



UNITED NATIONS
NATIONS UNIES



**International Criminal Tribunal for Rwanda
Tribunal Pénal International pour le Rwanda**

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**PRACTICE DIRECTION
ON SITE VISITS**

Rule 4 of the Rules of Procedure and Evidence (“Rules”) provides that “[a] Chamber or Judge may exercise their functions away from the Seat of Tribunal, if so authorized by the President in the interests of justice.”

In accordance with Rule 19(B) of the Rules and having consulted with the Bureau, the Registrar and the Prosecutor of the Tribunal, I issue this Practice Direction in order to facilitate the planning of site visits by Trial Chambers and the parties and to ensure that uniform practices are followed.

1. WHETHER TO CONDUCT SITE VISITS

- 1.1 A Trial Chamber shall, no later than 30 days before the closure of the evidence phase, invite all parties to make written submissions within 14 days following that announcement as to whether a visit to Rwanda should be conducted. The submissions shall specify the sites, if any, a party requests to visit, the relevance of the proposed sites to issues in the trial and the purpose thereof.
- 1.2 In its submissions, the Defence shall indicate whether the accused consents to the visits being conducted in his or her absence, in the event that the accused cannot participate due to compelling security or other reasons. If the accused does not consent, the Chamber must consider whether the purpose of the purported site visits justifies the limitations put on the accused’s right to be present and, where possible, restrict the scope of the site visits to minimize those limitations.
- 1.3 Before the closure of the evidence phase and before making a final decision, the Chamber shall inform the President of the estimated number of days the visit will take and the number of staff to participate, and seek the President’s authorization.
- 1.4 If the President approves that a visit to Rwanda be conducted and the Chamber, in accordance with the requests of one or more parties or *proprio motu*, finds that such a visit could substantially assist it in the assessment of the evidence, it shall deliver its *decision no* later than seven days after the closure of the evidence phase in the case. The decision shall include the itinerary and indicate the sites to be visited.

2. THE TIMING OF A VISIT TO RWANDA

The visit shall take place after the closure of the evidence phase and before the date set for the filing of closing arguments. It shall commence no later than 30 days after the Chamber’s decision.

3. PARTICIPANTS

The composition of the delegation shall not at any time exceed:

- (i) The Trial Chamber;
- (ii) Chambers staff member(s) as approved by the President;
- (iii) Defence Counsel and one other member of the Defence team or teams;
- (iv) Prosecution Counsel and one other member of the Prosecution team, in multi-accused cases one additional team member per additional accused;
- (v) Staff appointed by the Registrar to provide assistance with respect to:
 - (a) coordination functions;
 - (b) witness and victims protection issues;
 - (c) record taking;
 - (d) security;
 - (e) transportation; and
 - (f) audio and video recording, if requested by the Chamber.

4. THE PREPARATION FOR THE VISIT

The Registry shall organize transportation and security for the locations to be visited and, where required, shall obtain permission for access for the participants to particular locations from authorities or others responsible.

5. THE PROCEDURE ON LOCATION

- 5.1 The representative(s) of the Witnesses and Victims Support Section shall advise the Trial Chamber and the parties how to avoid any risk that the identity of protected witnesses be revealed with respect to specific sites.
- 5.2 The Party who has requested that a particular site be visited or, in the case of a visit *proprio motu*, the representatives of the Registry shall guide the participants to the specific locations within the areas to be visited as detailed in the site visit itinerary.

- 5.3 Upon arrival at a location, the Trial Chamber shall briefly introduce the location for the record. The Trial Chamber and the parties shall inspect the sites in accordance with the Chamber's original decision.
- 5.4 Where necessary, Counsel for the Prosecution and the Defence may make observations for the record of a strictly factual nature, without giving any commentary regarding events that are alleged to have occurred there. The parties may refer to the indictment for purposes of referencing. Observations of a factual nature are those that pertain to what can be observed or perceived, such as the distance to or visibility of an area and the condition in which a specific place is found. Submissions of an argumentative or legal nature shall not be allowed.
- 5.5 *Proprio motu*, or at the request of a party, the Trial Chamber may decide:
- (i) to have measurements or photographs taken or audio or video recordings made;
 - (ii) to invite the parties to further specify what to observe or to inspect;
 - (iii) to inspect other locations nearby where relevant; and
 - (iv) to put questions to site visit participants.
- 5.6 No witness statements shall be taken, including statements as to possible changes in the appearance of the location since the relevant event took place.
- 5.7 Neither the parties nor the Trial Chamber shall address questions of a factual or a legal nature to persons found at the locations visited, particularly regarding the condition of the site in 1994.
- 5.8 The parties shall not be allowed to argue their observations or address individual Judges outside the presence of the opposing party or the other Judges.
- 5.9 The Trial Chamber shall not declare any findings or indicate its observations.

6. THE REPORT

- 6.1 The report shall indicate the time and participants of each visit, what was inspected and the parties' observations, if any, in accordance with sections 5.3 and 5.4 and what was audio or video recorded.

6.2 The report with video recordings and transcription of audio recordings, if any, shall be filed by the Registry no later than seven days after the conclusion of the visit and shall be in evidence.

7. VARIATION OF THE TIME LIMITS

7.1 A Trial Chamber may, upon the request of a party or *proprio motu*, vary the time limits under sections 1, 2 and 6 or the number of participants under section 3 (iii) and (iv) if good cause necessitates a variation.

7.2 A party seeking variation pursuant to section 7.1 from the Trial Chamber shall do so in advance and shall provide an explanation of the circumstances necessitating the variation sought.

8. THE PARTIES' SUBMISSIONS ON SITE VISITS

The parties' submissions, if any, on the site visits, the report and the audio and video recordings, if any, shall be included in the parties' closing briefs and be addressed by the Chamber in the judgement.

DATED IN ARUSHA, this 3 May 2010

Dennis Byron
President