

GUIDE ON SUBMITTING REQUESTS FOR ASSISTANCE ADDRESSED TO AND/OR THROUGH THE REGISTRY

I. Introduction

1. Article 28, paragraph 3, of the Statute of the International Residual Mechanism for Criminal Tribunals (“Statute” and “Mechanism”, respectively) provides, in relevant parts, that “[t]he Mechanism shall respond to requests for assistance from national authorities in relation to investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in the countries of former Yugoslavia and Rwanda [...]”.
2. The Registry is responsible for the creation and preservation of a full and accurate record of all proceedings and evidence in accordance with Rule 95 of the Rules of Procedure and Evidence (“Rules”),¹ and to provide access to all the public particulars of each case through its Record Book pursuant to Rule 34 of the Rules.
3. Records of proceedings and evidence (“Judicial Records”) pursuant to the Statute and the Rules include the official Judicial Records of the cases of the Mechanism, the International Criminal Tribunal for Rwanda (“ICTR”), and the International Tribunal for the former Yugoslavia (“ICTY”). Judicial Records include, but are not limited to, filings, transcripts, audio and video recordings of hearings, and exhibits.
4. The Registry manages and provides access to the Judicial Records of the Mechanism, ICTR and ICTY, through its Judicial Records Unit (“JRU”), in accordance with the Mechanism’s Statute,² the Rules, any applicable judicial order, and the Secretary-General’s bulletin “International Criminal Tribunals: information sensitivity, classification, handling and access” (ST/SGB/2012/3).³
5. This Guide provides an overview of requests for assistance (“RFAs”) from national authorities, judicial authorities and/or specifically authorised individuals that are addressed to and/or through the Registry. It provides guidance on the submission of RFAs and the applicable legal and/or policy provisions RFAs may be subject to. It also provides information on the processing of RFAs.
6. The following types of RFAs are covered by this Guide:
 - (1) Requests for certified copies of public judicial records and/or related information;
 - (2) Requests pursuant to Rule 86 of the Rules; and
 - (3) Requests pursuant to Rule 87 of the Rules.

¹ Available at: <https://www.irmct.org/en/documents>

² *Ibid.*

³ Available at:

<https://undocs.org/Home/Mobile?FinalSymbol=ST%2FSGB%2F2012%2F3&Language=E&DeviceType=Desktop&LangRequested=False>

II. Requests for certified copies of public judicial records and/or related information

7. Requests for certified copies of public judicial records may be submitted by a national or judicial authority (“Requester”) and may include requests for certified copies of filings, exhibits, transcripts, and/or audio-video recordings of ICTR, ICTY or Mechanism cases. Requests for related information may pertain to statistics or case specifics.
8. Where possible, requests for certified copies of public judicial records and/or related information should be transmitted via email to the following dedicated Mechanism inboxes:

Mechanism, Arusha branch: RegistryRequestsArusha@un.org

Mechanism, The Hague branch: RegistryRequestsHague@un.org

The email subject line should include the word “Request”.

9. On an exceptional basis, requests for certified copies of public judicial records and/or related information may be submitted in paper format by hand or by post to one of the two branches of the Mechanism.
10. Requests for certified copies of public judicial records and/or related information must include the following information:
 - (a) the name of the Requester conducting the investigation or court proceeding;
 - (b) the precise purpose for which the assistance is sought;
 - (c) the specific details identifying the requested records or information, including the case name and number, date of testimony of the witness, witness name or pseudonym, exhibit number, tendering party, date of admission, document title;
 - (d) the specification of any time-limit to be complied with if possible; and
 - (e) any other information necessary for the processing of the request.
11. The JRU shall acknowledge the receipt of the request for certified copies of public judicial records and/or related information to the Requester within two working days.
12. Within two weeks, the JRU will review the request and may do one of the following:
 - (a) provide the certified public judicial records and/or related information to the Requester;
 - (b) inform the Requester by when the certified public judicial records and/or related information will be provided if the request concerns a large number of records and/or information;
 - (c) request additional information necessary for the processing of the request for certified copies of public judicial records and/or related information; or
 - (d) reject the request for certified copies of public judicial records and/or related information if it is not in line with the Statute or Rules.

13. If the time required to provide the certified public judicial records and/or related information to the Requester exceeds two weeks, the JRU will determine and advise the Requester accordingly and of the estimated timeline for implementation. Such determination will be conducted on a case-by-case basis, taking into the consideration the scope of the RFA, any urgency indicated by the Requester, as well as any other relevant information.
14. Unless otherwise agreed, the ordinary administrative costs associated with the implementation of a request for copies of certified judicial records and/or related information may be borne by the Mechanism, whereas expenses of a substantial or extraordinary nature shall be borne by the Requester. The JRU will inform the Requester of any expenses of a substantial or extraordinary nature as soon as practicable after receiving the request.

III. Requests pursuant to Rule 86 of the Rules

15. A judge or bench in another jurisdiction or parties in another jurisdiction authorised by an appropriate judicial authority, as well as a victim or witness for whom protective measures have been ordered by the ICTR, the ICTY or the Mechanism, may request, pursuant to Rule 86 of the Rules (“Rule 86 Applicant” and “Rule 86 Application”, respectively):
 - the identification or confirmation of protective measures of a victim or witness for whom protective measures have been ordered by the ICTR, the ICTY or the Mechanism by applying to the President of the Mechanism pursuant to Rule 86(F) of the Rules; and/or
 - to rescind, vary, or augment protective measures ordered in proceedings before the ICTY, the ICTR, or the Mechanism by applying to the President of the Mechanism, pursuant to Rule 86(H) of the Rules.
16. Rule 86 Applications are submitted to the President and subject to judicial determination by a Single Judge or Chamber assigned by the President. Relevant information regarding the submission of Rule 86 Applications and the handling thereof is contained in the *Practice Direction on Procedure for the Variation of Protective Measures Pursuant to Rule 86(H) of the Mechanism’s Rules of Procedure and Evidence for Access to Confidential ICTY, ICTR and Mechanism Material*, adopted on 23 April 2013 (MICT/8) (“Rule 86 Practice Direction”).⁴

The Rule 86 Practice Direction is available at:
<https://www.irmct.org/sites/default/files/documents/130423-practice-direction-procedure-variation-protective-measures-mict-8.pdf>

17. Rule 86 Applications shall be submitted for filing before the President through the JRU in accordance with the *Practice Direction on Judicial Records*, adopted on 25 May 2023 (MICT/42) (“Practice Direction on Judicial Records”).

⁴ MICT/8 is related to Rule 86(H) only but its provisions should be applied to Rule 86(F) *mutatis mutandis*.

The Practice Direction on Judicial Records is available at:
<https://www.irmct.org/sites/default/files/documents/MICT-42-Practice-Direction-on-Judicial-Records.pdf>

A Short Guide for Filing of Documents Before the Mechanism is available at:
https://www.irmct.org/sites/default/files/documents/public-guide-for-unmict-filings_en.pdf

18. Rule 86 Applications must be accompanied by a transmission sheet, completed in accordance with the relevant instructions.

The *Transmission Sheet and Instructions for the Completion of Transmission Sheets* are available at: <https://www.irmct.org/en/documents>

19. When the President assigns the Rule 86 Application to a Single Judge or Chamber, the JRU will serve the assignment order to the Rule 86 Applicant and provide the Rule 86 Application and any other related records to the assigned Single Judge or Chamber, unless otherwise ordered by the President.
20. If the Rule 86 Application is granted or partly granted by the Single Judge or Chamber, the JRU will serve the decision granting or partly granting the application to the Rule 86 Applicant, unless otherwise ordered by the Single Judge or Chamber. Further, in line with the Single Judge's or the Chamber's decision and in coordination with other relevant Registry sections, the JRU will provide the relevant access to the requested certified confidential records and/or information to the Rule 86 Applicant, consistent with the terms of any relevant judicial order.
21. Once the Rule 86 Applicant confirms receipt of the relevant certified confidential records and/or information, the JRU will file on the case record a notice of compliance with the Single Judge's or Chamber's decision, with the proof of delivery to the Rule 86 Applicant attached.
22. If the Rule 86 Application is rejected, the JRU will serve the decision rejecting the application to the Rule 86 Applicant, unless otherwise ordered by the Single Judge or Chamber.

IV. Requests pursuant to Rule 87 of the Rules

23. A Judge or bench in another jurisdiction or parties in another jurisdiction authorised by an appropriate judicial authority may seek, pursuant to Rule 87 of the Rules, assistance from the Mechanism in obtaining the testimony of a person under the authority of the Mechanism for use in an ongoing investigation or prosecution of persons responsible for serious violations of international humanitarian law in the countries of former Yugoslavia and Rwanda in that jurisdiction ("Rule 87 Applicant" and "Rule 87 Application", respectively).

24. Rule 87 Applications are submitted to the President and subject to judicial determination by a Single Judge or Chamber assigned by the President. Rule 87 Applications shall be submitted for filing before the President through the JRU in accordance with the Practice Direction on Judicial Records.⁵
25. Rule 87 Applications are required to include the following information:
- the fact that the application is made pursuant to Rule 87 of the Rules. This information must be included on the cover page of the application;
 - the name of the Rule 87 Applicant, and if applicable, the competent authority conducting the investigation or court proceeding;
 - the name of the person under the authority of the Mechanism whose testimony is sought;
 - the relevance of the testimony sought to the investigation or court proceeding of the Rule 87 Applicant;
 - the precise purpose for which the testimony is sought;
 - the legal provision under national law pursuant to which the testimony is sought;
 - the date or time frame within which the testimony is sought; and
 - any other information necessary for the processing of the application, including proof of authorisation by an appropriate judicial authority, if applicable.
26. When the President assigns the Rule 87 Application to a Single Judge or Chamber, the JRU will serve the assignment order to the Rule 87 Applicant and provide the Rule 87 Application and any other related records to the assigned Single Judge or Chamber, unless otherwise ordered by the President.
27. If a Rule 87 Application is granted, the JRU will serve the decision granting the application to the Rule 87 Applicant, unless otherwise ordered by the Single Judge or Chamber. Further, in line with the Single Judge's or Chamber's decision and in coordination with other relevant Registry sections, the JRU will make the necessary arrangements for the Rule 87 Applicant to obtain the requested testimony in accordance with the provisions of Rule 87 of the Rules.
28. If the Rule 87 Application is rejected, the JRU will serve the decision rejecting the application to the Rule 87 Applicant, unless otherwise ordered by the Single Judge or Chamber.

⁵ See paras. 16-18 above.