

**UNITED
NATIONS**

MICT



Mechanism for International Criminal Tribunals

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**POLICY FOR THE PROVISION OF SUPPORT AND PROTECTION
SERVICES TO VICTIMS AND WITNESSES**

(MICT)

PREAMBLE

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

Taking into consideration the principles, policies and procedures governing victim – and witness-related matters at the ICTR and ICTY;

Considering that in providing services to witnesses, the Mechanism will also protect and support victims; and

Having consulted the President;

Issues this Policy setting out common principles for the provision of witness-related services by the Witness Support and Protection Unit at each branch of the Mechanism.

I. INTRODUCTION

Article 1 Definitions

Branches: ICTR Branch and ICTY Branch of the Mechanism, seated in Arusha and The Hague, respectively, pursuant to Article 3 of the Statute;

ICTR: 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;

ICTY: 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;

Mechanism: The Mechanism for International Criminal Tribunals established by Security Council resolution 1966 of 22 December 2010;

Registrar: The Registrar of the Mechanism;

Rules: The Rules of Procedure and Evidence adopted by the Mechanism pursuant to Article 13 of the Statute of the Mechanism;

Statute: The Statute of the Mechanism annexed to Security Council resolution 1966 of 22 December 2010;

Transitional Arrangements: The Transitional Arrangements of the Mechanism annexed to the Security Council resolution 1966 of 22 December 2010;

WISP: The Witness Support and Protection Unit of each branch of the Mechanism;

Article 2

General Purpose

2. This Policy shall guide WISP in the initiatives to structure, operate and develop procedures for its respective work consistent with the principles set out in this Policy and taking into account the specific elements such as the nature of conflict, geographical location, and cultural setting in which the respective WISP will be operating.

Article 3

Entry into force

This Policy shall enter into force upon the commencement of the relevant branch of the Mechanism which will be on 1 July 2012 for the Arusha branch and on 1 July 2013 for the Hague branch.

Article 4

Amendment

1. The Registrar may amend this Policy. WISP may make recommendations to the Registrar for the amendment of this Policy.
2. An amendment shall enter into force on such date as determined by the Registrar.

II. GENERAL PROVISIONS

Article 5

Mandate

1. Pursuant to the Statute, the Transitional Arrangements, and the Rules of Procedure and Evidence, the Mechanism shall be responsible for the protection and support of victims and witnesses, and to carry out all related functions, in relation to completed cases of each Tribunal and cases for which the Mechanism has competence. Each branch will be further responsible for the protection and support of victims and witnesses for whom the Mechanism has competence.
2. In accordance with Rule 32 of the Rules, a Witness Support and Protection Section shall be set up under the authority of the Registrar in order to recommend protective measures in accordance with Article 20 of the Statute, and to provide counselling and support to victims and witnesses, in particular in cases of rape and sexual assault.

Article 6

Responsibilities of WISP

1. WISP shall provide witness support and protection services, in application of principles common to both branches prior to, during and after testimony.

2. WISP shall operate with the highest levels of integrity, impartiality and confidentiality, and ensure that all witnesses have equitable access to its services.
3. WISP shall develop and implement its principles, policies and procedures to ensure that all witnesses can testify in safety and security, and to the extent possible that the experience of testifying does not result in further harm, suffering or trauma to the witness.
4. WISP shall operate with full respect for any relevant administrative and/or financial rules and regulations of the United Nations, and shall establish policies and procedures to ensure strict financial accountability.

Article 7 Structure

1. WISP shall be responsible for providing support and protection to witnesses under the Mechanism's competence with respect to their corresponding branches:
 - (a) The Arusha branch WISP shall have its main office in Arusha, and a sub-office in Kigali. The Arusha branch WISP shall commence on 1 July 2012.
 - (b) The Hague branch WISP shall have its main office in The Hague. The Hague WISP shall commence on 1 July 2013.
2. WISP shall operate under the overall direction of the Registrar and the direct supervision of the Registry Officer-in-Charge at each branch.
3. There shall be regular communication between the WISP branches in order to share experiences and incorporate best practices for the purpose of improving the services provided.
4. WISP shall submit comprehensive reports to the Registrar at a frequency to be determined by the Registrar. Such reports shall detail the operations carried out by WISP throughout the reporting period, and include, *inter alia*, a description of measures taken to implement these guidelines and an evaluation thereof.
5. The Registrar shall inform the President periodically of the operations carried out by WISP.

Article 8 Cooperation with the ICTR and ICTY

WISP shall seek the continued cooperation of the ICTR and ICTY, including by requesting information, with an objective of providing consistent services, responsive to witnesses' needs.

Article 9 Records and Confidentiality

1. WISP shall create and maintain an accurate and comprehensive record of information pertaining to witnesses.

2. All records kept by WISP shall be considered strictly confidential and shall be managed in accordance with the requirements of the Mechanism Archives and Records Section.

3. Any unauthorised disclosure of a protected witness' identity may lead to contempt proceedings, pursuant to Rule 90 of the Rules.

III. SUPPORT

Article 10 Contact and Communication with Witnesses

1 Establishing and maintaining contact with witnesses are main objectives of the Mechanism's mandate which WISP shall carry out. Such contact shall not cease upon the completion of the witnesses' testimony.

2. WISP shall be responsible for providing information on witnesses' rights and obligations as well as entitlements. WISP shall also be responsible for providing information to witnesses regarding their testimony experience.

Article 11 Well-being of Witnesses

WISP shall be responsible for providing services, to the extent possible, to ensure the psychosocial and physical well-being of all witnesses.

Article 12 Movements of Witnesses

WISP shall be responsible for witnesses' movements for the purpose of its mandate including, but not limited to, facilitating the appearance of witnesses in proceedings before the Mechanism. Such arrangements including travel shall be made in accordance with the relevant administrative and/or financial rules and regulations of the United Nations.

Article 13 Allowances

Witnesses may be eligible for allowances as considered reasonable and necessary in accordance with the policies and practices of each branch, subject to the budgetary provisions, and to the relevant administrative and/or financial rules set by the United Nations. Such allowances are intended to cover expenses and/or loss of wages incurred by the witness through his or her testimony. The Registrar may require supporting documentation in order to grant these allowances.

IV. PROTECTION

Article 14 Role of the Registrar

1. In accordance with the Registrar's role under the Statute and the Rules, the Registrar shall be responsible for the implementation of any judicial protective measure ordered by a Chamber of the ICTR, ICTY, or Mechanism, as applicable.

2. The Registrar, in consultation with WISP, may implement extrajudicial protective measures as required to ensure the safety and security of witnesses including, but not limited to:

- (a) Requests for assistance/local measures;
- (b) Temporary relocation; and/or
- (c) Relocation.

Article 15 Referral of Witnesses

1. The parties to the case or witnesses may request the provision of extrajudicial protective measures.

2. All referrals to WISP shall comply with the requirements set out by the respective branch together with all relevant information which may include:

- (a) the risk to the witness, including details of any direct threat received;
- (b) information about the content and importance of the witness' evidence;
- (c) other possible sources of threat as well as any other information that may be relevant to WISP;
- (d) any information provided or undertaking given to the witness by the parties regarding extrajudicial measures; and
- (e) whether any interim measures have been implemented by any agency to address the threat to the witness.

3. WISP shall consider all referrals independently and in a timely manner, and undertake suitable measures that address the assessed level of risk.

Article 16 Requests for Assistance/Local Measures

In instances where WISP has assessed a relatively low level of risk, suitable risk reduction strategies may include:

- (a) providing the witness with advice regarding the management of their personal security; or

(b) where appropriate, seeking the assistance of local authorities to address witness concerns, and take measures to protect the witness, with regards to the specific needs of the witness.

Article 17

Temporary Relocation

1. Where WISP has assessed that circumstances so dictate, it may recommend the temporary relocation of a witness.

2. Temporary relocation is an interim measure, and should not be considered as automatic acceptance into any permanent relocation plan.

3. Depending on the time frames involved, WISP may provide services that are commensurate with the immediate needs of the witness.

4. Responsibilities and obligations of both the Mechanism and the witness in relation to the temporary relocation shall be clearly stated and accepted by both parties.

5. In cases where a witness refuses to accept such responsibilities and obligations, the matter shall be referred to the Registrar, who will decide whether the temporary relocation will continue, giving due consideration to the risk to the witness.

Article 18

Relocation

1. In extreme circumstances, and where no other practical alternatives exist to address the assessed level of risk, WISP will consider the need to relocate a witness to a third State.

2. WISP shall ensure that the witness is fully informed and understands the time frame and likely impact of the relocation process.

3. Responsibilities and obligations of both the Mechanism and the witness in relation to the relocation shall be clearly stated and accepted by both parties.

4. In cases where a witness refuses to accept such responsibilities and obligations, the matter shall be referred to the Registrar, who will decide whether the relocation will continue, giving due consideration to the risk to the witness.

5. After preparations have been made for a witness to relocate to a third State, but prior to the witness' actual relocation, WISP shall continue to provide services that are commensurate with the immediate needs of the witness, and will give due consideration to additional services that may assist the witness' with his or her psychological/social reintegration.

Article 19
Continued Protection

1. WISP shall undertake regular review of previously implemented protective measures.
2. WISP shall recommend to the Registrar any needed variation of measures, in accordance with its review.

Article 20
Breaches of Protection

1. WISP shall report any information regarding breach of a judicial protective measure coming to its attention to the Registrar for transmission to the relevant Chamber and/or the President, and WISP shall also take appropriate action in respect of the witness(es) as deemed necessary.

WISP shall immediately report to the Registrar the breach of any extra-judicial protective measure and make appropriate recommendations.