

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIACHURCHILLPLEIN, 1. P.O. BOX 13888
2501 EW THE HAGUE, NETHERLANDS
TELEPHONE: 31 70 512-5000
FAX: 31 70 512-8637TRIBUNAL PÉNAL INTERNATIONAL
POUR L'EX-YOUGOSLAVIECHURCHILLPLEIN, 1. B.P. 13888
2501 EW LA HAYE, PAYS-BAS
TÉLÉPHONE: 31 70 512-5000
FAX: 31 70 512-8637**DECISION****THE REGISTRAR,**

CONSIDERING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993) of 25 May 1993, as subsequently amended;

CONSIDERING the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended;

CONSIDERING the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal as adopted by the Tribunal on 5 May 1994, as subsequently amended ("Rules of Detention");

CONSIDERING the proposal for amendment to the Rules of Detention, approved by the Judges of the Tribunal at a plenary session of 15 November 2016;

CONSIDERING that pursuant to Rule 88(C) of the Rules of Detention, the proposal for amendment to the Rules of Detention will enter into force on 1 December 2016;

HEREBY PROMULGATES revision ten of the Rules of Detention, as attached.

A handwritten signature in black ink, appearing to read 'John Hocking'.

John Hocking
Registrar

Dated this 24th day of November 2016
At The Hague
The Netherlands



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/38/Rev.10

Date: 15 November 2016

Original: French & English

**RULES GOVERNING THE DETENTION OF PERSONS AWAITING
TRIAL OR APPEAL BEFORE THE TRIBUNAL OR OTHERWISE
DETAINED ON THE AUTHORITY OF THE TRIBUNAL**

**(ADOPTED ON 5 MAY 1994)
(AS AMENDED ON 16 MARCH 1995)
(AS REVISED ON 14 JULY 1995)
(AS AMENDED ON 3 DECEMBER 1996)
(AS AMENDED ON 25 JULY 1997)
(AS AMENDED ON 17 NOVEMBER 1997)
(AS AMENDED ON 29 NOVEMBER 1999)
(AS AMENDED ON 21 JULY 2005)
(AS AMENDED ON 15 NOVEMBER 2016)**

(IT/38/REV.10)

CONTENTS

PREAMBLE

DEFINITIONS

BASIC PRINCIPLES

(Rules 1 – 8)

MANAGEMENT OF THE DETENTION UNIT

Admission

(Rules 9 – 14)

Information to Detainees

(Rules 15 – 16)

Accommodation

(Rules 17 – 21)

Personal hygiene

(Rules 22 – 23)

Clothing

(Rules 24 – 25)

Food

(Rule 26)

Physical exercise and sport

(Rules 27 – 29)

Medical services

(Rules 30 – 39)

Discipline

(Rules 40 – 41)

Segregation

(Rules 42 – 44)

Solitary confinement

(Rules 44*bis* – 49)

Instruments of restraint and the use of force

(Rules 50 – 55)

Disturbances

(Rule 56)

Suspension of the Rules of Detention

(Rule 57)

RIGHTS OF DETAINEES

Communications and visits

(Rules 58 – 64*bis*)

Legal assistance

(Rule 65)

Spiritual welfare

(Rules 66 – 68)

Work programme

(Rules 69 – 70)

Recreational activities

(Rules 71 – 73)

Personal possessions of Detainees

(Rules 74 – 79)

Complaints

(Rules 80 – 84)

TRANSPORT OF DETAINEES

(Rules 85 – 87)

AMENDMENT OF THE RULES OF DETENTION

(Rule 88)

**RULES GOVERNING THE DETENTION OF PERSONS AWAITING TRIAL OR
APPEAL BEFORE THE TRIBUNAL OR OTHERWISE DETAINED ON THE
AUTHORITY OF THE TRIBUNAL**

(“RULES OF DETENTION”)

PREAMBLE

The purpose of these Rules of Detention is to govern the administration of the Detention Unit for Detainees awaiting trial or appeal at the Tribunal or any other person detained on the authority of the Tribunal and to ensure the continued application and protection of their individual rights while in detention. The primary principles on which these Rules of Detention rest reflect the overriding requirements of humanity, respect for human dignity and the presumption of innocence.

In particular, these Rules of Detention are intended to regulate, in general terms, the rights and obligations of Detainees at all stages from admission to release, and to provide the basic criteria for management of the Detention Unit.

DEFINITIONS

i. In these Rules of Detention the following terms shall mean:

- | | |
|-------------------------|---|
| Bureau: | the body comprised of the President, the Vice-President and the Presiding Judges of the Trial Chambers established pursuant to Rule 23 of the Rules of Procedure and Evidence; |
| Commanding Officer: | the official of the United Nations appointed as the head of the staff responsible for the administration of the Detention Unit, or his deputies, as appointed by the Registrar; |
| Detainee: | any person detained awaiting trial or appeal before the Tribunal, or being held pending transfer to another institution, and any other person detained on the authority of the Tribunal; |
| Detention Unit: | the unit for Detainees erected within the grounds of the Host Prison; |
| General Director: | the head of the Host Prison appointed by the authorities of the Host State; |
| Headquarters Agreement: | the Agreement between the United Nations and the Kingdom of the Netherlands Concerning the Headquarters 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; |
| Host Prison: | the penitentiary complex maintained by the authorities of the Host State; |
| Host State: | the Kingdom of the Netherlands; |

Legal Representative:	any person who has either a) been assigned by the Registrar to represent a Detainee; b) submitted a power of attorney on behalf of a Detainee , which has been recognised by the Registrar, and has agreed to be bound by all applicable Rules and Regulations; or, c) been authorised by a Detainee to represent him in legal proceedings other than those before the Tribunal;
Medical Officer:	the Medical Officer for the time being appointed by agreement between the Registrar and the General Director of the Host Prison;
Prosecutor:	the Prosecutor appointed pursuant to Article 18 of the Statute of the Tribunal adopted by Security Council resolution 827 of 25 May 1993, or any person authorised by him or acting under his direction;
Registrar:	the Registrar of the Tribunal appointed pursuant to Article 17(3) of the Statute of the Tribunal, or any person authorised by him or acting under his direction;
Regulations:	the provisions issued by the Registrar pursuant to Rules 39, 58 to 61 and 80 to 84 of these Rules;
Rules of Procedure and Evidence:	the Rules of Procedure and Evidence of the Tribunal as adopted on 11 February 1994 as subsequently amended;
Staff of the Detention Unit:	the staff employed by the United Nations to operate the Detention Unit;
Statute:	the Statute of the Tribunal adopted by Security Council resolution 827 of 25 May 1993;
Tribunal:	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, established by Security Council resolution 827 of 25 May 1993;

- ii. In these Rules of Detention, the masculine shall include the feminine and the singular the plural and vice-versa.
- iii. These Rules of Detention shall enter into force as of 1 August 1994.
- iv. References to the location of the Host Prison and the Detention Unit have been deleted for security reasons.
- v. The English and French texts of the Rules of Detention shall be equally authentic. In case of discrepancy, the version which is more consonant with the spirit of the Statute, and the Rules of Procedure and Evidence shall prevail.

BASIC PRINCIPLES

Rule 1

These Rules of Detention are to be applied in conjunction with the relevant provisions of the Statute, the Rules of Procedure and Evidence and of the Headquarters Agreement entered into between the Host State and the United Nations and, in particular, the Annex on matters relating to security and order.

Rule 2

The United Nations shall retain the ultimate responsibility and liability for all aspects of detention pursuant to these Rules of Detention. Under the authority of the Registrar, the Commanding Officer shall be responsible for all aspects of the day-to-day management of the Detention Unit, including security and order, and may make all decisions relating thereto, except where otherwise provided in these Rules of Detention.

Rule 3

These Rules of Detention shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, birth, economic or other status.

Rule 4

A Detainee is entitled to observe his religion or beliefs subject only to such limitations as are necessary to protect the security and good order of the Detention Unit and the rights of other Detainees according to the applicable Rules and Regulations of the Tribunal.

Rule 5

All Detainees, other than those who have been convicted by the Tribunal, are presumed to be innocent until found guilty and are to be treated as such at all times.

Rule 6

- (A) The Bureau may, at any time, appoint a Judge or the Registrar of the Tribunal to inspect the Detention Unit and to report to the Bureau on the general conditions of implementation of these Rules of Detention and of the Regulations or of any particular aspect thereof with a view to ensuring that the Detention Unit is operated in accordance with the Rules of Detention and Regulations.
- (B) There shall be regular and unannounced inspections by inspectors whose duty it is to examine the manner in which Detainees are treated. The Bureau shall act upon all such reports as it sees fit, in consultation with the relevant authorities of the Host State where necessary.

Rule 7

These Rules of Detention and any regulations made hereunder shall be made readily available to the Staff of the Detention Unit in the two working languages of the Tribunal.

Rule 8

These Rules of Detention and any regulations made hereunder shall be made readily available to each Detainee in the two working languages of the Tribunal and in the language of the Detainee.

MANAGEMENT OF THE DETENTION UNIT

Admission

Rule 9

No person shall be admitted and thereafter detained in the Detention Unit without a warrant of arrest or an order for detention duly issued by a Judge or a Chamber of the Tribunal.

Rule 10

- (A) Upon being admitted to the Detention Unit, the Commanding Officer shall obtain the photograph and fingerprints of each Detainee and any other information necessary to maintain the security and good order of the Detention Unit.
- (B) A complete, secure and current record shall be kept concerning each Detainee received. The record shall include:
 - i. information concerning the identity of the Detainee and his next of kin, and other information obtained pursuant to Sub-Rule 10(A);
 - ii. the date of issue of the indictment against the Detainee and of the warrant of arrest;
 - iii. the date and time of admission;
 - iv. the name of counsel, if known;
 - v. the date, time and reason for all absences from the Detention Unit, whether to attend at the Tribunal, for medical or other approved reasons, or on final release or transfer to another institution.

Rule 11

All information concerning Detainees shall be treated as confidential and made accessible only to the Detainee, his counsel and persons authorised by the Registrar. The Detainee shall be informed of this fact upon his arrival at the Detention Unit.

Rule 12

- (A) As soon as practicable after admission, each Detainee shall be provided with information concerning legal, diplomatic and consular representation available to him.
- (B) The Detainee shall be given the opportunity at this time to notify, within reason, his family, his counsel, the appropriate diplomatic or consular representative and, at the discretion of the Commanding Officer, any other person, of his whereabouts, at the expense of the Tribunal. The Detainee shall be asked at this time to name a person or authority to be notified of special events affecting him.

Rule 13

- (A) Upon arrival of a Detainee in the Host State, all his personal possessions shall be transmitted directly to the Registrar by the relevant arresting authority together with an inventory of the personal possessions which were on the Detainee when arrested. The Registrar shall transmit the Detainee's personal possessions to the Commanding Officer at the earliest opportunity.
- (B) On admission to the Detention Unit, the Commanding Officer shall order that a Detainee's body and clothes be searched for articles that may constitute a danger to:
 - i. the security and proper running of the Detention Unit, or
 - ii. the Detainee, any other Detainee or any member of the Staff of the Detention Unit.
- (C) Such items shall be removed.

Rule 14

- (A) On admission of a Detainee's personal possessions to the Detention Unit, an inventory, which shall be signed by the Detainee, shall be made of all money, valuables, clothing and other effects belonging to a Detainee which, under these Rules of Detention or the rules of the Host Prison, he is not permitted to retain.
- (B) All items which a Detainee is not permitted to retain shall be placed in safe custody, or at the request and expense of the Detainee, sent to an address provided by him.
- (C) If the items are retained within the Detention Unit, all reasonable steps shall be taken by the Staff of the Detention Unit to keep them in good condition.
- (D) If it is found necessary to destroy an item, this shall be recorded and the Detainee informed accordingly.
- (E) An item belonging to a Detainee may only be transmitted to another person or entity with the express consent in writing of the Detainee or pursuant to an order of a Judge or Chamber.

Information to Detainees

Rule 15

In addition to the copies of these Rules of Detention and any regulations to be provided to each Detainee pursuant to Rule 8, each Detainee shall on admission be provided with written information in the working languages of the Tribunal or in his own language concerning:

- i. the rights and treatment of Detainees;
- ii. the disciplinary requirements of the Detention Unit;
- iii. the authorised methods of seeking information and making complaints; and,
- iv. all other matters necessary to enable him to understand both his rights and obligations and to adapt himself to the routine of the Detention Unit.

Rule 16

At any time at which there is a Detainee in the Detention Unit who speaks and understands neither of the working languages of the Tribunal nor that spoken by any of the Staff of the Detention Unit, arrangements shall be made for an interpreter to be available on reasonable notice and, in any event, in cases of emergency, to permit the Detainee to communicate freely with the staff and administration of the Detention Unit.

Accommodation

Rule 17

Each Detainee shall occupy a cell unit by himself except in exceptional circumstances or in cases where the Commanding Officer, with the approval of the Registrar, considers that there are advantages in sharing accommodations.

Rule 18

Each Detainee shall be provided with a separate bed and with appropriate bedding which shall be kept in good order and changed on a regular basis so as to ensure its cleanliness.

Rule 19

The Detention Unit shall, at all times, meet all requirements of health and hygiene, due regard being paid to climatic conditions, lighting, heating and ventilation.

Rule 20

Each Detainee shall be permitted unrestricted access to the sanitary, hygiene and drinking water arrangements in his cell unit.

Rule 21

All parts of the Detention Unit shall be properly maintained and kept clean at all times. In particular, each Detainee shall be expected to keep his cell unit clean and tidy at all times.

Personal hygiene

Rule 22

Detainees shall be required to keep themselves clean, and shall be provided with such toilet articles as are necessary for health and cleanliness.

Rule 23

Facilities shall be provided by the Host Prison for the proper care of hair and beard, and male Detainees shall be enabled to shave regularly.

Clothing

Rule 24

- (A) Detainees may wear their own civilian clothing if, in the opinion of the Commanding Officer, it is clean and suitable.
- (B) A Detainee who lacks financial means, as determined by the Registrar, shall be provided with suitable and sufficient civilian clothing at the cost of the Tribunal.

Rule 25

All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene, in accordance with the regime of the Host Prison.

Food

Rule 26

The Host Prison shall provide each Detainee, at the normal hours, with food which is suitably prepared and presented, and which satisfies in quality and quantity the standards of dietetics and modern hygiene and takes into account the age, health, religious and, as far as possible, cultural requirements of the Detainee.

Physical exercise and sport

Rule 27

- (A) Each Detainee shall be allowed at least one hour of walking or other suitable exercise in the open air daily, if the weather permits.
- (B) Where possible, arrangements may be made with the General Director for use by Detainees of indoor and outdoor sporting facilities outside the Detention Unit but within the Host Prison.

Rule 28

A properly organised programme of physical education, sport and other recreational activities shall be arranged by the Commanding Officer to ensure physical fitness, adequate exercise and recreational opportunities.

Rule 29

- (A) The Commanding Officer, acting on the advice of the Medical Officer, shall ensure that any Detainee who participates in such a programme is physically fit to do so.
- (B) Special arrangements shall be made, under medical direction, for remedial or therapeutic treatment for any Detainee who is unable to participate in the regular programme.

Medical services

Rule 30

- (A) The medical services of the Host Prison, including psychiatric and dental care, shall be fully available to Detainees, subject to any practical arrangements made with the General Director.
- (B) A person capable of providing first-aid shall be present at the Detention Unit at all times.

Rule 31

- (A) Detainees may consult a doctor or dentist of their choice at their own expense. All such consultations shall be made by prior arrangement with the Commanding Officer as to the time and duration of the consultation and shall be subject to the same security controls as are imposed under Rule 61.
- (B) The Commanding Officer shall not refuse a request for such consultations without reasonable grounds.
- (C) Any treatment or medication recommended by such doctors or dentists shall be administered solely by the Medical Officer or his deputy. The Medical Officer shall be informed of the outcome of all consultations of doctors or dentists. He may, in his sole discretion, refuse to administer any such treatment or medication.

Rule 32

Detainees who require specialist or in-patient treatment shall be treated within the Host Prison to the fullest extent possible or transferred to a hospital.

Rule 33

- (A) The Registrar shall be informed immediately upon the death or serious illness or injury of a Detainee. The Registrar shall immediately inform the spouse or nearest

relative of the Detainee and shall, in any event, inform any other person previously designated by the Detainee.

- (B) In the event of the death of a Detainee, an inquest will be conducted in accordance with the legal requirements of the Host State.
- (C) The President may order an inquiry into the circumstances surrounding the death or serious injury of any Detainee.

Rule 34

- (A) Each Detainee shall be examined by the Medical officer or his deputy on the day of admission.
- (B) The Medical Officer shall have the care of the physical and mental health of Detainees and shall see, on a regular basis or as is necessary, all sick Detainees, all who complain of illness and any Detainee to whom his attention is specially directed.
- (C) Information related to the physical and mental health of Detainees shall be kept confidential by the Registrar.
- (D) A Detainee's medical information may be consulted or disclosed:
 - i. with the Detainee's informed consent, or
 - ii. where the Medical Officer determines that there is a real and imminent threat to the Detainee or to others, and this threat can only be addressed through the disclosure of the information. In all such cases, the disclosure of information shall be strictly proportionate to its objective, and the Detainee shall be informed.
- (E) The Judge or Chamber ordering disclosure of medical information shall respect the confidentiality of the information and guard against further disclosure.

Rule 35

- (A) Without prejudice to Rules 34(C) and 34(D), the Medical Officer shall advise the Commanding Officer if the medical condition of a Detainee or the treatment necessary for that condition requires a change in the conditions of detention.
- (B) The Medical Officer shall report immediately to the Commanding Officer whenever he considers that the physical or mental health of a Detainee has been or will be adversely affected by any condition of his detention.
- (C) The Commanding Officer shall immediately submit the report to the Registrar who, after consultation with the President, shall take all necessary action.

Rule 36

A competent authority appointed by the Bureau pursuant to Rule 6 shall regularly inspect the Detention Unit and advise the Commanding Officer and the Registrar upon:

- i. the quantity, quality, preparation and serving of food;

- ii. the hygiene and cleanliness of the Detention Unit and of the Detainees;
- iii. the sanitation, heating, lighting and ventilation of the Detention Unit;
- iv. the suitability and cleanliness of the Detainees' clothing and bedding.

Rule 37

The Registrar shall, if he concurs with the recommendations made, pursuant to Rule 36, take immediate steps to give effect to those recommendations; if he does not concur with them, he shall immediately submit both a personal report and a copy of the recommendations to the Bureau.

Rule 38

- (A) The Commanding Officer of the Detention Unit may decide upon the search of a Detainee's cell if he suspects that the cell contains an item which constitutes a threat to the security or good order of the Detention Unit or the Host Prison, or the health and safety of any person therein. Any such items found in the cell of the Detainee shall be confiscated pursuant to Rule 74.
- (B) Following a search of a Detainee's cell, the Commanding Officer shall inform the Detainee in writing that his cell was searched and shall specify any items that were confiscated. A copy of this letter shall be forwarded to the Registrar and to the President.
- (C) Only persons authorised by the Registrar or Commanding Officer may have access to Detainees' cells.

Rule 39

- (A) In order to protect the health or the safety of the Detainee, the Registrar, with the approval of the President, may order that the cell of the Detainee be monitored by video surveillance equipment for a period not exceeding thirty days.
- (B) Renewals which shall not exceed a period of thirty days shall be reported to the President.
- (C) The Detainee shall be notified of the Registrar's decision within twenty-four hours, and may at any time request the President to reverse any such decision by the Registrar.

Discipline

Rule 40

Discipline and order shall be maintained by the Staff of the Detention Unit with no more restriction than is necessary to ensure safety and security and the good order of the Detention Unit.

Rule 41

The Commanding Officer, in consultation with the Registrar, shall issue regulations:

- i. defining conduct constituting a disciplinary offence;
- ii. regulating the type of sanction that can be imposed;
- iii. specifying the authority that can impose such sanction;
- iv. providing a Detainee with the right to be heard on the subject of any offense which he is alleged to have committed against these Rules and/or the Regulations;
- v. providing for a right of appeal to the President.

Segregation

Rule 42

- (A) A Detainee may ask to be segregated from all or some of the other Detainees.
- (B) Upon receipt of such a request, the Commanding Officer shall, after consultation with the Registrar, seek the advice of the Medical Officer to determine whether such segregation is medically acceptable. A request for segregation will be granted unless:
 - i. in the opinion of the Medical Officer, such segregation would be injurious to the mental or physical health of the Detainee;
 - ii. in the opinion of the Commanding Officer, such segregation could disturb the security and/or good order of the Detention Unit.
- (C) The Detainee whose request for segregation has been denied may avail himself of the complaints procedure stated in Rule 80 of these Rules of Detention.

Rule 43

- (A) The Registrar or the Commanding Officer may order that a Detainee be segregated from some of the other Detainees for:
 - i. the preservation of security and good order in the Detention Unit; or,
 - ii. the protection of the Detainee in question or others.
- (B) The Commanding Officer shall report all incidents of segregation to the Medical Officer who shall pay particular attention to the health of the Detainee in question, including by visiting such Detainee on a daily basis, or more often if deemed necessary, and providing prompt medical assistance and treatment at the request of such Detainee.
- (C) Segregation shall not be used as a disciplinary measure.
- (D) The Commanding Officer shall review all cases of individual segregation of Detainees at least once a week and report to the Registrar thereon.

Rule 44

- (A) The Commanding Officer may organise the use of communal areas of the Detention Unit so as to segregate certain groups of Detainees from others in the interests of the preservation of security and good order in the Detention Unit or the protection of the Detainee in question.
- (B) If such segregation is put into practice, care shall be taken to ensure that all such groupings are treated on an equal basis, having regard to the number of Detainees falling within each group.
- (C) All such segregations must be reported to the Registrar, who may vary the nature, basis or conditions of such segregation.

Solitary confinement

Rule 44bis

For the purposes of these Rules of Detention, “solitary confinement” shall mean the confinement of Detainees for 22 hours or more a day without meaningful human contact. “Prolonged solitary confinement” shall mean solitary confinement for a time period in excess of fifteen consecutive days.

Rule 45

- (A) A Detainee may be committed to solitary confinement only in the following circumstances:
 - i. by order of the Registrar, acting in consultation with the President; such an order may be based upon a request from any interested person, including the Prosecutor;
 - ii. by order of the Commanding Officer in order to prevent the Detainee from inflicting injury on other Detainees or to preserve the security and good order of the Detention Unit; or
 - iii. as a sanction pursuant to Rule 41.
- (B) A record shall be kept of all events concerning a Detainee committed to solitary confinement.
- (C) Segregation of a Detainee from all other Detainees shall be considered to amount to solitary confinement for the purposes of these Rules of Detention.

Rule 46

The Commanding Officer shall report all incidents of solitary confinement to the Medical Officer who shall pay particular attention to the health of the Detainee in question, including by visiting such Detainee on a daily basis, or more often if deemed necessary, and providing prompt medical assistance and treatment at the request of such Detainee.

Rule 47

A Detainee who has been committed to solitary confinement may at any time request a visit from the Medical Officer. Such visit is to be made as soon as possible and, in any event, within twenty-four hours of the request.

Rule 48

- (A) All cases of use of solitary confinement shall be reported to the Registrar immediately, who shall report the matter to the President.
- (B) The President may order the release of a Detainee from solitary confinement at any time.

Rule 49

Solitary confinement shall be used only in exceptional cases as a last resort and for as short a time as possible. No Detainee may be kept in prolonged solitary confinement.

Instruments of restraint and the use of force

Rule 50

- (A) Instruments of restraint, such as handcuffs, shall only be used in the following exceptional circumstances:
 - i. as a precaution against escape during transfer from the Detention Unit to any other place, including access to the premises of the Host Prison for any reason; or
 - ii. to prevent a Detainee from self-injury, injury to others or to prevent serious damage to property.
- (B) In all incidents involving the use of instruments of restraint, the Commanding Officer shall consult the Medical Officer and report to the Registrar, who may report the matter to the President.

Rule 51

Instruments of restraint shall be removed at the earliest possible opportunity.

Rule 52

If the use of any instrument of restraint is required under Rule 50, the restrained Detainee shall be kept under constant and adequate supervision.

Rule 53

- (A) The Staff of the Detention Unit shall not use force against a Detainee except:
 - i. in self-defence; or

- ii. in cases of:
 - (a) attempted escape; or
 - (b) active or passive resistance to an order based upon these Rules of Detention or any regulations issued hereunder.
- (B) Staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the Commanding Officer, who shall provide a report on the matter to the Registrar.

Rule 54

- (A) A Detainee against whom force has been used shall have the right to be examined immediately and treated, if necessary, by the Medical Officer. The medical examination shall be conducted in private and in the absence of any non-medical staff.
- (B) The results of the examination, including any relevant statement by the Detainee and the Medical Officer's opinion, shall be formally recorded and made available to:
 - i. the Detainee, in a language accessible to him;
 - ii. the Commanding Officer;
 - iii. the Registrar;
 - iv. the President, and
 - v. the Prosecutor.

Rule 55

A record shall be kept of every instance of the use of force against a Detainee.

Disturbances

Rule 56

- (A) If, in the opinion of the Commanding Officer, a situation exists or is developing which threatens the security and good order of the Detention Unit, the Commanding Officer shall contact the General Director who will request the immediate assistance of the authorities of the Host State to maintain control within the Detention Unit.
- (B) All such requests shall be reported to the Registrar and the President immediately.

Suspension of the Rules of Detention

Rule 57

- (A) If there is serious danger of disturbances occurring within the Detention Unit or the Host Prison, the Commanding Officer or the General Director, as appropriate, may temporarily suspend the operation of all or part of these Rules of Detention for a maximum of two days.

- (B) Any such suspension must be reported to the Registrar immediately, who shall in turn report the matter to the President.
- (C) Thereupon, the President, acting in consultation with the Bureau, shall consult with the relevant authorities of the Host State and take such action in connection therewith as may be seen fit at the time.

RIGHTS OF DETAINEES

Communications and visits

Rule 58

- (A) Subject to the provisions of Rules 64 and 64*bis*, Detainees shall be entitled, under such conditions of supervision and time-restraints as the Commanding Officer deems necessary, to communicate with their families and other persons with whom it is in their legitimate interest to correspond by letter and by telephone at their own expense.
- (B) In the case of a Detainee who lacks financial means, the Registrar may agree that the Tribunal will bear such expenses within reason.
- (C) The Registrar may order that non-privileged telephone conversations be recorded or monitored as provided for in the Regulations to govern the supervision of visits to, and communications with, Detainees.

Rule 59

- (A) All correspondence and mail, including packages, shall be inspected for explosives or other irregular material.
- (B) The Commanding Officer, in consultation with the Registrar, shall lay down conditions as to the inspection of correspondence, mail and packages in the interests of maintaining order in the Detention Unit and to obviate the danger of escape.

Rule 60

A Detainee shall be promptly informed of the death or serious illness of any near relative.

Rule 61

- (A) Detainees shall be entitled to receive visits from family, friends and others, subject only to the provisions of Rules 64 and 64*bis* and to such restrictions and supervision as the Commanding Officer, in consultation with the Registrar, may impose. Such restrictions and supervision must be necessary in the interests of the administration of justice or the security and good order of the Host Prison and the Detention Unit.
- (B) The Registrar shall refuse to allow a person to visit a Detainee if he has reason to believe that the purpose of the visit is to obtain information which may be

subsequently reported in the media. Rule 64bis(C) shall apply *mutatis mutandis* to decisions taken by the Registrar under this Sub-Rule.

- (C) All visitors must comply with the separate requirements of the visiting regime of the Host Prison. These restrictions may include personal searches of clothing and x-ray examination of possessions on entry to either or both of the Detention Unit and the Host Prison.
- (D) Any person, including defence counsel for a Detainee or a diplomatic or consular representative accredited to the Host State, who refuses to comply with such requirements, whether of the Detention Unit or of the Host Prison, may be refused access.
- (E) In the interests of security and good order of the Detention Unit, the Registrar may refuse to allow a former Detainee to visit any other Detainee at the Detention Unit.

Rule 62

A Detainee must be informed of the identity of each visitor and may refuse to see any visitor other than a representative of the Registrar, or a representative of the Prosecutor.

Rule 63

Detainees shall be allowed to communicate with and receive visits from the diplomatic and consular representative accredited to the Host State of the State to which they belong, or in the case of Detainees who are without diplomatic or consular representation in the Host State and refugees or stateless persons, with the diplomatic or consular representative accredited to the Host State of the State which takes charge of their interests or of a national or international authority whose task it is to serve the interests of such persons.

Rule 64

- (A) The Prosecutor may request the Registrar or, in cases of emergency, the Commanding Officer, to prohibit, regulate or set conditions for contact between a Detainee and any other person if the Prosecutor has reasonable grounds for believing that such contact:
 - i. is for the purposes of attempting to arrange the escape of the Detainee from the Detention Unit;
 - ii. could prejudice or otherwise affect the outcome of:
 - a) the proceedings against the Detainee; or
 - b) any other investigation;
 - iii. could be harmful to the Detainee or any other person; or
 - iv. could be used by the Detainee to breach an order for non-disclosure made by a Judge or a Chamber pursuant to Rule 53 or Rule 75 of the Rules of Procedure and Evidence.
- (B) If the request is made to the Commanding Officer on grounds of urgency, the Prosecutor shall immediately inform the Registrar of the request, together with the reasons therefore. The Detainee shall immediately be informed of the fact of any such request.

- (C) A Detainee may at any time request the President to deny or reverse a request made by the Prosecutor under this rule.

Rule 64bis

- (A) Without prejudice to the foregoing provisions on communications and visits, the use of communication facilities available at the Detention Unit, by a Detainee, with the sole purpose of contacting the media directly or indirectly, shall be subject to the approval of the Registrar.
- (B) In his decision, the Registrar may consult with the Commanding Officer and shall have regard to whether such contact with the media:
 - i. could disturb the good order of the Detention Unit; or
 - ii. could interfere with the administration of justice or otherwise undermine the Tribunal's mandate.
- (C) A Detainee may at any time request the President to reverse a denial of contact made by the Registrar under this Rule. The President may decide to review the Registrar's decision, or if the President determines that the denial of contact constitutes an infringement on the right of the accused to be tried fairly, refer the request to the Trial Chamber to determine.

Legal assistance

Rule 65

- (A) Each Detainee shall be entitled to communicate fully and without restraint with his Legal Representative, with the assistance of an interpreter where necessary.
- (B) All such communications shall be privileged, unless the Registrar has reasonable grounds to believe that the privilege is being abused in an attempt to:
 - i. arrange an escape;
 - ii. interfere with or intimidate witnesses;
 - iii. interfere with the administration of justice; or
 - iv. otherwise endanger the security and safety of the Detention Unit.

Prior to such communications being monitored, the Detainee and his counsel shall be notified by the Registrar of the reasons for monitoring. The Detainee may at any time request the President to reverse any decision made by the Registrar under this Rule.

- (C) Unless such Legal Representative and interpreter have been provided by the Tribunal on the basis of the indigency of the Detainee, all such communications shall be borne at the expense of the Detainee.
- (D) All such visits shall be made by prior arrangement with the Commanding Officer as to the time and duration of the visit and shall be subject to the same security controls as are imposed under Rule 61. The Commanding Officer shall not refuse a request for such a visit without reasonable grounds.

- (E) Subject to Sub-Rule (B) of this Rule, interviews with Legal Representatives and interpreters shall be conducted in the sight but not within the hearing, either direct or indirect, of the Staff of the Detention Unit.

Spiritual welfare

Rule 66

- (A) Every Detainee shall be entitled to indicate, on arrival at the Detention Unit or thereafter, whether he wishes to establish contact with any of the ministers or spiritual advisers accredited by the Registrar.
- (B) Such accredited ministers or spiritual advisors shall be permitted to hold regular services and activities within the Detention Unit and to pay pastoral visits to any Detainee of his religion, subject to the same considerations of the security and good order of the Detention Unit and of the Host Prison as apply to other visits.

Rule 67

- (A) Access to a representative of any religion shall not be refused to any Detainee, subject only to the same restrictions and conditions provided for in Rule 61.
- (B) A Detainee may refuse to see any such religious representative.

Rule 68

- (A) So far as is practicable, and in accordance with the interest of the security and good order of the Detention Unit, every Detainee shall be allowed to satisfy the needs of his religion or beliefs by attending services or meetings held in the Detention Unit and having in his possession any necessary books or literature.
- (B) By arrangement with the General Director, a Detainee may, on request, be permitted to visit any religious facility within the grounds of the Host Prison.

Work programme

Rule 69

The Commanding Officer, after consultation with the General Director, and as far as is practicable, shall institute a work programme to be performed by Detainees either in the individual cell units or in the communal areas of the Detention Unit.

Rule 70

- (A) Detainees shall be offered the opportunity to enrol in such work programmes but shall not be required to work.
- (B) A Detainee who chooses to work shall be paid for his work at rates to be established by the Commanding Officer in consultation with the Registrar and may use part of his

earnings to purchase articles for his own use pursuant to Rule 78. The balance of any monies earned shall be held to his account in accordance with Rule 14.

Recreational activities

Rule 71

Detainees shall be allowed to procure at their own expense books, newspapers, reading and writing materials and other means of occupation as are compatible with the interests of the administration of justice and the security and good order of the Detention Unit and of the Host Prison.

Rule 72

- (A) In particular, Detainees shall be entitled to keep themselves regularly informed of the news by reading newspapers, periodicals and other publications and by radio and television broadcasts, all necessary equipment to be provided at their own expense.
- (B) The Commanding Officer may refuse the installation of any such equipment which he considers to be a potential risk to the safety and good order of the Detention Unit or to any of the Detainees.

Rule 73

By arrangement with the General Director, Detainees may use the library and such vocational or other facilities of the Host Prison as may be made available.

Personal possessions of Detainees

Rule 74

- (A) A Detainee may keep in his possession all clothing and personal items for his own use or consumption unless, in the opinion of the Commanding Officer or the General Director, such items constitute a threat to the security or good order of the Detention Unit or the Host Prison, or to the health or safety of any person therein.
- (B) All items so removed shall be retained by the Staff of the Detention Unit as provided for in Rule 14.

Rule 75

- (A) Any item received from outside, including any item introduced by any visitor to a Detainee, shall be subject to separate security controls by both the Detention Unit and the Host Prison and may be transported through the Host Prison to the Detention Unit by staff of either the Detention Unit or of the Host Prison.
- (B) The Commanding Officer or the General Director may refuse to receive any item intended for consumption by Detainees.

Rule 76

As far as practicable, any item received for a Detainee from outside shall be treated as provided for in Rule 14, unless intended and permitted under these Rules of Detention and the rules of the Host Prison for use during imprisonment.

Rule 77

- (A) The possession and use of any medication shall be subject to the control and supervision of the Medical Officer.
- (B) Detainees may possess cigarettes and smoke them at such times and places as the Commanding Officer permits.
- (C) The possession or consumption of alcohol is not permitted.

Rule 78

- (A) Each Detainee shall be authorised to purchase items of a personal nature from the store operated by the Host Prison.
- (B) In the case of a Detainee who lacks financial means, the Registrar may authorise the purchase of such items, within reason, from the account of the Tribunal.
- (C) Detainees shall have the right to purchase such items within seven days of arrival and at least once a week thereafter.

Rule 79

On release of the Detainee from the Detention Unit, or transfer to another institution, all articles and money retained within the Detention Unit shall be returned to the Detainee except in so far as he has been authorised to spend money or send such property out of the Detention Unit, or it has been found necessary on hygienic grounds to destroy any article of clothing. The Detainee shall sign a receipt for the articles and money returned to him.

Complaints

Rule 80

Each Detainee on admission shall be provided in a language which he understands with the Complaints Procedure for Detainees.

Rule 81

- (A) Each Detainee may make a complaint to the Commanding Officer or his representative at any time.
- (B) Every complaint shall be dealt with promptly and replied to without undue delay.

Rule 82

- (A) A Detainee, if not satisfied with the response from the Commanding Officer, has the right to make a complaint, without censorship, to the Registrar, who shall inform the President.
- (B) The Registrar shall acknowledge receipt of all complaints without delay. Each complaint shall be dealt with promptly and replied to without undue delay.

Rule 83

- (A) A Detainee, if not satisfied with the response from the Registrar with regard to his complaint pursuant to Rule 82, has the right to make a complaint, without censorship, to the President.
- (B) The President shall acknowledge receipt of all complaints without delay. Each complaint shall be dealt with promptly and replied to without undue delay.

Rule 84

Each Detainee may freely communicate with the competent inspecting authority. During an inspection of the Detention Unit, the Detainee shall have the opportunity to talk to the inspector out of the sight and hearing of the Staff of the Detention Unit.

TRANSPORT OF DETAINEES

Rule 85

When Detainees are being transported to or from the Detention Unit, they shall be exposed to public view as little as possible and all proper safeguards shall be adopted to protect them from insult, injury, curiosity and publicity in any form.

Rule 86

Detainees shall at all times be transported in vehicles with adequate ventilation and light and in such a way as will not subject them to unnecessary physical hardship or indignity.

Rule 87

The transport of Detainees through the Host Prison shall be conducted jointly by personnel of the Detention Unit and of the Host Prison.

AMENDMENT OF THE RULES OF DETENTION

Rule 88

- (A) Proposals for amendment of the Rules of Detention may be made by a Judge, the Prosecutor or the Registrar, and shall be adopted if agreed to by the majority of the permanent Judges composing the Tribunal, at a plenary meeting of the Tribunal convened with notice of the proposal addressed to all Judges.
- (B) An amendment to the Rules of Detention may be otherwise adopted, provided it is unanimously approved by the Judges.
- (C) An amendment shall enter into force seven days after the date of issue of an official Tribunal document containing the amendment.