved P5 forms in the Personnel Information Management System (PIMS)

Table 2: Cases of SPA that was approved in contravention with the Staff Rule 103.11 and ST/AI/1999/17 and the estimated financial implications to the Tribunal.

Description	No. of cases	Additional cost to Tribunal as at July 2005 (in US\$'000) (Note 1)	Estimated future cost to the Tribunal (in US\$'000) (Note 2)
Grant SPA to reward good performance and until staff member is eligible for promotion. There were no vacancies involved. These staff members were recruited at a level lower than the post they were encumbering due to lack of experience or qualifications.	18	163	18
No recruitment process initiated to fill vacant posts. SPA was granted to the staff until the staff member is eligible for promotion.	3	38	-
Total	21	201	18

Note 1: This cost includes the higher salaries and entitlements to staff members during their SPA period and the higher salary granted to staff members when they were promoted at a higher step taking into consideration incremental steps during their SPA period.

Note 2: This refer to estimated future cost to the Tribunal as a result of the grant of higher steps at the time of promotion assuming the staff member remain with the Tribunal for another 2 years after their promotion and exchange rate and post adjustment rate remain at rates of July 2005.