

**UNITED
NATIONS**



International Residual Mechanism for Criminal
Tribunals

MICT/15/Rev.1

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English

**PRACTICE DIRECTION ON THE PROCEDURE FOR THE
IMPLEMENTATION OF RULE 110(B) OF THE RULES OF
PROCEDURE AND EVIDENCE**

(MICT/15/Rev.1)

PREAMBLE

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

CONSIDERING the Statute of the Mechanism as adopted by the Security Council under Resolution 1966 (2010) of 22 December 2010, and in particular Article 15 thereof;

CONSIDERING the Rules of Procedure and Evidence as adopted pursuant to Article 13 of the Statute of the Mechanism, and in particular Rule 110 thereof;

CONSIDERING the necessity to regulate the practical implementation of Rule 110(B) of the Rules of Procedure and Evidence;

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

HAVING CONSULTED the President of the Mechanism;

HEREBY ISSUE the revised Practice Direction on the Procedure for the Implementation of Rule 110(B) of the Rules of Procedure and Evidence.



Olufemi Elias
Registrar

Dated this 4th day of January 2019
At The Hague,
The Netherlands.

Introduction

1. Rule 110 of the Rules of Procedure and Evidence of the International Residual Mechanism for Criminal Tribunals (“Rules” and “Mechanism”, respectively) regulates the admission of written statements and transcripts into evidence in lieu of oral testimony. Pursuant to Rule 110(B), a written statement shall be admissible if it attaches a declaration by the person making the written statement (“Deponent”) that the contents of the statement are true and correct to the best of the Deponent’s knowledge and belief. Further, the declaration must be witnessed and certain information verified by a person authorised to witness such a declaration in accordance with the law and procedure of a State under Rule 110(B)(i)(a) or a Presiding Officer appointed by the Registrar under Rule 110(B)(i)(b) (“Attestation”).
2. This Practice Direction prescribes the procedure for the appointment of a Presiding Officer and subsequent Attestation under Rules 110(B)(i)(b) and 110(B)(ii), respectively.

Request for the Appointment of a Presiding Officer

3. A party seeking to have one or more written statements admitted into evidence pursuant to Rule 110(B)(i)(b) (“Requesting Party”) shall submit a written request for the appointment of a Presiding Officer (“Request”).
4. The Request shall be submitted to the Officer-in-Charge of the Registry at the respective branch of the Mechanism, at least 30 working days in advance of the requested Attestation. In exigent circumstances, the Registry may accept a Request submitted less than 30 working days in advance. The Request shall include:
 - (i) the number of Deponents;
 - (ii) the number of written statements per Deponent;
 - (iii) the proposed date(s) and place(s) for the Attestation; and
 - (iv) each Deponent’s first and last name, date and place of birth, address, languages spoken, and number of an identity document (passport, identity card or driver’s license).

Registrar's Decision

5. The Registrar will decide the Request within five working days, taking into consideration any relevant judicial decision and the efficient use of available Registry resources.
6. If the Request is granted, the Registrar shall issue a written decision designating a Presiding Officer from the ranks of Registry staff ("Registrar's Decision").
7. If the Request is denied, the reasons for the denial shall be communicated to the Requesting Party.

Attestation

8. A representative of the Requesting Party must be present during the Attestation.
9. The Presiding Officer shall inform the Deponent of the Presiding Officer's name and position. The Deponent shall be provided with a copy of the Registrar's Decision in a language that the Deponent understands, or, alternatively, it can be read to him or her through an interpreter.
10. The Presiding Officer shall examine the Deponent's identifying document to verify that the Deponent is the person identified in the written statement(s).
11. The Presiding Officer shall inform the Deponent that he or she may be subject to proceedings for giving false testimony if the contents of his or her written statement(s) are not true. The Presiding Officer shall also provide the Deponent with the text of Rule 108 of the Rules in a language that the Deponent understands or, alternatively, it can be read to him or her through an interpreter.
12. The Presiding Officer shall ask the Deponent to indicate if he or she had been provided by the Requesting Party with an opportunity to familiarise himself or herself with the contents of the written statement in a language that he or she understands. If so indicated, the Presiding Officer shall ask the Deponent if the contents of the written statement(s) are true and correct to the best of the Deponent's knowledge and belief. If the Deponent disagrees with the contents of the statement or wishes to amend it, the Requesting Party shall address the issue with the Deponent, outside the presence of the Presiding Officer. The Presiding Officer shall not make any amendments to the Deponent's statement nor shall he or she be involved in any way in the preparation of the final statement.

13. Once the Deponent affirms that the statement is true and correct to the best of his or her knowledge and belief, he or she shall sign a declaration form, attached as Annex I, in the presence of the Presiding Officer (“Declaration Form”). The Declaration Form shall be provided in a language that the Deponent understands or, alternatively, it can be read to him or her through an interpreter.
14. If the Presiding Officer and the Deponent fulfil the Rule 110(B)(ii)(a)–(d) requirements, as set out in paragraphs 10-13 *supra*, the Presiding Officer shall verify this in writing by completing the attestation form, attached as Annex II (“Attestation Form”).
15. The Presiding Officer shall record in the Attestation Form all the persons present during the Attestation. If person(s) other than the Presiding Officer, Deponent, representative of the Requesting Party, and interpreter are present, the Presiding Officer shall record in the Attestation Form the specific reason for the presence of such other person(s).

Certification

16. The Presiding Officer shall stamp, number and initial:
 - (i) each page of the Deponent’s statement(s);
 - (ii) the completed Declaration Form; and
 - (iii) the Attestation Form (“Certification”).
17. The Presiding Officer shall only certify the Deponent’s own statement(s) and such other document(s) created exclusively by the Deponent and which form an integral part of the statement(s). The Presiding Officer shall, however, list in the Attestation Form any document referenced in the Deponent’s statement(s) which was before the Deponent during the Attestation.
18. At the conclusion of the Attestation and Certification, the Presiding Officer shall hand over to the Requesting Party:
 - (i) the certified Attestation Form;
 - (ii) the certified Declaration Form; and
 - (iii) the certified Deponent’s statement(s) and any other document created exclusively by the Deponent and which form an integral part of the statement(s).

**ANNEX I
(DECLARATION FORM)**

**DECLARATION BY PERSON MAKING WRITTEN STATEMENT(S) PURSUANT
TO RULE 110(B)**

I, (Deponent's first and last name, date and place of birth, and passport, identity card, or driver's licence number), hereby declare, in the presence of the Presiding Officer (Presiding Officer's first and last name), that the contents of the written statement(s) I made on (date(s) of the statement(s)), and which is/are now attached to this declaration, are true and correct to the best of my knowledge and belief.

I make this declaration voluntarily, and I declare that no undue pressure was brought to bear on me to cause me to sign this form.

I have been informed that I may be subject to proceedings for giving false testimony if the contents of my written statement(s) are not true and have been provided with a copy of Rule 108 of the Mechanism Rules of Procedure and Evidence / Rule 108 of the Mechanism Rules of Procedure and Evidence has been read to me in a language that I understand, and I understand that I may be subject to proceedings for giving false testimony if the contents of my written statement(s) are not true.

Done this (date)

At (place)

Deponent's signature

Presiding Officer's signature

**ANNEX II
(ATTESTATION FORM)**

ATTESTATION BY THE PRESIDING OFFICER PURSUANT TO RULE 110(B)

I, (Presiding Officer's first and last name), Presiding Officer appointed by the Registrar of the International Residual Mechanism for Criminal Tribunals ("Mechanism") on (date) pursuant to Rule 110(B) of the Rules of Procedure and Evidence, with the assistance of a Mechanism interpreter (where applicable), certify:

- that on (date of the Deponent's declaration) in (place where the Deponent's declaration is taken), the following person ("Deponent") appeared:
 - Deponent's first and last name,
 - date and place of birth,
 - passport, identity card or driver's licence number,
 - habitual residence;

- that in the attached statement(s) dated (date of the statement(s)) and Addendum if applicable, certified by the undersigned on (date of the Presiding Officer's certification of the statement(s)) the said (Deponent's first and last name) is identified as the author;

- that the Deponent was provided with the/these statement(s) / the/these statement(s) was/were read to the Deponent through an interpreter in a language that he or she understands;

- that the Deponent was informed, in a language that he or she understands, that if the contents of the written statement(s) are not true, he or she may be subject to proceedings for giving false testimony;

- that the Deponent was provided with the text of Rule 108 of the Rules of Procedure and Evidence / the Deponent had the text of Rule 108 of the Rules of Procedure and Evidence read to him or her through an interpreter in a language that he or she understands;

- that the Deponent declared before me that the contents of the written statement(s) are true and correct to the best of his or her knowledge and belief; and
- that the following persons were present during the declaration:
(if person(s) other than the Presiding Officer, Deponent, representative of the party and interpreter are present, the specific reason for the presence of such other person(s) shall be provided).

Additional remarks: (e.g. an indication of any document that is referenced in the Deponent's statement(s) and was before the Deponent during the Attestation, or any other relevant information.)

Done this (date)

At (place)

Signature of the Presiding Officer