



# **SPECIAL COURT FOR SIERRA LEONE**

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## **Practice Direction on Allowances for Witnesses and Expert Witnesses Testifying in The Hague**

Adopted on 8 June 2007

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## PREAMBLE

The Registrar of the Special Court for Sierra Leone,

Considering the Statute of the Special Court for Sierra Leone as annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, signed on 16 January 2002, and in particular Article 16 (4) thereof;

Considering the Rules of Procedure and Evidence of the Special Court for Sierra Leone as applicable pursuant to Article 14 of the Statute, and in particular Rules 33, 34, 69, 71, 75, 85, 90 and 94 *bis* thereof;

Considering the Headquarters Agreement between the Special Court for Sierra Leone and the Kingdom of the Netherlands, signed on 19 June 2006, and in particular its preamble;

Noting that proper assistance to witnesses should be provided throughout the legal process and that inconvenience to witnesses should be minimized;

Noting the need for witnesses and expert witnesses to know the types and amounts of allowances they shall be provided for the days spent on travels and away from home, in connection with testifying;

Noting that by testifying, witnesses and expert witnesses should not lose physically, mentally and financially and that they should be able to testify in the best physical and mental conditions;

Hereby issues with the approval of the Council of Judges the Practice Direction on Allowances for Witnesses and Expert Witnesses Testifying in The Hague as follows:

## BASIC PROVISIONS

### Article 1 – Definitions

(A) Under this Practice Direction, the following terms shall mean:

Agreement	The Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, signed in Freetown on 16 January 2002;
Chambers	The Chambers of the Special Court referred to in Article 12 of the Statute;
Expert Witness	A person who gives or is due to give expert testimony before a Chamber as a result of being called by the parties in accordance with Rule 94 <i>bis</i> of the Rules; and/or as a result of being summoned by a Judge or a Chamber in accordance with Rule 54 of the Rules;
Finance Section	The Finance Section of the Registry of the Special Court;



Parties	The Prosecutor or the Defence;
Practice Direction	The Practice Direction on Allowances for Witnesses and Expert Witnesses;
Registrar	The Registrar of the Special Court appointed pursuant to Article 16 of the Statute;
Rule 71 witness	A person who, under Rule 71 of the Rules, gives a deposition;
Rules	The Rules of Procedure and Evidence of the Special Court for Sierra Leone, as first amended on 7 March 2003 and as amended thereafter;
Special Court	The Special Court for Sierra Leone established by the Agreement;
Statute	The Statute of the Special Court for Sierra Leone annexed to the Agreement;
Travel Unit	The Travel Unit of the Registry of the Special Court;
Witnesses and Victims Section	The Witnesses and Victims Section referred to in Rule 34 of Rules; and
Witness	A person who gives or is due to give testimony before a Chamber as a result of being called by the parties; summoned by a Judge or a Chamber under Rule 54 of the Rules; or ordered by a Chamber to give testimony by deposition under Rule 71 of the Rules or via communications media, including video and closed-circuit television, under Rule 85 of the Rules.

(B) In this Practice Direction, the masculine shall include the feminine and the singular the plural, and vice versa.

### **Article 2 – Responsibility for Payment of Allowances**

(A) The costs of allowances necessarily and reasonably incurred by witnesses and expert witnesses as a result of testifying before a Chamber shall be met by the Special Court as set out in the Practice Direction, subject to the budgetary provisions, rules and regulations, and practice set by the Special Court.

(B) The Finance Section shall ensure the payment of all allowances for all witnesses and expert witnesses. The Witnesses and Victims Section shall provide the Finance Section with the necessary information to enable such payments, including but not limited to the country of residence of the witnesses.

### **Article 3 – Delegation of Authority**

The Registrar may delegate any of his authority under the provisions of this Practice Direction to the Chief of the Witnesses and Victims Section.

#### **Article 4 – Accommodation**

The Special Court shall provide and arrange accommodation for witnesses when required in The Hague, and during travel to and from The Hague.

#### **Article 5 – Meals**

The Special Court shall provide and arrange meals for witnesses who require accommodation.

#### **WITNESSES ALLOWANCES**

##### **Article 6 - Attendance Allowance**

- (A) The Special Court shall provide witnesses an attendance allowance as compensation for wages, earnings and time lost as a result of testifying. Witnesses shall not be required to submit a request or any supporting documentation in order to receive the attendance allowance.
- (B) The attendance allowance shall be calculated by multiplying:
  - (i) the daily salary of United Nations personnel at the General Services 1 Step 1 level in the country in which the witness is residing at the time he testifies, or for witnesses residing in countries in which there are no United Nations personnel present, a daily wage rate as determined by the Registrar; by
  - (ii) the number of days the witness testifies, including days spent on travels and away from home, in connection with testifying. A part of a day used in connection with testifying shall be considered a full day for the purpose of calculating the attendance allowance.

##### **Article 7 – Daily Subsistence Allowance**

- (A) The Special Court shall provide witnesses with 10% of the Daily Subsistence Allowance applicable in The Hague, as established by the United Nations when such witnesses are provided with accommodation and meals. This amount shall be provided for expenses for the days witnesses testify and days spent on travel.
- (B) The Special Court shall provide witnesses the Daily Subsistence Allowance applicable in The Hague, as established by the United Nations when such witnesses make their own arrangements for accommodation and meals, for the days witnesses testify, including days spent on travel.

#### **Other Allowances for Witnesses**

##### **Article 8 – Travel**

- (A) The Special Court shall provide and arrange transportation necessary for witnesses to travel to and from the location where they testify, including arrangements and costs for any travel documents which may be required.



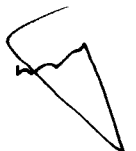
- (B) Travel shall be based on:
- (i) an economy class round trip air ticket by the most direct and economical route or within limits laid down by or subject to prior authorisation of the Registrar;
  - (ii) a public transportation ticket by the most direct and economical route or within limits laid down by and subject to prior authorisation of the Registrar; or
  - (iii) fixed rates as established by the United Nations Schedule of Rates of Reimbursement for Travel by Private Motor Vehicle applicable to different groups of countries and territories, per kilometre travelled on the outward and return travels by the most direct and economical route, on presentation of a statement of travel expenses using the form provided by the Registry.
- (C) Travel by plane envisioned in paragraph (B) (i) shall be provided only for witnesses residing in countries outside The Hague.
- (D) Travel arrangements shall be made by the Travel Unit, for all witnesses testifying before the Special Court in The Hague.

#### **Article 9 – Accompanying Support Persons**

- (A) In exceptional circumstances, based on an assessment and request by the Witnesses and Victims Section, the Registrar may authorise support persons to accompany a witness to and from the location where he testifies where:
- (i) the witness is a child under eighteen years old;
  - (ii) the witness is over sixty years old;
  - (iii) the witness is seriously ill, particularly vulnerable, and/or seriously traumatized; and/or
  - (iv) without the presence of the support person, the witness would not be able, or would be seriously hampered to travel and appear by himself to testify.
- (B) The Special Court shall provide accompanying support persons the same allowances as the witness they accompany except the portion of the Daily Subsistence Allowance covering accommodation when accommodation is shared with the witness.

#### **Article 10 – Accompanying Dependants**

- (A) In exceptional circumstances, based on an assessment and request by the Witnesses and Victims Section, the Registrar may authorise dependants to accompany a witness to and from the location where he testifies when dependants are not able to be without the witness during his absence from home.
- (B) The Special Court shall provide accompanying dependants the same allowances as the witness they accompany except:



- (i) the attendance allowance; and
- (ii) the portion of the Daily Subsistence Allowance covering accommodation when accommodation is shared with the witness.

#### **Article 11 – Medical Expenses**

(A) The Special Court shall provide witnesses with medical treatment by a qualified medical institution or professional if they are sick or injured during the days they testify, including days spent on travels and away from home, in connection with testifying. In exceptional cases, the medical treatment shall be provided before and/or after witnesses travel from home provided that such medical treatment is connected with testifying.

(B) Medical treatment shall cover only injuries and opportunistic diseases and illnesses, and shall not cover the treatment of long-term or permanent illnesses.

#### **Article 12 – Childcare and Other Forms of Care**

(A) Based on an assessment and request by the Witnesses and Victims Section, the Registrar may authorise the payment of childcare expenses or the payment for other forms of care for dependants of witnesses to enable them to testify. Such requests shall be submitted before witnesses testify.

(B) In determining whether to grant payment, the Registrar shall consider such factors as:

- (i) The existence of a direct link between a witness testifying and the availability of childcare or other forms of care; and/or
- (ii) The availability of alternative arrangements for childcare or other forms of care.

(C) Witnesses shall be provided an amount determined by the Registrar based on supporting documentation submitted by the witnesses to the Witnesses and Victims Section.

(D) All decisions of the Registrar under this Article will be communicated to the witness in timely manner.

#### **Article 13 – Other Allowances**

Based on an assessment and request by the Witnesses and Victims Section, including supporting documentation, the Registrar may authorise the following allowances:

- (i) Farm assistance allowance to compensate for time lost as a result of testifying to cover farm-related tasks including but not limited to planting, maintaining and harvesting;
- (ii) Residence security allowance depending on the nature and extent of the threat. A threat assessment shall be conducted by the Witnesses and Victims Section after consultation with the relevant party;

- (iii) Appropriate clothing to enable witnesses to testify;
- (iv) Compensation for extraordinary losses, including loss of income, for witnesses who will suffer or who have suffered undue hardship as a result of testifying; and/or
- (v) Educational/vocational support for child witnesses under eighteen years old in order to ensure psychosocial stability related to testifying.

### **Rule 71 Witnesses**

#### **Article 14 – Allowances**

(A) Rule 71 witnesses who are not required to travel to and from the locations where the deposition is to be taken shall not be entitled to any allowance except the attendance allowance under Article 6 or the daily subsistence allowance under Article 7 depending on their country of residence, medical expenses under Article 11, and the allowance for childcare and other forms of care under Article 12.

(B) Rule 71 witnesses who are required to travel to and from the locations where the deposition is to be taken shall be entitled to the same allowances as other witnesses, depending on their country of residence.

### **EXPERT WITNESSES**

#### **Article 15 – Attendance Allowance**

(A) The Special Court shall provide expert witnesses with an attendance allowance as compensation for wages, earnings and time lost as a result of testifying. Expert witnesses shall not be required to submit a request or any supporting documentation in order to receive the attendance allowance.

(B) The attendance allowance shall be calculated by multiplying:

- (i) The daily attendance allowance; by
- (ii) The number of days the expert witness testifies, including days spent on travels and away from home in connection with testifying, excluding weekends. A part of a day used in connection with testifying will be considered a full day for the purpose of calculating the attendance allowance.

(C) The daily attendance allowance envisioned in paragraph (B) (i) shall be a fixed rate of \$ 200, regardless of the country in which the expert witness is residing at the time he testifies. This allowance shall be updated regularly as the Registrar deems necessary, but shall be reviewed at minimum on an annual basis.

#### **Article 16 – Daily Subsistence Allowance**

The Special Court shall provide expert witnesses the Daily Subsistence Allowance for The Hague as established by the United Nations when expert witnesses make their own



arrangements for accommodation and meals, for the days expert witnesses testify, including days spent on travels and away from home, in connection with testifying.

#### **Article 17 – Travel**

(A) The Special Court shall provide and arrange transportation necessary for expert witnesses to travel to and from the location where they testify, including arrangements and costs for any travel documents which may be required.

(B) Travel shall be based on:

- (i) an economy class round trip air ticket by the most direct and economical route or within limits laid down by or subject to prior authorisation of the Registrar;
- (ii) a public transportation ticket by the most direct and economical route or within limits laid down by and subject to prior authorisation of the Registrar; or
- (iii) fixed rates as established by the United Nations Schedule of Rates of Reimbursement for Travel by Private Motor Vehicle applicable to different groups of Countries and Territories, per kilometre travelled on the outward and return travels by the most direct and economical route, on presentation of a statement of travel expenses using the form provided by the Registry.

(C) Travel by plane envisioned in paragraph (B) (i) shall be provided only for expert witnesses residing in countries other than The Hague.

(D) Travel arrangements shall be made by the Travel Unit, for all witnesses testifying before the Special Court in The Hague.

#### **FINAL PROVISIONS**

##### **Article 18 – Amendments**

(A) The Registrar may amend the Practice Direction with the approval of the Council of Judges.

(B) Without prejudice to the rights of witnesses in any pending case, an amendment of the Practice Direction shall enter into force seven days after the day of issue of the amendment.

##### **Article 19 – Entry into Force**

This Practice Direction shall be deemed to have entered into force upon approval by the Council of Judges.

*E. W. De Ha*  
Herman von Hebel  
Acting Registrar  
8 June 2007

