



Mechanism for International Criminal Tribunals

MICT/7/Rev.1

16 February 2015

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**PRACTICE DIRECTION ON FILINGS MADE BEFORE THE MECHANISM
FOR INTERNATIONAL CRIMINAL TRIBUNALS**

Adopted on 14 December 2012

Amended on 16 February 2015

(MICT/7/Rev. 1)

PREAMBLE

I, the Registrar of the Mechanism for International Criminal Tribunals;

Considering the Statute of the Mechanism as adopted by the Security Council under Resolution 1966 (2010) of 22 December 2010;

Considering the Rules of Procedure and Evidence as adopted pursuant to Article 13 of the Statute of the Mechanism;

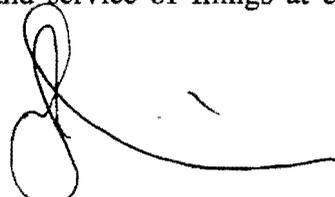
Considering the Practice Direction on Filings Made before the Mechanism for International Criminal Tribunals as adopted on 14 December 2012 pursuant to Rule 31(C) of the Rules of Procedure and Evidence (“Practice Direction”);

Taking into consideration the principles, policies and procedures governing the filing of records at the ICTR, the ICTY and the Mechanism;

Having consulted the President, and

Acting pursuant to Rule 31(C) of the Rules of Procedure and Evidence;

Issue this Revision of the Practice Direction setting out common principles for the opening of cases and the submission, receipt, registration and service of filings at each branch of the Mechanism.

A handwritten signature in black ink, consisting of a large, stylized loop at the top, followed by a horizontal line that tapers to the right.

John Hocking
Registrar

Dated this 16th day of February 2015
At The Hague,
The Netherlands.

I. INTRODUCTION

Article 1 Definitions

For the purpose of this Practice Direction, the following shall mean:

- Amicus Curiae:*** A State, an organization or an individual invited or granted leave by a Chamber to appear before or make a submission to the Chamber on any issue specified by the Chamber pursuant to Rule 83 of the Rules.
- Branch:** One of the two branches of the Mechanism, in Arusha or in The Hague.
- Case File:** All Records filed by the Registry related to a case before the Mechanism.
- Case Number:** A number assigned to each case before the Mechanism.
- Chamber(s):** Trial Chamber(s) and/or the Appeals Chamber, a Judge, a Single Judge or the President of the Mechanism, as appropriate.
- Confidential:** The designation applicable to records and information whose unauthorized disclosure could reasonably be expected to cause damage to the work of the United Nations.
- Confidential *Ex Parte* Designation:** The designation applicable to confidential records and information for which access has been restricted to exclude certain parties to the judicial process.
- Filing:** A Record submitted by a Party, Chamber or Non-Party and registered and entered on the Case File, including but not limited to warrants, indictments, motions, other submissions from Parties, other submissions from Non-Parties, decisions, orders, judgments and sentences.
- Mechanism:** The Mechanism for International Criminal Tribunals, as established by Security Council resolution 1966 of 22 December 2010.
- Non-Party:** An entity, other than a Party, authorized by a Chamber or by the Rules to file Records in a case before the Mechanism. Non-Parties include the Registry, *Amici Curiae* or other individuals, organizations and States.
- Party:** The Prosecution, the Defence or a Self-Represented Accused.

Practice Direction:	This Practice Direction on Filings Made before the Mechanism for International Criminal Tribunals.
President:	The President of the Mechanism appointed pursuant to Article 11 of the Statute.
Records:	Any data or information, regardless of form or medium, maintained by the Mechanism as evidence of a transaction.
Registrar:	The Registrar of the Mechanism appointed pursuant to Article 15 of the Statute.
Registry:	The organ of the Mechanism responsible for the administration and servicing of the Mechanism pursuant to Article 15 of the Statute.
Rules:	The Rules of Procedure and Evidence adopted by the Mechanism pursuant to Article 13 of the Statute, adopted on 8 June 2012 and as subsequently amended.
Security Classification Level:	The security level assigned to Records to prevent unauthorized disclosure of sensitive information, pursuant to the SGB.
SGB:	Secretary-General's bulletin, International Criminal Tribunals: information sensitivity, classification, handling and access (ST/SGB/2012/3).
Statute:	The Statute of the Mechanism annexed to Security Council resolution 1966 of 22 December 2010.
Strictly Confidential:	The designation applicable to records and information whose unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to or impede the conduct of the work of the United Nations.
Strictly Confidential Ex Parte Designation:	The designation applicable to strictly confidential records and information for which access has been restricted to exclude certain parties to the judicial process.
Tribunals:	The International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan citizens responsible for Genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994, established by Security Council resolution 955 of 8 November 1994, and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991,

established by Security Council resolution 827 of 25 May 1993. When used in the singular, Tribunal shall refer to either of the Tribunals.

Unclassified: The designation applicable to records and information whose unauthorized disclosure could reasonably be expected not to cause damage to the work of the United Nations. In the context of judicial records, the term “Public” equates to “Unclassified”.

Article 2
Purpose

This Practice Direction governs the opening of cases and the submission, receipt, registration and service of Records filed in all cases before the Mechanism. The present Practice Direction is common to the two Branches of the Mechanism. Each Branch shall develop its procedures, structures and operations in accordance with this Practice Direction.

Article 3
Entry into Force

The present revision of the Practice Direction enters into force on 17 February 2015 for both Branches of the Mechanism.

Article 4
Amendment

1. The Registrar, after consultation with the President, may amend this Practice Direction, pursuant to Rule 31(C) of the Rules.
2. An amendment shall enter into force on the date determined by the Registrar.

II. OPENING OF A CASE

Article 5
Case Opening

1. Subject to paragraphs 2 and 3 below, a new Case File shall be opened when a Filing is submitted in a case for which no Case File exists before the Mechanism.
2. Where a Chamber determines that the jurisdiction over a case has been transferred from one of the Tribunals to the Mechanism or otherwise assumes such jurisdiction, the Mechanism shall assume responsibility for the new Case File, and all Records filed after the date of transfer of the case shall be filed in the Mechanism’s Case File. The completeness of the Case File shall be maintained as follows:

- (a) When the Mechanism assumes jurisdiction over a case in which the judgment in the first instance has not been delivered by the Tribunal's Trial Chamber, all Records in the existing Tribunal's Case File shall be cross-filed into the Mechanism's Case File.
 - (b) When the Mechanism assumes jurisdiction over a case in which the Tribunal's Trial Chamber has delivered the judgment in the first instance, a certificate shall be placed in the Mechanism's Case File which indicates the Tribunal's Case File number. Public, confidential, strictly confidential and *ex parte* versions, where applicable, of a complete index of the Records contained within the Tribunal's Case File shall also be placed in the Mechanism's Case File.
3. In addition, a new Case File shall be opened by the Mechanism:
 - (a) upon receipt of an order for retrial issued by the Appeals Chamber pursuant to Rule 144(C) of the Rules;
 - (b) upon receipt of an order from a Chamber that would entail the opening of a new case;
 - (c) in cases involving contempt of court under Rule 90 of the Rules or false testimony under Rule 108 of the Rules, upon issuance of an indictment or appointment of an *Amicus Curiae* or where a Chamber has rendered a decision to initiate proceedings itself under these Rules; or
 - (d) where a matter falling within the exclusive jurisdiction of the Mechanism, pursuant to the Rules, is filed.
4. Only one Case File shall be opened and maintained for each case.

Article 6

Assignment of Case Numbers

1. Each case before the Mechanism shall be given a Case Number consisting of three components:
 - (a) MICT, which stands for the Mechanism for International Criminal Tribunals;
 - (b) the year in which the initial Filing triggering the assignment of the Case Number was registered before the Mechanism (*e.g.*, "12" for 2012); and
 - (c) the sequential number of the case before the Mechanism (*e.g.*, "08" for the eighth case).
2. The following letters shall be added after the Case Number to identify the stage or type of proceedings:
 - (a) A: Appeal: From the first notice of appeal pursuant to Rule 133 of the Rules, to the judgment on appeal pursuant to Rule 144 of the Rules or,

exceptionally, from the filing of a motion seeking an extension of time to file the notice of appeal. For all other appeals of proceedings designated by specific Rules, an “A” should appear before the suffix indicating the Rule (*e.g.*, AR14, AR79, AR80);

- (b) D: Deferral: From the filing of an application for deferral to the decision on the application pursuant to Rule 12 of the Rules;
- (c) ES: Enforcement of Sentence: For proceedings involving the enforcement of sentence as from the date the judgment becomes final;
- (d) I: Indictment: From the filing of the indictment pursuant to Rule 48 of the Rules, until a plea is entered pursuant to Rule 64 of the Rules;
- (e) PT: Pre-Trial: From the day a plea is entered pursuant to Rule 64 of the Rules until the first trial hearing (*e.g.*, opening statements) or sentencing proceedings pursuant to Rule 124 of the Rules. In a case with multiple accused, a record concerning any accused for whom a plea is not entered is entered in the Case File under the letter I, whereas the records concerning those accused for whom a plea is entered are marked PT;
- (f) R: Review proceedings: From the filing of the request for review, pursuant to Rule 146 of the Rules, or related motions until the decision on review or further judgment pursuant to Rule 147 of the Rules;
- (g) R14: Referral proceedings pursuant to Rule 14 of the Rules;
- (h) R78: Special deposition proceedings pursuant to Rule 78 of the Rules;
- (i) R86G: Proceedings arising from a request for the rescission, variance or augmentation of protective measures made pursuant to Rule 86(G) of the Rules;
- (j) R86H: Proceedings arising from a request for the rescission, variance or augmentation of protective measures made pursuant to Rule 86(H) of the Rules;
- (k) R87: Proceedings arising from a request for assistance made pursuant to Rule 87 of the Rules;
- (l) R90: Contempt proceedings pursuant to Rule 90 of the Rules, until the issuance of a charging document;
- (m) R108: False testimony proceedings pursuant to Rule 108 of the Rules, until the issuance of a charging document;
- (n) S: Sentencing: For proceedings after the decision granting a motion for a plea agreement pursuant to Rule 124 of the Rules, or for any separate proceedings pertaining to sentencing; and
- (o) T: Trial: From the first day of the trial phase hearing to the trial judgment.

3. Should more than one matter arise pursuant to the same Rule in a single case, a number indicating the chronological order of the matter shall be added after the suffix, regardless of which Party or Non-Party has made the Filing (*e.g.*, MICT-12-26-R86.1). The

same principle shall apply in multiple accused cases when using the suffixes identified in (c) and (f) of paragraph 2 above. The number shall be assigned chronologically according to the order in which the first Filing in the matter was received.

4. Suffixes R90 and R108 shall only be used for Filings submitted in the original case from which the Rule 90 or Rule 108 proceedings arise, until such time as a new Case File is opened pursuant to Article 5(3)(c) of this Practice Direction, and shall not be used as the suffixes of the new Case Number.

III. SUBMISSION, RECEIPT AND REGISTRATION OF FILINGS

Article 7 Filings

1. Records are considered officially filed when received by the Registry, registered and entered on the Case File by the Registrar or his or her authorized delegate in accordance with Article 10 of this Practice Direction.
2. Translations of original language Filings shall be considered Filings.
3. Regardless of the mode of transmission, the physical copy, signed by the Registry Officer, shall be considered the official version of the Filing.
4. Correspondence directly addressed to or from a Chamber, Party or Non-Party is not considered a Filing and shall not be included in the Case File, unless authorized by a Chamber or annexed as supporting material to a Filing submitted for inclusion in the Case File pursuant to Article 8 of this Practice Direction. Correspondence and notes for the file shall be maintained in a separate correspondence file.

Article 8 Submission of Records for Filing

1. A Chamber, Party or Non-Party may submit for inclusion in the Case File the original or copies of, *inter alia*, the following:
 - (a) Warrants;
 - (b) Indictments;
 - (c) Motions;
 - (d) Other submissions from Parties;
 - (e) Other submissions from Non-Parties;
 - (f) Decisions;
 - (g) Orders;
 - (h) Judgments, sentences and concurring, separate or dissenting opinions to judgments; and

(i) Supporting material and annexes to any of the above.

2. A Party or Non-Party shall, in their Records submitted for filing, refer to Mechanism staff members and Defence using their functional titles whenever possible, and shall not publicly disclose any personal information relating to staff members and Defence, including but not limited to telephone numbers, email address, home address, and passport numbers, except where necessary.

3. Records submitted for filing with the Registry shall be submitted in either physical or digital format, and delivered in person, by fax, by post or by email to the Registry. Records submitted for filing shall be submitted in either English or French, unless otherwise provided for by the Rules or a judicial order.

4. All Records submitted for filing must be accompanied by a standardized transmission sheet which includes the following information:

- (a) Name of the submitting entity;
- (b) Case name and number;
- (c) Date created and the date transmitted;
- (d) Security Classification Level;
- (e) *Ex parte* Designation, if applicable;
- (f) Number of pages;
- (g) The original language;
- (h) Document title;
- (i) Document type; and
- (j) Request for translation, if applicable.

5. All submitting entities are responsible for ensuring the accuracy and completeness of both the transmission sheet and the Records submitted.

6. Without prejudice to the classification authority as recognized by paragraph 3.2 of the SGB, submitting entities are responsible for identifying the Security Classification Level and, if applicable, the *Ex Parte* Designation of the Record submitted for filing and indicating accordingly on the cover page of the submitted Record as well as on the transmission sheet.

Article 9

Receipt of Records Submitted for Filing

1. All Records intended for filing shall be submitted to the Registry, in accordance with Article 8 of this Practice Direction.

2. A specific centralized email inbox for judicial filings shall be established for each respective Branch to receive all Records submitted for filing electronically.

- (a) Records submitted for filing in relation to cases arising from the Arusha Branch shall be sent to: JudicialFilingsArusha@un.org;
- (b) Records submitted for filing in relation to cases arising from the Hague Branch shall be sent to: JudicialFilingsHague@un.org.

3. The Registry shall review the Records submitted for filing for compliance with the requirements specified in Article 8 of this Practice Direction. A Record submitted for filing which does not meet these requirements may be returned to the submitter for necessary correction to ensure compliance.

4. Physical Records submitted for filing shall be received during the business hours of the relevant Branch of the Mechanism. Any digital Record submitted for filing which is received on a working day after business hours but prior to 12:00 midnight, local time at the responsible Branch of the Mechanism, or on a weekend, holiday or other period during which the Registry is closed, will be filed with the date on which it was received as indicated by the date and time in the Registry's dedicated email inbox, and will be registered and distributed on the next working day.

Article 10

Registration of Records Submitted for Filing and Entry into the Case File

1. Upon receipt of Records submitted for filing in accordance with Articles 8 and 9 of this Practice Direction, the Registrar or his or her authorized delegate shall register the Record submitted for filing and enter it on the Case File according to the procedures set out in this Article.

2. During the process of registration, the Record submitted for filing shall be dated and signed by the designated Registry Officer.

3. On the cover page of each Filing the Registry shall indicate the Case Number, Registry-paginated page range, date received and the initials of the Registry representative who processed it.

4. Every page of the Filing shall be paginated by the Registry sequentially in reverse order, beginning with the final page of the Filing and ending with the first page of the Filing. The final page of the Filing shall be assigned the next sequential page number following the first page number of the previously received Filing.

IV. DISTRIBUTION OF FILINGS

Article 11 Distribution of Filings

1. The designated Registry Officer shall distribute copies of all Filings electronically from the judicial filings email address to the relevant Chamber, Parties, and other designated recipients, observing any restrictions for Filings designated as confidential, strictly confidential or *ex parte*, except as provided for in paragraph 3 of this Article. When distributing a Filing, the Registry shall ensure that the following are indicated:

- (a) Case number and/or name;
- (b) Date of distribution;
- (c) Date filed;
- (d) Title of the Filing;
- (e) Security Classification Level; and
- (f) *Ex Parte* Designation, if applicable.

2. In circumstances where it is not possible to distribute Filings electronically, they shall be distributed by post, by diplomatic pouch, by fax or in person with the notification information found in paragraph 1 of this Article. Filings distributed in physical copy shall be accompanied by a proof of service form, to be signed by the recipient and maintained by the Registry.

3. Unless otherwise provided for in the Rules or ordered by the Chamber, a recipient of a Filing is deemed notified of the Filing on the day the Filing is effectively sent by the Registry, by email or, exceptionally, by fax. If a recipient has not received the Filing, the recipient may seek an appropriate remedy from the Chamber, including a variation of the time limit. The Registry shall retain and, if required, produce proof that the Filing was effectively sent. This paragraph shall apply, *mutatis mutandis*, to distribution by placement in a defence locker where the Defence has been notified of the placement by email.

4. Unless otherwise provided for in the Rules or ordered by the Chamber, where a Filing is distributed to a recipient by post or by hand, the recipient is deemed notified of the Filing on the day of receipt, as acknowledged by postal return slip or by the recipient's signature, respectively. Where the recipient declines or is unable to sign the acknowledgement of receipt, the confirmation in writing on the prescribed form by the person serving the Filing shall be proof of notification.

5. All proofs of service shall be returned and maintained by the Registry.

V. TRANSLATIONS

Article 12 Translations of Filings

1. Where the submitter indicates on the transmission sheet that translation is required, the Registrar shall ensure the relevant official translations are made, subject to instructions by the Chamber or provisions of the Registry translation policy. If no indication is made on the transmission sheet, the Filing will not be translated unless it is a decision, order or judgment by the President or a Chamber. Decisions, orders and judgments will always be translated into a language which the accused understands.
2. The officially translated version of the Filing shall be filed separately according to the procedures provided for registering Filings in this Practice Direction and paragraph 3 below.
3. Notwithstanding the provisions of Article 10 of this Practice Direction, each translation shall be paginated in reverse order, beginning with the final page of the translation and ending with the first page of the translation. The page number of the cover page of the original document shall be added at the end of the page number of each page of the translation to create a link between the original document and the translation. The suffix “BIS” shall be added to the page numbers of official translations into a second language. The suffixes “TER”, “QUATER”, etc. shall be added to official translations into multiple languages (*e.g.*, 1/1579 TER where “1” stands for the last page of the translation, “1579” stands for the number of the cover page of the original document, and “TER” stands for the translation into a third language).

VI. CHANGES IN CLASSIFICATION OF FILINGS

Article 13 Changes in Classification of Filings

1. As recognized by section 6.1 of the SGB, changes to Security Classification Levels of Filings shall be effected only after judicial authorization or as otherwise provided for by the applicable Rules. Where such judicial authorization has been sought, the Registry may temporarily restrict public access to the Filing, pending further action by the Chamber.
2. Notwithstanding the provisions of paragraph 1 of this Article, where the submitter has erroneously marked the Security Classification Level of a Record as public and the Record has been accordingly filed on the Case File, the submitter shall file a notification of the error and request the Registry to appropriately mark the erroneous Filing as confidential or strictly confidential. Article 8 of this Practice Direction shall apply to any such notification.
3. The provisions of paragraph 2 above also apply if the submitter has erroneously omitted to identify and indicate an *Ex Parte* Designation on the Record submitted for filing.

VII. CERTIFIED COPIES OF FILINGS

Article 14 Certified Copies of Filings

The designated Registry Officer may, under conditions duly set forth in further instructions at both Branches, issue certified copies of Filings. Such certified copies must bear the stamp of the Mechanism and the signature of the designated Registry Officer. Copies certified pursuant to this Article shall be regarded as an exact and unaltered reproduction of the original.

VIII. TRANSITIONAL ARRANGEMENTS

Article 15 Transitional Arrangements

1. For an interim period, and after consultation with the Registrars of the Tribunals, the Registry staff at the Tribunals shall support the receipt, registration and translation of Filings of the Mechanism, as required and in accordance with this Practice Direction. In accordance with the provisions of Rule 31 of the Rules, the Registrar, after consultation with the Registrars of the Tribunals, may supplement this Practice Direction with written operating procedures to be used in implementing the Mechanism's Registry functions.
2. The support provided by the Tribunals may include the provision of technical assistance, including the use of the Tribunals' databases by the Mechanism, and shall be provided in accordance with security, access and management procedures or any other instructions of the Registrar.
3. Digital copies of the Filings received in one Branch shall be transmitted to the other Branch for inclusion in its judicial records database to facilitate access to information for users in both Branches.