

UNITED NATIONS



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

IT/254

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PRACTICE DIRECTION ON PROCEDURE FOR THE VARIATION OF PROTECTIVE MEASURES PURSUANT TO RULE 75 (H) OF THE RULES OF PROCEDURE AND EVIDENCE OF THE INTERNATIONAL TRIBUNAL FOR ACCESS TO CONFIDENTIAL TRIBUNAL MATERIAL

(IT/254)

**PRACTICE DIRECTION ON PROCEDURE FOR THE VARIATION OF
PROTECTIVE MEASURES PURSUANT TO RULE 75 (H) OF THE RULES
OF PROCEDURE AND EVIDENCE OF THE INTERNATIONAL TRIBUNAL
FOR ACCESS TO CONFIDENTIAL TRIBUNAL MATERIAL**

In accordance with Rule 19(B) of the Rules of Procedure and Evidence of 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 (“Rules” and “Tribunal”, respectively), and having consulted with the Bureau, the Registrar and the Prosecutor, I issue this Practice Direction in order to establish a procedure for the variation of protective measures pursuant to Rule 75 (H) of the Rules for access to confidential Tribunal material.

Fausto Pocar
President

Dated this 4th day of February 2008
At The Hague
The Netherlands

Submission of Applications

1. An application submitted pursuant to Rule 75 (H) of the Rules by a Judge or Bench in another jurisdiction or parties in another jurisdiction authorised by an appropriate judicial authority to rescind, vary or augment protective measures ordered in proceedings before the Tribunal shall be addressed to the President of the Tribunal, filed with the Registry of the Tribunal, and include:
 - (a) the fact that the application is made pursuant to Rule 75(H) on the cover page of the application;
 - (b) the name of the applicant and the competent authority conducting the investigation or court proceeding;
 - (c) the name of the Tribunal proceeding from which the material is sought and the case number whenever possible;
 - (d) the specific details related to the material that is being sought; for example, the date of the witness testimony, the witness name or the pseudonym used to identify the witness, and the exhibit number;
 - (e) separate applications must be submitted where the requested material is sought from more than one Tribunal proceeding;
 - (f) the relevance of the material sought to the investigation or court proceeding of the applicant;
 - (g) the precise purpose for which the material is sought;
 - (h) the specification of any time-limit to be complied with; and
 - (i) any other information necessary to the processing of the application.

All applications must be submitted in an electronic format, preferably using the Portable Document Format (PDF), to the following email address: CourtAssistants@icty.org.

2. An application that fails to conform to the requirements of specificity identified above may be returned to the applicant with a request for additional information as the Tribunal deems necessary.

For the purposes of this Practice Direction “Tribunal Material” shall include but not be limited to case filings, exhibits, transcripts, video and audio recordings.

Provision of Material

3. (a) Unless otherwise ordered by the Chamber, only 1 (one) copy of the material to which access has been granted may be provided to the applicant.
- (b) Where an applicant is granted access to physical exhibits from the Tribunal Material, those exhibits must be returned to the Tribunal as soon as possible following completion of the purpose for which the material was sought or at such time as requested by the Registry of the Tribunal.

Limitation on Use and Protection of Confidentiality

4. (a) No protected material provided pursuant to Rule 75(H) shall be used for any other purpose than that which is approved in the decision or order of the Chamber granting the application.

- (b) Any evidence and information provided by the Tribunal shall be kept confidential in accordance with the conditions set out in the decision or order by the Chamber granting the application.
- (c) Where an application is made confidentially, the Tribunal and the applicant shall maintain the confidentiality of the application, its contents, its supporting documents, and the decision or order of the Chamber, unless otherwise ordered by the Chamber.

Certification and Authentication

- 5. Unless otherwise ordered by the Chamber, the form of certification or authentication (if required) for Tribunal Material supplied in response to an application shall be determined by the Registry of the Tribunal.

Costs

- 6. Unless otherwise agreed or determined by the Chamber, the ordinary administrative costs of executing a Decision or Order of a Chamber granting an application may be borne by the Tribunal and expenses of a substantial or extraordinary nature shall be borne by the applicant.