

VIEW FROM THE HAGUE

WITNESSES GIVEN EVERY SUPPORT TESTIFYING BEFORE THE ICTY

Without witnesses who are ready to appear before the court, there would be no war crimes trials and no International Criminal Tribunal for the former Yugoslavia (ICTY).

At the trials held in Nuremberg after World War II, the court was presented with abundant documentary evidence of crimes - for example, written orders for mass killings, meticulous records of troop activity, log-books from concentration camps. Possibly as a consequence, in modern day warfare such explicit written records of committed crimes do not really exist. This is why war crimes trials rely greatly on testimony of those who personally witnessed the horrors of war.

In such trials, just like in organised crime cases, there are many security issues involved. In addition to that, witnesses of war crimes are often traumatised by their experience and reliving it through testimony in a foreign environment such as an international court of law, can be a harrowing ordeal. This is why it is important that the witnesses are also provided with psychological support and assistance in relation to their testimony.

The ICTY considers all these issues of great importance. This is why it has established a specialised section within the Tribunal's Registry, called the Victims and Witnesses Section (VWS) to provide assistance to all those coming to perform this very important duty before the ICTY.

The Victims and Witnesses Section consists of three units: the Protection Unit which co-ordinates responses to the security requirements, the Support Unit which provides social and psychological counseling and assistance to witnesses, and the Operations Unit which is responsible for logistical operations and witness administration.

When an individual is identified, by any party involved in the proceedings, as a witness, he/she will be contacted by the VWS and provided with all the necessary assistance for travel to and accommodation and transportation in The Hague . As in national systems, witnesses that testify before the Tribunal receive compensation. There are two different types of payment: one is a "daily allowance" and the other termed "the attendance allowance". The daily allowance covers incidental expenses witnesses incur while in The Hague. The attendance allowance is paid for the duration of their travel and stay in The Hague . It is set at the rate of a minimum United Nations salary in the country where the witness resides and is designed to compensate the witness for any lost wages, economical loss and the expenses at their home for the time they are away.

The support officers of the VWS can also assist witnesses with special needs, such as those with dependent children or other members of family who need to accompany the witness or who need care while they are away from home. They may also be able to assist witnesses with special services if they suffer from any disabilities or conditions that cause difficulty in traveling or being away from home, or if they require a family member or friend to travel with them. In each case, the support officers will assess the individual requirements and determine eligibility for assistance. All of these rules apply to both the prosecution and defence witnesses, as well as those invited by the Chamber to testify.

When it comes to testimony in court, some witnesses testify in open court without any protection while others ask for protective measures. Thanks to the advanced technology available in the Tribunal's courtrooms, the witnesses can have varying degrees of protection. The simplest is the use of a pseudonym, whereby the witness real name is not revealed to the public, but he/she testifies in open court. Another option is digital facial or voice distortion or both. In such cases, the public cannot see the face of the witness or hear their real voice - either one or both will be digitally altered. However, the public will nevertheless hear the content of the testimony. In some cases all of these measures may be implemented at the same time. In others, the court can decide that the witness will testify in closed session which means that the public will not be able to see or hear the witness or learn the content of his/her testimony.

In all of these cases, however, the identity of the witness is known to both parties in the proceedings and the lawyers representing them are allowed to cross-examine all witnesses, including those who are testifying under protection measures.

In the most extreme situations, when there is a threat to the life of a witness, which is so serious that they cannot return home by virtue of their testimony, the VWS can arrange for a temporary or permanent relocation of the witness and close relations, to a different country.

These measures are more advanced than in many national systems. This is only because testimony of witnesses and victims are of crucial importance in war crimes trials and everything should be done to make it possible to do this without fear for their wellbeing and the safety of their families.

Outreach Programme

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