

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

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DECISION

THE REGISTRAR,

CONSIDERING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993) of 25 May 1993, as subsequently amended;

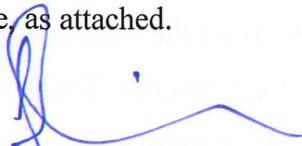
CONSIDERING the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended;

CONSIDERING the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal as adopted by the Tribunal on 5 May 1994 and subsequently amended, and in particular Rule 41 thereof;

CONSIDERING the Regulations for the Establishment of a Disciplinary Procedure for Detainees, issued in April 1995 (IT/97) ("Disciplinary Procedure"); and

HAVING CONSULTED the President of the Tribunal on the proposed revisions to the Disciplinary Procedure;

HEREBY ISSUES revision one of the Disciplinary Procedure, as attached.



John Hocking
Registrar

Dated this 22nd day of March 2017
At The Hague
The Netherlands

UNITED NATIONS DETENTION UNIT
REGULATIONS FOR A DISCIPLINARY PROCEDURE FOR DETAINEES
(ISSUED APRIL 1995)
(AS AMENDED MARCH 2017)
(IT/97/REV.1)

Regulations for a Disciplinary Procedure for Detainees (“Regulations”)

Issued by the Commanding Officer and the Registrar of the International Criminal Tribunal for the former Yugoslavia (“Tribunal”), pursuant to Rules 40-41 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or otherwise Detained on the Authority of the Tribunal (“Rules of Detention”).

General Provisions

Regulation 1

- A) These Regulations apply to all detainees of the United Nations Detention Unit (“Detention Unit”) and are subject to the provisions of the Rules of Detention and, where applicable, the Rules of Procedure and Evidence of the Tribunal.
- B) The Commanding Officer may authorise staff members and detention officers to exercise the Commanding Officer’s powers and duties under these Regulations in his or her absence. The Commanding Officer will issue a standing order, setting out such delegation of authority.

Regulation 2

- A) No detainee shall be sanctioned except in accordance with these Regulations and the principles of fairness and due process. A detainee shall never be sanctioned twice for the same offence.
- B) Disciplinary sanctions shall be proportionate to the offence for which they are established.
- C) Before imposing disciplinary sanctions, the Commanding Officer shall consider whether and how a detainee’s mental illness or developmental disability may have

contributed to his or her conduct and the commission of the offence or act underlying the disciplinary charge. The Commanding Officer shall not sanction any conduct of a detainee that is considered to be the direct result of his or her mental illness or intellectual disability.

Regulation 3

In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- A) Indefinite or prolonged solitary confinement pursuant to Rule 45 of the Rules of Detention;
- B) Placement of a detainee in a dark or constantly lit cell;
- C) Corporal punishment or the reduction of a detainee's diet or drinking water;
- D) Collective punishment.

The suspension of family and intimate visits and the use of instruments of restraint shall never be applied as a sanction for disciplinary offences.

Regulation 4

The following conduct shall constitute a disciplinary offence:

- A) Failure to obey an order or instruction given by a member of staff of the Detention Unit;
- B) Verbal abuse directed at a member of staff of the Detention Unit, another detainee or any visitor to the Detention Unit;
- C) Violent behaviour or aggression towards a member of staff of the Detention Unit, another detainee or any visitor to the Detention Unit;
- D) Possession of any object or substance prohibited under the Rules of Detention;
- E) Repeated misconduct after a warning has been given pursuant to Regulation 8;
- F) Undertaking or attempting to arrange escape from custody;

- G) Intentionally obstructing a member of staff, or any person who is at the Detention Unit for the purpose of working there, in the performance of his or her work;
- H) Destroying or damaging any part of the Detention Unit or any property other than his or her own;
- I) Breaching the rules and regulations relating to detention issued by the Tribunal, if this endangers the security and good order of the Detention Unit or the safety of any person;
- J) Inciting or attempting to incite another detainee to commit any of the foregoing offences.

Initial Procedure

Regulation 5

Where a detainee is suspected of a disciplinary offence, the Commanding Officer shall be informed immediately. A record shall be kept of the time and full details of the alleged disciplinary offence.

Regulation 6

If a detainee refuses to obey an order or instruction given by a member of the staff of the Detention Unit, the Commanding Officer shall be called immediately and, in accordance with these Regulations, shall determine whether the detainee is justified in refusing to obey such order or instruction.

Temporary Measures

Regulation 7

- A) A member of staff of the Detention Unit who has witnessed or been involved in an alleged disciplinary offence may impose temporary measures to stabilise the situation, such as restriction of the detainee to his or her cell, until the Commanding Officer or the senior officer on duty can be summoned, provided that such period does not exceed one hour during day-time or eight hours at night.

- B) The Commanding Officer or senior officer on duty may continue, vary or revoke such temporary measures pending completion of the investigation of the alleged disciplinary offence pursuant to Regulation 9 of these Regulations, provided, however, that the period of such temporary measures shall not exceed twelve hours in total.

Warning

Regulation 8

The Commanding Officer shall issue a warning to the detainee if he or she considers it sufficient to maintain the security and good order of the Detention Unit. A warning constitutes a reminder of the applicable rules and regulations relating to detention issued by the Tribunal and is not a sanction. A record shall be kept of every instance of the use of a warning issued to a detainee.

Investigation

Regulation 9

- A) If a warning is not sufficient to maintain the security and good order of the Detention Unit, the Commanding Officer shall initiate an investigation into the alleged disciplinary offence.
- B) As part of the investigation, the Commanding Officer shall inform the detainee of the alleged disciplinary offence and shall offer the detainee an opportunity to explain his or her behaviour, with the assistance of an interpreter if necessary.

Disciplinary Sanctions

Regulation 10

- A) If the Commanding Officer concludes that the detainee has committed a disciplinary offence, he or she may impose any of the following sanctions, or a combination thereof:
- i) Oral or written reprimand;

- ii) Written notice of suspended sanctions to come into effect immediately upon a further breach of these Regulations within a period of not more than three months from the date that the detainee receives the written notice;
 - iii) Removal or reduction of privileges or of the use of personal possessions, e.g., television, radio or books, for a period not exceeding one week;
 - iv) Monetary fine to be paid from the detainee's personal funds;
 - v) Solitary confinement in accordance with Rules 44bis-49 of the Rules of Detention.
- B) Monetary fines shall only be used after sanctions under paragraph A) i)-iii) have been imposed and if the detainee repeats the offence. The fine imposed shall be proportionate to the disciplinary offence committed. If the disciplinary offence consists of a violation of Rules 14(A) and 74 of the Rules of Detention, the prohibition of retention of money or valuables, the monetary fine shall consist of a percentage of the value of the money or valuables found. For all other disciplinary offences for which a monetary fine is imposed, the fine shall be determined as a percentage of the funds that the detainee possesses.

Regulation 11

- A) Each sanction shall be explained to the detainee in a language he or she understands. The Commanding Officer shall also inform the detainee of his right to appeal to the President of the Tribunal ("President") pursuant to Regulation 12.
- B) The Commanding Officer shall prepare a written record of the disciplinary sanction imposed and reasons therefor and provide a copy to the detainee. If the detainee does not understand the language in which the record is written, he or she shall receive a translation in a language he or she understands as soon as possible and not later than 12 hours after the imposition of the disciplinary sanction.

Right of Appeal to the President

Regulation 12

- A) A detainee may appeal to the President both against the determination of a disciplinary offence and the disciplinary sanction imposed.

- B) Counsel for the detainee may assist the detainee in connection with any such appeal.
- C) The detainee must submit his or her appeal, orally or in writing, to the Commanding Officer within 24 hours of receiving the written record of the disciplinary sanction in a language he or she understands.

Regulation 13

- A) The Commanding Officer shall forward the detainee's appeal to the Registrar immediately.
- B) The Registrar shall forward details of the appeal to the President within 24 hours of receipt.

Regulation 14

A disciplinary sanction remains in force, pending the outcome of the appeal.

Regulation 15

- A) The appeal proceedings may be conducted orally or in writing, as the President determines.
- B) The President shall notify the detainee of the outcome of the appeal in writing, in a language he or she understands, within three days of receipt of the appeal. The President may order the restoration of privileges, repayment of any fine imposed, cancellation of any reprimand or suspended sentence, immediate release from solitary confinement, or any other action he or she deems fit.

