

Registry Guidelines on Site Visits

22 March 2010





COURT MANAGEMENT AND SUPPORT SECTION (CMSS) **GUIDELINES FOR SITE VISITS**

I. Introduction:

A site visit ordered by a Chamber pursuant to Rules 4 and 54 of the Rules of Procedure and Evidence (“Rules”) constitutes an “on-scene” visit by the Chamber to various sites relevant to the case at hand, attended by representatives of the OTP and Counsel for the Accused (“Parties”). Conduct of a site visit is also governed by Rule 89(B) of the Rules. A site visit constitutes a court ‘hearing’ at a place other than the seat of the Tribunal. In accordance with Article 81(A) of the Rules, the Registry is represented by a CMSS Court Officer assigned by the Registrar, to make a full and accurate record of the site-visit

II. Preliminary Matters Prior to the Site-Visit:

An order for a site visit issued by a Chamber is preceded by a Motion from one or both Parties in which the Chamber is requested to conduct an on-site visit to specified locations relevant to the case. If the Chamber is satisfied that the grounds as set out by the Parties for the conduct of a site visit establish that such a visit will be of assistance to the Chamber, and that the grounds meet the requirements of Rule 4, that is, that such a visit is in “the interest of justice”, then the Chamber submits a request for approval to hold a site visit to the President of the Tribunal. Once the President has approved the site visit, the Chamber will issue a Decision and Order granting the site visit. The Decision and Order normally will include an itinerary and precise dates and locations to be visited, and general information regulating the site visit.

Subject to budget restrictions, every effort will be made to include the presence of an ITSS technician in the delegation. This will be an added safeguard to prevent loss of data and will also facilitate the downloading of recorded materials from the source. The presence of a qualified technician will also ensure that the recordings are of a professional standard and quality worthy of a judicial record.

III. The Record of the Site Visit:

In accordance with Rule 81, the Registry is tasked with the responsibility of making a full and accurate record of the site visit. This includes an audio record of each location visited, reflecting the observations made by the Judges and the Parties, including, if required, the respective investigators, as well as any observations made by the Court Officer, and the locations viewed during the site visit.

Upon the conclusion of the site visit, the Registry shall request a transcript of the audio recordings. The audio recordings and the transcripts may subsequently be admitted into evidence by the Chamber.

In addition to audio recordings, the Chamber may deem necessary that video recordings of the site visit be made. When video recordings are made, they shall include both the visual image and the audio recording, where possible. However, the official version of the record to be made shall come from the audio recording, unless otherwise specified by the Chamber. With respect to video recordings, where possible, a transcript of all audible comments on the video recording will be requested by CMSS upon conclusion of the site visit. The audio and video recordings and the transcripts may subsequently be admitted into evidence by the Chamber.

IV. The Site Visit:

Upon arrival at a location, the Presiding Judge normally introduces the location for the purposes of the record. At each location, the Parties may make observations as regulated by the Chamber's Order on the site visit. The Parties may also use documents compiled for the purpose of the site visit. The Parties' investigators may also guide the site visit participants to the specific locations to be visited. At any time during the visit to a location, the Judges may make observations and may address questions to those in attendance at the site visit. After all observations have been made at a location, the Presiding Judge shall conclude the site visit at that location.

V. General Responsibilities of the Registry for the Good Governance of the Site Visit:

Considering that the Registry is tasked with ensuring that a full and accurate record is made of the site visit:

- before departing on the site visit, the Court Officer will coordinate a refresher training session with ITSS on operation of all equipment to be used on the site visit, to include operation of the audio and video equipment, and on the procedure for transfer of information to the laptop;
- a complete set of transcripts of the audible audio and video recordings will be requested by the Court Officer upon the completion of the site visit;
- the Court Officer assigned to the site visit will be responsible for complying with the necessary formalities to obtain a mission mobile phone, laptop computer, a still camera, a video camera, sufficient numbers of empty compact disks ("CDs"), and a Dictaphone with a facility for downloading the content on to the laptop computer for use during the site visit, from ITSS;
- the Court Officer, prior to the commencement of the mission, and in consultation with ITSS will be responsible for ensuring that the equipment is in good working order;
- a chain of custody will be maintained by the Court Officer for all the original data constituting the record of the site visit. The equipment borrowed by the Court Officer is to remain in his/her custody, or be secured by the Court Officer when not in his/her immediate custody, for the duration of the mission and until such time that the recordings made therein have been successfully transferred to another compatible medium and sufficiently backed-up for future use as evidence in trial;
- to prevent any loss of data, the operator of the equipment should ensure that the formats prescribed by ITSS for recording are used;
- to guarantee a professional standard and an accurate judicial record, whenever possible, a qualified ITSS technician will be present during the site visit to conduct the making of audio and/or audio visual recordings;
- each record taken during the site visit will be sufficiently checked at the end of each day of the visit to ensure a complete and accurate record has been created. Where the Court Officer determines that an audio or audio visual record for a particular day's visit cannot be heard clearly, or that the record is incomplete, the Court Officer will immediately inform the Presiding Judge on the site visit and follow up as instructed by the Judge;
- at least one back-up copy of the data will be prepared on a daily basis, to prevent loss of material/record in cause of damage etc.;
- on return to the ICTY and before the hard disk of the site visit laptop is cleaned, ITSS and the CMSS Court Officer will each verify in writing that the CMSS Court Officer has confirmed that he/she is in possession of a complete copy of the record.

VI. Data Recording at the Site Visit:

1. Upon arriving at a location, the Court Officer and the ITSS technician, if available, are required to test the necessary equipment, and then indicate to the Presiding Judge that the recording can commence.
2. In the event the Court Officer determines that the equipment is faulty before the site visit commences, he/she shall draw the attention of the Chamber and the Parties to the issue at hand with a view to identifying the available options, including, but not limited to contacting the relevant Field Office to explore the option of making available alternate equipment, or as a last resort re-schedule the visit to the site when a suitable replacement for the defective device is found. If the latter is not an option owing to accessibility and scheduling conflicts, detailed minutes of the observations shall be taken by the Court Officer which will then be memorialised on return to the ICTY.
3. At the conclusion of the day's visit, the recording shall be replayed to test the recording quality and audibility. This is to prevent any loss of data or malfunction.
4. The record of each location visited is to be stored or saved as an individual file or folder for identification and retrieval purposes.
5. At the conclusion of each day's visit, the ITSS technician (when available), or the Court Officer where no ITSS technician is available, should download the recordings to the laptop as a back-up, and further burn at least two copies of the recordings on to CDs as a precaution. Where both a Court Officer and ITSS technician are present at the site visit, the download should be made by the ITSS technician in the presence of the Court Officer. The laptop computer and the burned CDs should NOT be stored in the same location. This is to ensure that in the event that one or the other device is lost, damaged or stolen, a backup of the same will be available. The Court Officer is to ensure that the location of the materials is a secure and reliable one.
6. Upon returning to the ICTY, the Court Officer and ITSS must ensure that before the hard disc or the Dictaphone is cleaned by ITSS, a double-check of the laptop, video camera, and Dictaphone is performed to eliminate any possibility of deleting recordings that have not been backed-up. Confirmation that this has been done should be completed in writing (email is sufficient).
7. The Court Officer should only return the equipment borrowed from ITSS for cleaning after the precautionary back-up procedure enumerated above has been performed.
8. Upon completion of the relevant checks, the Court Officer should commence collating all the data in a chronological order and provide copies of the recordings to the Chamber and the Parties. The audio recording is to be sent to CLSS for transcription.