

**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

IT/192

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**PRACTICE DIRECTION ON PROCEDURE FOR THE IMPLEMENTATION OF
RULE 92bis(B) OF
THE RULES OF PROCEDURE AND EVIDENCE
(the Presiding Officer)**

(IT/192)

Rule 92 *bis* sets out the procedure for the admission into evidence of written statements in lieu of oral testimony. In order for such statements to be admissible, paragraph B of the rule requires:

- a) a declaration by the person making the written statement that the contents of the statement are true and correct to the best of that person's knowledge and belief;
- b) such declaration to be attached to the written statement; and
- c) witnessed by a person authorized to do so in accordance with the law and procedure of a State or by a Presiding Officer appointed by the Registrar of the Tribunal for that purpose; and
- d) that the person witnessing the declaration draws up a certificate pursuant to Rule 92*bis*(B)(ii).

In the case of the appointment of a Presiding Officer pursuant to Rule 92*bis*(B)(i)(b), the following procedure shall apply :

- 1) The party seeking to have one or more written statements admitted as evidence (hereinafter "the requesting party") shall submit a request to the Registrar to appoint a Presiding Officer.
- 2) The requesting party shall inform the Registrar of the following:
 - The number of written statements the party wants to have admitted.
 - the dates and places where the procedure pursuant to Rule 92*bis*B *might* be implemented.
 - The personal data of the persons making the written statements (hereinafter 'witnesses'); i.e.
first and last name.
date and place of birth.
place of residence.
identity card number or passport number.
- 3) The requesting party shall inform the Victims and Witnesses Section of the names and whereabouts of the witnesses. The Victims and Witnesses Section shall provide any necessary support and relevant information for the witnesses.
- 4) Without prejudice to the orders or decisions of a Chamber, the Registrar shall submit recommendations to the requesting party regarding the implementation of the procedure, taking into account the resources of the Tribunal and the availability of the alternative to appointing a Presiding Officer.

- 5) If appropriate, the Registrar shall designate a Presiding Officer for the purposes of Rule 92bis(B). The Presiding Officer may be the Registrar, the Deputy Registrar, or any other person duly mandated to this end.
- 6) The designated Presiding Officer shall make all necessary arrangements for the efficient implementation of the procedure pursuant to article 92bis(B) which shall include a requirement that a representative of the requesting party attend.
- 7) The designated Presiding Officer shall inform the witness of his/her name and position. In this connection, the Presiding Officer shall provide the witness with a copy of the decision, by which the Registrar appointed the Presiding Officer, in a language the witness understands.
- 8) The Presiding Officer shall examine the identifying document of the witness (passport or identity card) in order to verify that the witness is the person identified in the written statement.
- 9) The Presiding Officer shall verify that the statement is provided to the witness in a language he/she understands.
- 10) The Presiding Officer may not make corrections, amendments or additions to the witness's statement. If the witness disagrees with the contents of the statement, or wishes to amend it or add to it, it will be the task of the representative of the requesting party to obtain a complete and final version of the statement. The Presiding Officer may not be involved in any way in the process of correction, amendment or modification of the statement.
- 11) The Presiding Officer shall inform the witness that he/she may be subject to prosecution for giving false testimony, if the contents of the written statement are not true to the best of his/her knowledge and belief; in this connection the Presiding Officer shall provide the witness with the text of Rule 91 of the Tribunal's Rules of Procedure and Evidence in a language which the witness understands.
- 12) The Presiding Officer shall witness the signing of a written declaration (see Annex I) by the witness stating, in a language which the witness understands, that the contents of the statement are true and correct to the best of his/her knowledge and belief and that the witness is aware that he/she may be subject to prosecution for giving false testimony if the contents are not so true and correct.

- 13) The Presiding Officer shall certify the date and place of the above mentioned declaration and sign it.
- 14) The Presiding Officer shall number and certify each page of the witness's statement by means of a UN stamp and shall keep a copy of the certified statement and of the witness's declaration.
- 15) The Presiding Officer shall record the persons present during the making of the declaration and, in the case of the presence of persons other than the representative of the party and the interpreter, shall record the specific reason for their being allowed by the Presiding Officer to be present.
- 16) The Presiding Officer shall draw up a written declaration certifying the events enumerated in Rule 92bis(B)(ii) (see Annex II).

The Registrar

ANNEX I

DECLARATION BY PERSON MAKING A WRITTEN STATEMENT PURSUANT TO RULE 92bis(B)

I, (witness's first and last name, date and place of birth, identity card no. or passport no.), hereby confirm, in the presence of the Presiding Officer (Presiding Officer's first and last name), that the contents of the written statement(s) I made on (date of the statement(s)) and which is (are) now attached to this declaration, are true and correct to the best of my knowledge and belief.

I have also been provided with a copy of Rule 91 of the Tribunal's Rules of Procedure and Evidence in a language which I understand and I understand that I may be subject to prosecution for giving false testimony if the contents of my written statement(s) are not so true and correct.

Done this (date)

At (place)

Witness's signature

Presiding Officer's signature

ANNEX II

ATTESTATION BY THE PRESIDING OFFICER PURSUANT TO RULE 92bis(B)

I, (Presiding Officer's first and last name) Presiding Officer appointed by the Registrar of the International Criminal Tribunal for the Former Yugoslavia on (date) pursuant to Rule 92 bis(B) of the Rules of Procedure and Evidence, with the assistance of a certified interpreter, certify:

- that on (date of the witness's declaration) in (specific place where the witness's declaration is taken), the following person appeared:
 - witness's first and last name
 - date and place of birth
 - identity card no...(or passport no...)
 - habitual residence
- that in the attached statement dated (date of the statement) and certified by the undersigned on (date of the Presiding Officer's certification of the statement) the said (witness's first and last name) is identified as his (her) author.
- that (witness's first and last name) was provided with a version of the said statement in a language that he (she) understands.
- that (witness's first and last name) was informed, in a language that he (she) understands, by the Presiding Officer that if the contents of the written statement are not true to the best of his (her) knowledge and belief then he or she may be subject to proceeding for giving false testimony.
- that (witness's first and last name) was provided with a text of Rule 91 of the Rule of Procedure and Evidence, in a language he (she) understands.
- that (witness's first and last name) declared that the content of his (her) written statement are true and correct to the best of his (her) knowledge and belief.

- that no pressure was brought to bear on the witness and that he (she) voluntarily signed the attached declaration dated (date of the declaration).
- that the following persons were present during the said declaration:
(in the case of the presence of persons other than the representative of the party and the interpreter, the specific reasons for allowing the presence of the concerned persons shall be specified).

Done this (date)

At (place)

Signature of the Presiding Officer