

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

MICT/21

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**PRACTICE DIRECTION ON THE USE OF
THE ELECTRONIC COURT MANAGEMENT SYSTEM**

(MICT/21)

I. General Provisions

Article 1 Introduction

In accordance with Rule 23(B) of the Rules of Procedure and Evidence of the Mechanism for International Criminal Tribunals (“Rules” and “Mechanism”, respectively), and having consulted with the Registrar and the Prosecutor as well as having received input from the Association of Defence Counsel practising before the International Courts and Tribunals, I hereby issue this Practice Direction in order to provide a framework for the use of the Electronic Court Management System in proceedings before the Mechanism.

Article 2 Definitions

In this Practice Direction, unless the context otherwise requires, terms shall have the meanings set out in Rule 2 of the Rules, and the following terms shall mean:

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| Chamber(s): | The Judge, Chamber, or Chambers of the Mechanism referred to in Article 12 of the Statute; |
| Court Officer: | The Registry representative within the courtroom tasked with assisting the Chamber in the overall courtroom proceedings; |
| Court Usher: | The Registry representative within the courtroom tasked with assisting the Court Officer, the parties, and the witnesses in the courtroom proceedings; |
| Defendant: | Accused or convicted person; |
| Defence: | Counsel as well as any other member of the Defence team representing a defendant before the Mechanism; |
| eCourt system: | The Electronic Court Management System; |
| Exhibit: | Document or material admitted into evidence by a Chamber; |
| Metadata: | Data describing context, content and structure of records and their management through time; |
| OTP: | The Office of the Prosecutor of the Mechanism pursuant to Article 14(3) of the Statute; |
| Parties: | The OTP and the Defence; |
| Private Document List: | A secure repository in the eCourt system where a party may store electronic files or documents not accessible to the other parties or the Chamber; |

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| Publish: | The term used in the eCourt system to refer to the electronic projection of exhibits onto monitors in the courtroom; “publishing” an exhibit by projecting it on screens in the courtroom has no impact on the confidentiality of the exhibit; |
| Registrar: | The Registrar of the Mechanism pursuant to Article 15(3) of the Statute; |
| Registry: | The Registry of the Mechanism pursuant to Article 15 of the Statute; |
| Release: | To move a previously private file or document from the Private Document List into a folder of less-restrictive access, thereby making it accessible to other participants in the proceedings with access to the system; |
| Released Document List: | A repository in the eCourt system, accessible to all participants in the proceedings with access to the system, for files or documents that need not be kept private from other parties or the Chamber. |

Article 3 Scope

1. This Practice Direction applies only to cases before the Mechanism that, pursuant to an order, decision, or direction of the Chamber, utilize the eCourt system.
2. The provisions of this Practice Direction shall be read and applied during the proceedings subject to any order, decision, or direction of the Chamber.
3. This Practice Direction defines the standards and requirements for preparing and exchanging information both between the parties and between the parties and the Chamber in the eCourt system.

Article 4 Purpose and Principles of the eCourt System

1. The purpose of the use of the eCourt system is to ensure that, whenever reasonably possible, all of the necessary data is available in a suitable electronic format during the proceedings.
2. The eCourt system is predicated on the following principles:
 - a. Documents intended to be used as exhibits shall, whenever reasonably possible, be submitted in a suitable electronic format utilizing the eCourt system;
 - b. Documents shall, whenever reasonably possible, be presented, stored, and registered in a suitable electronic format;

- c. Unless a Chamber determines otherwise, the electronic version of a document shall be authoritative;
- d. The electronic version of transcripts of prior testimony before the ICTR, the ICTY, or the Mechanism shall be authoritative; and
- e. The Registry shall be responsible for the overall implementation of the eCourt system, and shall take into account, *inter alia*, the specific requirements of the judicial activity of the Mechanism, including the need to ensure authenticity, accuracy, confidentiality, and preservation of judicial records and material.

II. Submission of Documents or Material

Article 5

Pre-Trial Submission of Documents or Material

1. The OTP, before the commencement of its case, shall import into the eCourt system the documents that it intends to offer for admission into evidence during its case pursuant to Rule 70(E)(iii) of the Rules.
2. After the commencement of its case, the OTP may import additional documents into the eCourt system. Such additional documents may be used during the courtroom proceedings in accordance with the Rules, and, where required, if the permission of the Chamber has been obtained.
3. The Defence may submit to the Registry in a suitable electronic format the documents that it intends to offer for admission into evidence during its case pursuant to Rule 70(M)(ii) of the Rules. Where possible, this should be done at least two full working days before the documents' anticipated use during the courtroom proceedings so as to allow sufficient time for the Registry to import the documents into the eCourt system, or at such time as specifically ordered by the Chamber.
4. Exceptions to the requirements set out in Articles 5(1) through 5(3) include, *inter alia*, circumstances where an electronic version is either inappropriate or unhelpful in the courtroom proceedings (*e.g.*, non-documentary physical evidence, or maps that are too large to effectively view electronically). In such a case, and prior to that material's use in court, the submitting party shall provide a sufficient number of hard copies to the other parties and to the Registry, which shall distribute the hard copies to the Chamber in court. Within two working days after that material's first use in court, the submitting party shall create a surrogate sheet for that material in the eCourt system with the necessary metadata entries. When such material is admitted into evidence the Registry will retain custody thereof as official custodian.
5. Once imported into the eCourt system, the Registry shall ensure that a party's documents or material are stored in that party's Private Documents List and will not be accessible to any other party or the Chamber until such time as it is released by that party.
6. If for technical reasons the received documents cannot be imported into the eCourt system, such documents shall be returned to the party for resubmission.

Article 6
Release and Publication of Documents During Proceedings

1. Before presenting an imported document for admission into evidence, a party shall release that document to the Chamber, Parties, and Registry through the eCourt system.
2. For the benefit of the participants in the proceedings, the parties may release their documents into their respective Released Document Lists at any time after the documents are imported into the eCourt system, but in any event no later than the time ordered by the Chamber.
3. Where a document has been released through the eCourt system, the presentation and broadcast thereof will also be done in the eCourt system.

Article 7
Copies of Documents

Except where specifically directed in this Practice Direction, all persons who wish to have or use hard copies of exhibits or transcripts are responsible for printing those exhibits or transcripts. This includes but is not limited to the parties, staff assisting the Chamber, and Registry staff.

III. Use of Documents, Material and Exhibits in Court

Article 8
Assignment of Exhibit Numbers

1. Prior to the trial, appeal, or other proceedings, each party shall use a suitable format to label every page of each document or material with a unique, legible number. For documents or material that already bear an OTP Bates number (or Evidence Registration Number (“ERN”)), that number shall be sufficient. When the document or material is tendered in court, the tendering party must read into the record the identifying number under which the document has been uploaded into the eCourt system.
2. Upon the tendering of a document or material in court and following a court order, the Court Officer will assign an MFI (“Marked for Identification”) or an EXH (“Exhibit”) number to the document or material. Thereafter, the parties and the Registry shall refer to the document or material by this newly assigned number.
3. When a document or material previously marked as MFI is admitted into evidence, the prefix of this number will change from MFI to EXH. If the Chamber decides not to admit the MFI document or material, the prefix will change to MNA (“Marked Not Admitted”). In either case, the number that follows remains the same.

Article 9
Handling of Documents, Material and Exhibits

1. Once a MFI or EXH number has been assigned to a document or material,

- a. only the Registry may enter or alter information in the eCourt system for that document or material; and
 - b. the Registry shall be responsible for completing the metadata information for that document or material in the eCourt system.
2. The eCourt system provides the parties and the Chamber with the ability to make private annotations electronically to exhibits. A party or a Chamber shall only have access in the eCourt system to its own annotations.
 3. The eCourt system shall safeguard the confidentiality of each document and exhibit – other than those that the Chamber has admitted and classified as public – and the users of the eCourt system shall exercise care in their use of the system to guard against unauthorized access to and disclosure of confidential information.
 4. The parties should make every effort to provide malware-free data. The Registry is obligated to test for the presence of malware in the data it receives.

IV. Witness Use of Exhibits in Court

Article 10

Presenting Documents or Exhibits to Witnesses

A party may present documents or exhibits in court by:

- a. requesting that the Court Officer publish a document or exhibit in the eCourt system, preferably in the witness's language, where available; or, alternatively,
- b. providing the witness with a hard copy (document), preferably in the witness's language, where available.

Article 11

Marking of Documents and Exhibits by Witnesses in Court

1. With the aid of the electronic display board (smart board), a witness shall be permitted to electronically mark a document or exhibit or to make annotations to it as indicated by the parties or the Chamber.
2. The marked image shall, if so ordered by the Chamber, become a new exhibit in the case.
3. If the marked image becomes a new exhibit, the Court Officer shall import it into the eCourt system, assign it a new exhibit number, enter the exhibit information and then immediately release it into the "In Court Released Documents" folder for the parties and the Chamber to access.

V. Publication of Exhibits in Court

Article 12

Tasks of the Court Officer and Court Usher

1. The Court Officer is primarily responsible for the exhibits admitted into evidence during the proceedings.
2. The Court Officer shall be responsible for the publication of exhibits and relevant translations in the courtroom when requested to do so by the parties or the Chamber. This means that the Court Officer is responsible for checking the metadata, in particular the classification or status of the document, before publishing it onto the screens in the courtroom.
3. The Court Usher may assist the parties and witnesses in referring to parts of a document, exhibit, or translations as well as assist witnesses in using the electronic display board to mark or annotate documents or material.
4. If a witness experiences difficulty in reading a document or exhibit displayed on the eCourt system, the Court Officer shall print a hard copy thereof and provide it to the witness if so instructed by the Chamber.

VI. Languages

Article 13

Publication of Documents and Languages

Documents tendered in court will be published in one of the working languages of the Mechanism as stipulated in Article 31 of the Statute, and may be displayed in a language the defendant understands.

VII. Transcripts

Article 14

Format of Transcripts in eTrans

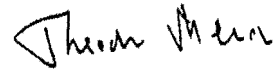
1. The eCourt system provides the parties and the Chamber with the ability to make private annotations electronically to the transcript of proceedings by using the electronic Transcript (“eTrans”) function. A party or a Chamber shall only have access in the eCourt system to its own annotations.
2. Transcripts shall identify portions of the hearing held in closed or private session to maintain the integrity of the confidential information therein.

VIII. Miscellaneous Provisions

Article 15 Miscellaneous

1. Each party must bear the cost of producing material in electronic format for use in the eCourt system as outlined in this Practice Direction, subject to any order, decision, or direction of the Chamber.
2. The Registrar may issue standard operating procedures or work instructions, consistent with this Practice Direction, for the guidance of Registry staff.

Done this 2nd day of November 2017,
At The Hague,
The Netherlands.



Judge Theodor Meron
President

[Seal of the Mechanism]