



KOSOVO SPECIALIST CHAMBERS  
DHOMAT E SPECIALIZUARA TË KOSOVËS  
SPECIJALIZOVANA VEÇA KOSOVA

# Registry Practice Direction on Detainees

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## Visits and Communications

<b>Adopted by:</b>	<b>The Registrar, Kosovo Specialist Chambers</b>
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**CHAPTER I      GENERAL PROVISIONS****Article 1      Purpose and scope**

1. The Registrar has adopted this Practice Direction on Visits and Communications ('Practice Direction') pursuant to Detention Rule 63 in order to regulate a Detainee's visits and

communications with family members and other persons while the Detainee is in the Detention Facilities.

2. This Practice Direction shall not apply to visits and communications between a Detainee and:
  - a. Counsel, which are governed by the Practice Direction on Counsel Visits and Communications adopted separately pursuant to Detention Rule 63; or
  - b. the media, which are governed by the Practice Direction on Media Communications adopted separately pursuant to Detention Rule 4.2.
3. This Practice Direction does not affect, and is subject to, any order or decision of the Competent Panel pursuant to Rule 56 of the Rules of Procedure and Evidence.

## Article 2 Definitions

In addition to Detention Rule 2, the following definitions shall apply:

Administrative Office	The Administrative Office of the Detention Management Unit of the Registry;
Communication	Any telephone call or correspondence between a Detainee and any other person;
Correspondence	Any incoming or outgoing mail, including parcels and enclosed items, addressed to or from a Detainee;
Private Visit	An in-person visit between a Detainee and his or her spouse or partner and/or children, in a suitable place within the Detention Facilities that permits physical contact and is outside the sight and hearing of Detention Officers;
Visit	Any in-person contact in the Detention Facilities between a Detainee and any other person who is not a Detention Officer, staff member or contractor of the Detention Management Unit or Prison, with or without direct physical contact.

## Article 3 Application

This Practice Direction shall be interpreted and applied in a manner consistent with the Law, the Rules of Procedure and Evidence, and the Rules of Detention.

## Article 4 General principles

1. This Practice Direction shall provide a Detainee with reasonable means of maintaining personal relationships with family members and other persons through visits, telephone calls, and correspondence. Detainees shall have fair and reasonable access to facilities and equipment provided for this purpose.

2. Restrictions on visits and communications between Detainees and other persons, including those imposed generally or in a specific case, shall be necessary to achieve a legitimate aim, such as ensuring safety, security, or good order in the Detention Facilities, preventing disorder or crime, protecting health, or protecting the safety, security, rights, or freedoms of others. Restrictions shall be proportionate to the aim pursued and shall never result in the total deprivation of family contact.

## **Article 5 Notification about Close Relatives**

Detainees shall be promptly informed of the serious illness, serious injury, or death of any Close Relative, when made known to the Registrar or the Chief Detention Officer.

## **Article 6 General restrictions**

1. The Rules of Detention, this Practice Direction, and any practice direction or instruction adopted or issued pursuant to Detention Rule 4 prescribe restrictions of general applicability to all Detainees that are necessary in the high security environment of the Detention Facilities or that are necessary to achieve another legitimate aim in accordance with Article 4.2 of this Practice Direction (e.g., protecting the health of Detainees or others).
2. With due regard to the ordinary and reasonable requirements of detention, the Chief Detention Officer may place reasonable restrictions on visits and communications, including limits on timing, quantity, and duration of visits and communications, based on the daily schedule of the Detention Facilities and the availability of staff and facilities or equipment.

## **Article 7 Specific restrictions**

1. The Registrar may decide to impose necessary and proportionate restrictions on the visits and communications of a specific Detainee pursuant to Article 4.2 of this Practice Direction.
2. Specific restrictions may include, *inter alia*, special visiting arrangements, the exclusion of a specific visitor or a specific category of visitors, and the monitoring of visits and communications with a specific visitor in accordance with this Practice Direction.
3. When there is a decision by the Registrar imposing specific restrictions, the following shall apply within twenty-four (24) hours of the decision:
  - a. the Detainee shall be informed in writing and in a language the Detainee understands of the decision and of his or her right to complain against the decision;
  - b. the Detainee shall be informed of the reasons for the decision, unless the reasons can not be disclosed without prejudicing the legitimate aim pursued; and
  - c. the Registrar shall inform the Competent Panel, where appropriate.
4. The Registrar shall always inform the Competent Panel of the renewal of any specific restrictions and in any instance where the Detainee is unaware of the reason for the decision pursuant to the preceding paragraph.
5. Any specific restrictions shall be imposed for a duration no longer than required to achieve the legitimate aim pursued and shall be recorded in the Detainee's Personal Record.
6. This Article is without prejudice to the authority of the Chief Detention Officer to:
  - a. take urgent security measures pursuant to Article 8 of this Practice Direction;
  - b. deny permission to visit pursuant to Article 12 of this Practice Direction;

- c. withhold correspondence pursuant to Article 18 of this Practice Direction; and
- d. address prohibited items in accordance with Detention Rule 25.

## Article 8 Urgent security measures

1. In cases of urgency, where the Chief Detention Officer assesses that the immediate imposition of restrictions on a Detainee's visits and communications is necessary and proportionate pursuant to Article 4.2 of this Practice Direction, the Chief Detention Officer may:
  - a. immediately terminate or interrupt any visit or telephone conversation;
  - b. relocate a visitor or a Detainee to a separate location in the Detention Facilities, if and to the extent necessary to ensure the safety of a visitor or a Detainee; and
  - c. temporarily stop, or limit the duration of, a Detainee's visits and communications for as long as necessary and, in any event, no longer than three (3) consecutive calendar days.
2. The Chief Detention Officer shall promptly inform the Registrar of any urgent security measure taken pursuant to this Article and the reasons therefor.
3. Where, due to urgency, immediate action is required, a Detention Officer may take measures in accordance with paragraph 1 of this Article and promptly inform the Chief Detention Officer thereafter. Paragraph 2 of this Article shall apply *mutatis mutandis*.

## Article 9 Review

A Detainee whose visits and communications have been restricted pursuant to this Practice Direction may submit a formal complaint or request for review to the appropriate authority, as detailed in the Practice Direction on Complaints adopted pursuant to Detention Rule 63.

# CHAPTER II VISITS

## Article 10 Basic provisions

1. Visits shall occur during visiting hours and according to this Practice Direction. In cases where the daily visiting schedule would result in the total deprivation of family contact for a Detainee, the Chief Detention Officer may alter the daily visiting schedule, as required.
2. A Detainee may receive visits from family members and other persons with whom the Detainee has a pre-existing personal relationship, as well as the specific categories of visitors referred to in Chapter V of this Practice Direction.
3. A Detainee shall be informed of the identity of each visitor and may refuse to see any visitor other than the Registrar.
4. The Chief Detention Officer shall keep a log of all visitors, including the name of the Detainee, the name and address of the visitor, and the time and date of the visit.

## Article 11 Applications for visits

1. Visitors shall request permission to visit a Detainee in accordance with this Article, except for representatives of the ICRC, the Ombudsperson, the Registrar or a staff member acting on his or her behalf, and Specialist Chambers' Judges or staff members acting on their behalf.

2. A visitor shall submit in writing a completed and signed application form to the Detention Management Unit, in one of the three official languages of the Specialist Chambers.
3. The application form shall indicate the date of the proposed visit and shall be submitted to the Administrative Office for processing, preferably via e-mail as a PDF, no later than fifteen (15) calendar days prior to the date of the proposed visit.
4. Together with the application form, the visitor shall provide the information and documentation requested in the application form, including a copy of the picture page of his or her passport, and where applicable, sufficient information or documentation to demonstrate the requisite family relationship or other pre-existing personal relationship between the visitor and the Detainee.
5. Where the application form is submitted in a language other than one of the three official languages of the Specialist Chambers, the Administrative Office may contact the applicant to obtain a translation thereof or, in exceptional circumstances, use the interpretation and translation services of the Specialist Chambers.
6. In exceptional circumstances, the Chief Detention Officer may, at his or her own discretion, waive the above requirements if good cause is shown.

## Article 12 Permission to visit

1. Visitors who comply with the requirements in Article 11 of this Practice Direction shall normally be granted permission to visit by the Chief Detention Officer, unless:
  - a. the Detainee refuses to see the visitor pursuant to Article 10.3 of this Practice Direction;
  - b. the application form is incomplete or contains any false statement or intentional or reckless omission;
  - c. the visitor has not demonstrated a family or pre-existing personal relationship with the Detainee, as applicable;
  - d. the Chief Detention Officer determines that it is necessary and proportionate to deny permission to visit pursuant to Article 4.2 of this Practice Direction;
  - e. a general restriction is imposed pursuant to Article 6.1 of this Practice Direction; or
  - f. a specific restriction is imposed by decision of the Registrar pursuant to Article 7 of this Practice Direction.
2. Where permission has been granted, the Chief Detention Officer shall issue a permit to the visitor and inform the Prison and the Detainee accordingly.
3. The Chief Detention Officer shall promptly inform in writing both the visitor and the Detainee of the denial of any visit.
4. Where a Detainee's visits are restricted as described in paragraph 1.f of this Article, the Detainee shall be informed in accordance with Article 7 of this Practice Direction.
5. Where the Chief Detention Officer denies permission to visit pursuant to paragraphs 1.a to 1.e of this Article, the Chief Detention Officer shall promptly inform the Registrar.
6. Particular consideration shall be given to visits by Close Relatives ('family visits'). The Chief Detention Officer may issue instructions pursuant to Detention Rule 4.6 for the purpose of facilitating family visits using simplified visiting procedures.

### Article 13 Security controls

1. Visitors shall be required to present a valid proof of identity bearing a photograph that is acceptable to the Prison and the Detention Facilities.
2. To enter the Prison and the Detention Facilities, a visitor must comply with their security requirements and consent to be searched. Searches carried out in the Prison shall be conducted in accordance with national legislation. Searches carried out in the Detention Facilities shall be conducted in accordance with written instructions issued by the Chief Detention Officer on the security requirements to enter the Detention Facilities, and visitors shall be given a copy of those instructions prior to providing their consent to be searched. A visitor may withdraw his or her consent to being searched at any time.
3. Any visitor who withdraws his or her consent to any security controls shall be refused access to the Prison and the Detention Facilities.

### Article 14 Items brought to visits

1. Any item received from outside the Detention Facilities, including any item introduced by a visitor, shall be subjected to the security controls of the Detention Facilities and, where applicable, the Prison, including the use of X-ray machines and other screening devices, in accordance with Detention Rule 25.
2. Visitors may not directly exchange any item with a Detainee during a visit. The Chief Detention Officer may issue instructions pursuant to Detention Rule 4.6 on the procedures to import an item for a Detainee.
3. Chapter IV of this Practice Direction shall apply *mutatis mutandis* to paper documents for a Detainee brought by a visitor.

### Article 15 Monitoring of visits

1. Visits with a Detainee pursuant to this Chapter shall be conducted within the sight and hearing of Detention Officers.
2. Pursuant to Article 7 of this Practice Direction, the Registrar may decide to order the recording, listening to, summarising, and transcribing of visits of a specific visitor to a Detainee for a period not exceeding ten (10) visiting days. This specific restriction shall be renewable, each time, for an additional period of up to ten (10) visiting days if it is considered necessary and proportionate to continue the specific restriction.

## CHAPTER III TELEPHONE CALLS

### Article 16 Basic provisions

1. Detainees shall make outgoing telephone calls at their own expense and according to this Practice Direction. The Chief Detention Officer may permit Detainees to receive incoming calls only in exceptional circumstances.
2. In the case of a Detainee who lacks financial means, the Registrar may determine that the expense of telephone calls shall be borne, wholly or partially, by the Specialist Chambers.

3. The Chief Detention Officer may impose reasonable limits on the timing, quantity, and duration of telephone calls based on the daily schedule of the Detention Facilities and the availability of telephone facilities. The Chief Detention Officer may permit a Detainee to make calls at other times in exceptional circumstances.
4. The Chief Detention Officer shall keep a log of all telephone calls sent or received, including the name of the Detainee, the telephone number, the date and time of the call, and any other information the Chief Detention Officer deems relevant.

## **Article 17      Monitoring of telephone conversations**

1. Detainees shall have access to privileged and non-privileged telephone lines. Telephone conversations on the non-privileged line shall be passively monitored. Passive monitoring entails digitally recording telephone conversations without simultaneous listening. Detainees shall be informed of the passive monitoring of their non-privileged telephone conversations.
2. Telephone logs referred to in Article 16.4 of this Practice Direction and digital recordings referred to in paragraph 1 shall be retained for a period not exceeding eight (8) months from their creation, in accordance with the Specialist Chambers' retention schedules referred to in Detention Rule 64. This period may be extended by instruction of the Registrar.
3. In order to ensure safety, security, and good order in the Detention Facilities, the Chief Detention Officer may listen to up to ten (10) percent of the number of telephone conversations digitally recorded each week, which shall be randomly selected.
4. Pursuant to Article 7 of this Practice Direction, the Registrar may decide that telephone conversations with a specific Detainee shall be listened to, summarised, and transcribed, including:
  - a. digital recordings in accordance with paragraph 1; and
  - b. future telephone conversations, for a period not to exceed thirty (30) consecutive calendar days, which shall be renewable for an additional period of up to thirty (30) consecutive calendar days if it is considered necessary and proportionate to continue the specific restriction.
5. The Practice Direction on Counsel Visits and Communications shall govern privileged telephone conversations.

## **CHAPTER IV      CORRESPONDENCE**

### **Article 18      Basic provisions**

1. Detainees shall be entitled to correspond by letter and parcel at their own expense and according to this Practice Direction. The Chief Detention Officer may impose reasonable limits on the quantity and weight of parcels received.
2. In the case of a Detainee who lacks financial means, the Registrar may determine that the expense of correspondence shall be borne, wholly or partially, by the Specialist Chambers.
3. The Chief Detention Officer shall keep a log of all correspondence sent or received by a Detainee, including the addressee, the sender (if known), the date of postmark or receipt, and any other information the Chief Detention Officer deems relevant.



4. All correspondence shall be subjected to the security controls of the Detention Facilities and, where applicable, the Prison, including the use of X-ray machines and other screening devices, in accordance with Detention Rule 25.

## **Article 19      Monitoring of correspondence**

1. The Chief Detention Officer shall open, inspect and read correspondence within two (2) working days of receipt, as necessary in the high security environment of the Detention Facilities. Without prejudice to Detention Rule 25 governing prohibited items or Article 7 of this Practice Direction, correspondence shall be delivered or posted promptly, unless the correspondence is withheld in accordance with this Article.
2. The Chief Detention Officer may withhold correspondence between a specific Detainee and any other person if the Chief Detention Officer determines that withholding the correspondence is necessary and proportionate pursuant to Article 4.2 of this Practice Direction.
3. When withholding correspondence, the Chief Detention Officer shall do one of the following:
  - a. return outgoing correspondence to the Detainee, who shall be allowed to rewrite the correspondence without any offending information; or
  - b. return incoming correspondence to the sender; or
  - c. retain incoming correspondence and provide a copy of any offending information to the Registrar, who shall proceed pursuant to Article 7 of this Practice Direction or instruct the Chief Detention Officer to promptly deliver or post the correspondence or, alternatively, refer the matter to the Competent Panel.
4. The Chief Detention Officer shall promptly inform the Registrar of any action taken pursuant to paragraph 3.
5. In accordance with Chapter V of this Practice Direction, correspondence clearly marked with the name of the ICRC, the Ombudsperson, the Registrar or a staff member acting on his or her behalf, a Judge or Panel of the Specialist Chambers or staff members acting on their behalf, or any other judicial authority recognised by the Registrar, as sender or recipient shall not be opened or read.
6. The Practice Direction on Counsel Visits and Communications shall govern privileged correspondence with Counsel.

## **CHAPTER V      SPECIAL VISITS AND COMMUNICATIONS**

### **Article 20      Consular representatives**

1. Detainees shall be allowed to communicate with and receive visits from the consular representatives of the State or States of which they are nationals.
2. Chapters I to IV of this Practice Direction shall apply to visits and communications with a consular representative, except that:
  - a. a visit shall be conducted within the sight, but not within the hearing, of Detention Officers; and
  - b. only the Registrar shall have the authority to grant consular representatives permission to visit.Where a diplomatic representative also has consular functions, the Registrar may grant this diplomatic representative permission to visit.

3. Upon the Registrar's permission in accordance with paragraph 2.b, the Chief Detention Officer shall make arrangements as to the time and duration of visits pursuant to this Article.
4. Detainees who are not considered to be nationals of a State, who are nationals of States without consular representation in the Host State, and refugees shall be allowed to communicate with the consular representative of the national or international authority whose task it is to protect their interests or the State that takes charge of their interests.

## Article 21 ICRC

1. Detainees shall be allowed to communicate freely and in full confidentiality with representatives of the ICRC referred to in Detention Rule 7.
2. Visits pursuant to this Article shall be conducted outside the sight and hearing of Detention Officers. Article 13 and Article 14.1 of this Practice Direction shall apply.
3. Correspondence shall be clearly marked with the name of the ICRC as sender or recipient and shall not be opened or read. Article 18 of this Practice Direction shall apply.

## Article 22 Ombudsperson

The provisions of Article 21 of this Practice Direction shall apply *mutatis mutandis* to visits and communications with the Ombudsperson.

## Article 23 Authorities

1. The provisions of Article 21 of this Practice Direction shall apply *mutatis mutandis* to visits and communications with the Registrar or a staff member acting on his or her behalf or with a Judge or Panel of the Specialist Chambers or a staff member acting on their behalf.
2. Chapters I to IV of this Practice Direction shall apply to visits and communications with representatives of any other judicial authority recognised by the Registrar except that visits shall be conducted within the sight, but not within the hearing, of Detention Officers and correspondence clearly marked with the name of a judicial authority recognised by the Registrar as sender or recipient shall not be opened or read.

## Article 24 Private Visits

1. A Detainee shall be allowed to spend time with his or her spouse or partner and/or children in a private visit at least once every three (3) months for a period of up to three (3) hours. Private visits shall be conducted outside the sight and hearing of Detention Officers.
2. A suitable place within the Detention Facilities shall be made available for this purpose with due regard to safety and dignity. Male and female Detainees shall be allowed the privilege of private visits on an equal basis.
3. In a visitor's first request for a private visit, the visitor shall submit in writing a completed and signed application form to the Detention Management Unit in compliance with Article 11 of this Practice Direction. Together with the application form, the visitor shall provide the information and documentation requested in the application form, including a copy of the picture page of the visitor's passport and documentation or proof of marital or partnership status and/or parental relationship.

4. Upon verification and approval of a private visit, the Chief Detention Officer shall notify the Detainee and the visitor.
5. After the first private visit, visitors approved for private visits by the Chief Detention Officer shall not be required to resubmit the information and documentation required in paragraph 3, unless specifically requested by the Chief Detention Officer. The Chief Detention Officer shall provide such approved visitors with information for arranging subsequent private visits.
6. The Chief Detention Officer may issue instructions pursuant to Detention Rule 4.6 on the procedures applicable to and conduct of private visits.

## Article 25 Former Detainees

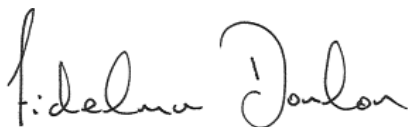
In the interests of security and good order in the Detention Facilities, the Registrar may refuse to allow a former Detainee to visit any other Detainee at the Detention Facilities.

## FINAL PROVISION

### Article 26 Amendments

1. An amendment to this Practice Direction shall enter into force on the date of its signature.
2. An amendment to this Practice Direction shall not apply retroactively.

The Hague, Netherlands  
23 September 2020



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Dr Fidelma Donlon  
Registrar