



Preparatory Commission for the International Criminal Court

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References to Rules of Procedure and Evidence found in the Rome Statute of the International Criminal Court and in relevant documents of the United Nations Diplomatic Conference of Plenipotentiaries for the Establishment of an International Criminal Court

Note by the Secretariat

Article 15

Prosecutor

...

3. If the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, he or she shall submit to the Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of Procedure and Evidence.

...

Article 21

Applicable law

1. The Court shall apply:

(a) In the first place, this Statute, Elements of Crimes and its Rules of Procedure and Evidence;

...

Article 31

Grounds for excluding criminal responsibility

...

3. At trial, the Court may consider a ground for excluding criminal responsibility other than those referred to in paragraph 1 where such a ground is derived from applicable law as set forth in article 21. The procedures relating to the consideration of such a ground shall be provided for in the Rules of Procedure and Evidence.

Article 39

Chambers

...

2. (a) The judicial functions of the Court shall be carried out in each division by Chambers.

(b) (i) The Appeals Chamber shall be composed of all the judges of the Appeals Division;

(ii) The functions of the Trial Chamber shall be carried out by three judges of the Trial Division;

(iii) The functions of the Pre-Trial Chamber shall be carried out either by three judges of the Pre-Trial Division or by a single judge of that division in accordance with this Statute and the Rules of Procedure and Evidence;

...

Article 41

Excusing and disqualification of judges

1. The Presidency may, at the request of a judge, excuse that judge from the exercise of a function under this Statute, in accordance with the Rules of Procedure and Evidence.

2. (a) A judge shall not participate in any case in which his or her impartiality might reasonably be doubted on any ground. A judge shall be disqualified from a case in accordance with this paragraph if, *inter alia*, that judge has previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted. A judge shall also be disqualified on such other grounds as may be provided for in the Rules of Procedure and Evidence.

Note included in the recommendations of the Coordinator on Part 4, found in document A/CONF.183/C.1/L.45:

Some delegations were of the view that “nationality grounds” should be included in the Rules of Procedure and Evidence (i.e. a national of a complainant State, of the State on whose territory the offence is alleged to have been committed or of a State of which the accused is a national). Other delegations were opposed to the inclusion of nationality

grounds. The view was also expressed that the first sentence in this paragraph was sufficient, and that the grounds in the Rules of Procedure and Evidence should not be exhaustive.

...

Article 42

The Office of the Prosecutor

...

7. Neither the Prosecutor nor a Deputy Prosecutor shall participate in any matter in which their impartiality might reasonably be doubted on any ground. They shall be disqualified from a case in accordance with this paragraph if, *inter alia*, they have previously been involved in any capacity in that case before the Court or in a related criminal case at the national level involving the person being investigated or prosecuted.

Note included in the recommendations of the Coordinator on Part 4, found in document A/CONF.183/C.1/L.45:

Further grounds for disqualification might be set out in the Rules of Procedure and Evidence.

...

Article 46

Removal from office

Note included in the recommendations of the Coordinator on Part 4, found in document A/CONF.183/C.1/L.45:

The view was expressed that a provision dealing with resignation should be contained in either the Rules of Procedure and Evidence or the Regulations of the Court.

1. A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar shall be removed from office if a decision to this effect is made in accordance with paragraph 2, in cases where that person:

(a) Is found to have committed serious misconduct or a serious breach of his or her duties under this Statute, as provided for in the Rules of Procedure and Evidence; or

...

4. A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar whose conduct or ability to exercise the functions of the office as required by this Statute is challenged under this article shall have full opportunity to present and receive evidence and to make submissions in accordance with the Rules of Procedure and Evidence. The person in question shall not otherwise participate in the consideration of the matter.

Article 47

Disciplinary measures

A judge, Prosecutor, Deputy Prosecutor, Registrar or Deputy Registrar who has committed misconduct of a less serious nature than that set out in article 46, paragraph 1, shall be subject to disciplinary measures, in accordance with the Rules of Procedure and Evidence.

Article 50

Official and working languages

1. The official languages of the Court shall be Arabic, Chinese, English, French, Russian and Spanish. The judgements of the Court, as well as other decisions resolving fundamental issues before the Court, shall be published in the official languages. The Presidency shall, in accordance with the criteria established by the Rules of Procedure and Evidence, determine which decisions may be considered as resolving fundamental issues for the purposes of this paragraph.

2. The working languages of the Court shall be English and French. The Rules of Procedure and Evidence shall determine the cases in which other official languages may be used as working languages.

...

Article 51

Rules of Procedure and Evidence

1. The Rules of Procedure and Evidence shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties.

2. Amendments to the Rules of Procedure and Evidence may be proposed by:

- (a) Any State Party;
- (b) The judges acting by an absolute majority; or
- (c) The Prosecutor.

Such amendments shall enter into force upon adoption by a two-thirds majority of the members of the Assembly of States Parties.

3. After the adoption of the Rules of Procedure and Evidence, in urgent cases where the Rules do not provide for a specific situation before the Court, the judges may, by a two-thirds majority, draw up provisional Rules to be applied until adopted, amended or rejected at the next ordinary or special session of the Assembly of States Parties.

4. The Rules of Procedure and Evidence, amendments thereto and any provisional Rule shall be consistent with this Statute. Amendments to the Rules of Procedure and Evidence as well as provisional Rules shall not be applied retroactively to the detriment of the person who is being investigated or prosecuted or who has been convicted.

5. In the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail.

Article 52

Regulations of the Court

1. The judges shall, in accordance with this Statute and the Rules of Procedure and Evidence, adopt, by an absolute majority, the Regulations of the Court necessary for its routine functioning.

Article 55

Rights of persons during an investigation

...

2. Where there are grounds to believe that a person has committed a crime within the jurisdiction of the Court and that person is about to be questioned either by the Prosecutor, or by national authorities pursuant to a request made under Part 9, that person shall also have the following rights of which he or she shall be informed prior to being questioned:

...

- (c) To have legal assistance of the person's choosing, or, if the person does not have legal assistance, to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by the person in any such case if the person does not have sufficient means to pay for it;

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Corr.1:

Some delegations proposed that a provision be inserted into the Rules of Procedure and Evidence granting a person being questioned the opportunity to be medically examined.

Article 57

Functions and powers of the Pre-Trial Chamber

...

2. ...

- (b) In all other cases, a single judge of the Pre-Trial Chamber may exercise the functions provided for in this Statute, unless otherwise provided for in the Rules of Procedure and Evidence or by a majority of the Pre-Trial Chamber.

3. In addition to its other functions under this Statute, the Pre-Trial Chamber may:

...

- (e) Where a warrant of arrest or a summons has been issued under article 58, and having due regard to the strength of the evidence and the rights of the parties concerned, as

provided for in this Statute and the Rules of Procedure and Evidence, seek the cooperation of States pursuant to article 93, paragraph 1 (j), to take protective measures for the purpose of forfeiture, in particular for the ultimate benefit of victims.

Article 60

Initial proceedings before the Court

...

3. The Pre-Trial Chamber shall periodically review its ruling on the release or detention of the person, and may do so at any time on the request of the Prosecutor or the person. Upon such review, it may modify its ruling as to detention, release or conditions of release, if it is satisfied that changed circumstances so require.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2:

The Working Group noted that this time period should be addressed in the Rules of Procedure and Evidence.

4. The Pre-Trial Chamber shall ensure that a person is not detained for an unreasonable period prior to trial due to inexcusable delay by the Prosecutor. If such delay occurs, the Court shall consider releasing the person, with or without conditions.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2:

The Working Group noted that this time period should be addressed in the Rules of Procedure and Evidence.

...

Article 61

Confirmation of the charges before trial

...

3. Within a reasonable time before the hearing, the person shall:

(a) Be provided with a copy of the document containing the charges on which the Prosecutor intends to bring the person to trial; and

(b) Be informed of the evidence on which the Prosecutor intends to rely at the hearing.

The Pre-Trial Chamber may issue orders regarding the disclosure of information for the purposes of the hearing.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2:

The Working Group noted that this time period should be addressed in the Rules of Procedure and Evidence.

Article 64

Functions and powers of the Trial Chamber

1. The functions and powers of the Trial Chamber set out in this article shall be exercised in accordance with this Statute and the Rules of Procedure and Evidence.

...

Article 68

Protection of the victims and witnesses and their participation in the proceedings

...

3. Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

...

Article 69

Evidence

1. Before testifying, each witness shall, in accordance with the Rules of Procedure and Evidence, give an undertaking as to the truthfulness of the evidence to be given by that witness.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.6:

The Rules of Procedure and Evidence could in some cases exempt persons from giving an undertaking as to the truthfulness of the evidence given.

2. The testimony of a witness at trial shall be given in person, except to the extent provided by the measures set forth in article 68 or in the Rules of Procedure and Evidence. The Court may also permit the giving of *viva voce* (oral) or recorded testimony of a witness by means of video or audio technology, as well as the introduction of documents or written transcripts, subject to this Statute and in accordance with the Rules of Procedure and Evidence. These measures shall not be prejudicial to or inconsistent with the rights of the accused.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.1:

The Working Group noted that the requirements for the admissibility of recorded testimony should be addressed in the Rules of Procedure and Evidence.

...

4. The Court may rule on the relevance or admissibility of any evidence, taking into account, *inter alia*, the probative value of the evidence and any prejudice that such evidence may cause to a fair trial or to a fair evaluation of the testimony of a witness, in accordance with the Rules of Procedure and Evidence.

5. The Court shall respect and observe privileges on confidentiality as provided for in the Rules of Procedure and Evidence.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.1:

These may include privileges relative to doctor-patient, lawyer-client and priest-penitent relationships and other similar privileges.

...

Article 70

Offences against the administration of justice

...

2. The principles and procedures governing the Court's exercise of jurisdiction over offences under this article shall be those provided for in the Rules of Procedure and Evidence. The conditions for providing international cooperation to the Court with respect to its proceedings under this article shall be governed by the domestic laws of the requested State.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.7:

The Rules of Procedure and Evidence will need to include provisions governing such issues as general principles of criminal law, procedures for investigating, prosecuting, and enforcing sentences with respect to, such crimes.

3. In the event of conviction, the Court may impose a term of imprisonment not exceeding five years, or a fine in accordance with the Rules of Procedure and Evidence, or both.

Article 71

Sanctions for misconduct before the Court

1. The Court may sanction persons present before it who commit misconduct, including disruption of its proceedings or deliberate refusal to comply with its directions, by administrative measures other than imprisonment, such as temporary or permanent removal from the courtroom, a fine or other similar measures provided for in the Rules of Procedure and Evidence.

2. The procedures governing the imposition of the measures set forth in paragraph 1 shall be those provided for in the Rules of Procedure and Evidence.

Article 72

Protection of national security information

...

5. If, in the opinion of a State, disclosure of information would prejudice its national security interests, all reasonable steps will be taken by the State, acting in conjunction with the Prosecutor, the defence or the Pre-Trial Chamber or Trial Chamber, as the case may be, to seek to resolve the matter by cooperative means. Such steps may include:

...

(d) Agreement on conditions under which the assistance could be provided including, among other things, providing summaries or redactions, limitations on disclosure, use of *in camera* or *ex parte* proceedings, or other protective measures permissible under the Statute and the Rules.

...

Article 74

Requirements for the decision

...

3. The judges shall attempt to achieve unanimity in their decision, failing which the decision shall be taken by a majority of the judges.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.5:

The Working Group noted that the Rules of Procedure and Evidence should address the question of how a majority decision is to be achieved.

...

Article 75

Reparations to victims

1. The Court shall establish principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and will state the principles on which it is acting.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.7:

Some delegations had the following view:

This provision intends that where there are only a few victims the Trial Chamber may make findings about their damage, loss and injury. Where there are more than a few victims, however, the Trial Chamber will not attempt to take evidence from or enter orders

identifying separate victims or concerning their individual claims for reparations. Instead, the Trial Chamber may make findings as to whether reparations are due because of the crimes and will not undertake to consider and decide claims of individual victims.

In similar fashion, where there are more than a few victims, this provision will not authorize their separate appeals to the Appeals Chamber. It is anticipated that the Rules will limit the number of victims who can appeal and will require that if there are large numbers of victims, their appeals will be jointly presented by a single representative.

It was understood that the Rules of Procedure and Evidence would have to address such issues.

...

Article 76

Sentencing

...

2. Except where article 65 applies and before the completion of the trial, the Trial Chamber may on its own motion and shall, at the request of the Prosecutor or the accused, hold a further hearing to hear any additional evidence or submissions relevant to the sentence, in accordance with the Rules of Procedure and Evidence.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.2:

The Working Group noted that notice to the parties should be dealt with under the Rules of Procedure and Evidence.

...

Article 77

Applicable penalties

...

2. In addition to imprisonment, the Court may order:

- (a) A fine under the criteria provided for in the Rules of Procedure and Evidence;

...

Article 78

Determination of the sentence

1. In determining the sentence, the Court shall, in accordance with the Rules of Procedure and Evidence, take into account such factors as the gravity of the crime and the individual circumstances of the convicted person.

Note included in the report of the Working Group on Penalties, document A/CONF.183/C.1/WGP/L.14/Corr.2:

It may be impossible to foresee all of the relevant aggravating and mitigating circumstances at this stage. Many delegations felt that factors should be elaborated and developed in the Rules of Procedure and Evidence, while several other delegations expressed the view that a final decision on this approach would depend upon the mechanism agreed for adopting the Rules. Among the factors suggested by various delegations as having relevance were: the impact of the crime on the victims and their families; the extent of damage caused or the danger posed by the convicted person's conduct; the degree of participation of the convicted person in the commission of the crime; the circumstances falling short of exclusion of criminal responsibility such as substantially diminished mental capacity or, as appropriate, duress; the age of the convicted person; the social and economic condition of the convicted person; the motive for the commission of the crime; the subsequent conduct of the person who committed the crime; superior orders; the use of minors in the commission of the crime.

...

Article 81

Appeal against decision of acquittal or conviction or against sentence

1. A decision under article 74 may be appealed in accordance with the Rules of Procedure and Evidence as follows:

(a) The Prosecutor may make an appeal on any of the following grounds:

- (i) Procedural error,
- (ii) Error of fact, or
- (iii) Error of law;

(b) The convicted person, or the Prosecutor on that person's behalf, may make an appeal on any of the following grounds:

- (i) Procedural error,
- (ii) Error of fact,
- (iii) Error of law, or
- (iv) Any other ground that affects the fairness or reliability of the proceedings or decision.

2. (a) A sentence may be appealed, in accordance with the Rules of Procedure and Evidence, by the Prosecutor or the convicted person on the ground of disproportion between the crime and the sentence;

...

3. ...

(b) When a convicted person's time in custody exceeds the sentence of imprisonment imposed, that person shall be released, except that if the Prosecutor is also appealing, the release may be subject to the conditions under subparagraph (c) below;

(c) In case of an acquittal, the accused shall be released immediately, subject to the following:

(i) Under exceptional circumstances, and having regard, *inter alia*, to the concrete risk of flight, the seriousness of the offence charged and the probability of success on appeal, the Trial Chamber, at the request of the Prosecutor, may maintain the detention of the person pending appeal;

(ii) A decision by the Trial Chamber under subparagraph (c) (i) may be appealed in accordance with the Rules of Procedure and Evidence.

Article 82

Appeal against other decisions

1. Either party may appeal any of the following decisions in accordance with the Rules of Procedure and Evidence:

(a) A decision with respect to jurisdiction or admissibility;

(b) A decision granting or denying release of the person being investigated or prosecuted;

(c) A decision of the Pre-Trial Chamber to act on its own initiative under article 56, paragraph 3;

(d) A decision that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial or Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.

...

3. An appeal shall not of itself have suspensive effect unless the Appeals Chamber so orders, upon request, in accordance with the Rules of Procedure and Evidence.

4. A legal representative of the victims, the convicted person or a bona fide owner of property adversely affected by an order under article 73 may appeal against the order for reparations, as provided in the Rules of Procedure and Evidence.

Article 83

Proceedings on appeal

...

2. If the Appeals Chamber finds that the proceedings appealed from were unfair in a way that affected the reliability of the decision or sentence, or that the decision or sentence appealed from was materially affected by error of fact or law or procedural error, it may:

(a) Reverse or amend the decision or sentence; or

(b) Order a new trial before a different Trial Chamber.

For these purposes, the Appeals Chamber may remand a factual issue to the original Trial Chamber for it to determine the issue and to report back accordingly, or may itself call

evidence to determine the issue. When the decision or sentence has been appealed only by the person convicted, or the Prosecutor on that person's behalf, it cannot be amended to his or her detriment.

...

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.3:

The Working Group notes that the submission of new evidence to the Appeals Chamber should be addressed in the Rules of Procedure and Evidence.

3. ...

4. The judgement of the Appeals Chamber shall be taken by a majority of the judges and shall be delivered in open court. The judgement shall state the reasons on which it is based. When there is no unanimity, the judgement of the Appeals Chamber shall contain the views of the majority and the minority, but a judge may deliver a separate or dissenting opinion on a question of law.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.3:

The Working Group agreed that details concerning quorum for Parts 5, 6 and 8 could be addressed in the Rules of Procedure and Evidence ...

Article 84

Revision of conviction or sentence

...

2. The Appeals Chamber shall reject the application if it considers it to be unfounded. If it determines that the application is meritorious, it may, as appropriate:

- (a) Reconvene the original Trial Chamber;
- (b) Constitute a new Trial Chamber; or
- (c) Retain jurisdiction over the matter,

with a view to, after hearing the parties in the manner set forth in the Rules of Procedure and Evidence, arriving at a determination on whether the judgement should be revised.

Article 85

Compensation to an arrested or convicted person

1. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Note included in the report of the Working Group on Procedural Matters, document A/CONF.183/C.1/WGPM/L.2/Add.7:

The Rules shall address the procedures for enforcing this right.

...

3. In exceptional circumstances, where the Court finds conclusive facts showing that there has been a grave and manifest miscarriage of justice, it may in its discretion award compensation, according to the criteria provided in the Rules of Procedure and Evidence, to a person who has been released from detention following a final decision of acquittal or a termination of the proceedings for that reason.

Article 87

Requests for cooperation: general provisions

1. (a) The Court shall have the authority to make requests to States Parties for cooperation. The requests shall be transmitted through the diplomatic channel or any other appropriate channel as may be designated by each State Party upon ratification, acceptance, approval or accession.

Subsequent changes to the designation shall be made by each State Party in accordance with the Rules of Procedure and Evidence.

...

2. Requests for cooperation and any documents supporting the request shall either be in or be accompanied by a translation into an official language of the requested State or in one of the working languages of the Court, in accordance with the choice made by that State upon ratification, acceptance, approval or accession.

Subsequent changes to this choice shall be made in accordance with the Rules of Procedure and Evidence.

Article 92

Provisional arrest

...

3. A person who is provisionally arrested may be released from custody if the requested State has not received the request for surrender and the documents supporting the request as specified in article 91 within the time limits specified in the Rules of Procedure and Evidence. However, the person may consent to surrender before the expiration of this period if permitted by the law of the requested State. In such a case, the requested State shall proceed to surrender the person to the Court as soon as possible.

Note included in the report of the Working Group on International Cooperation (see document A/CONF.183/C.1/WGIC/L.8/Rev.1):

The question of specific time limit should be addressed in the Rules of Procedure and Evidence.

...

Article 93

Other forms of cooperation

...

8. (a) The Court shall ensure the confidentiality of documents and information, except as required for the investigation and proceedings described in the request;

(b) The requested State may, when necessary, transmit documents or information to the Prosecutor on a confidential basis. The Prosecutor may then use them solely for the purpose of generating new evidence;

(c) The requested State may, on its own motion or at the request of the Prosecutor, subsequently consent to the disclosure of such documents or information. They may then be used as evidence pursuant to the provisions of Parts 5 and 6 and in accordance with the Rules of Procedure and Evidence.

Note included in the report of the Working Group on International Cooperation (see document A/CONF.183/C.1/WGIC/L.15):

Views have also been expressed that subparagraphs (b) and (c) should be addressed in the Rules of Procedure and Evidence.

...

10. (a) The Court may, upon request, cooperate with and provide assistance to a State Party conducting an investigation into or trial in respect of conduct which constitutes a crime within the jurisdiction of the Court or which constitutes a serious crime under the national law of the requesting State.

(b) (i) The assistance provided under subparagraph (a) shall include, *inter alia*:

(a) The transmission of statements, documents or other types of evidence obtained in the course of an investigation or a trial conducted by the Court; and

(b) The questioning of any person detained by order of the Court;

(ii) In the case of assistance under subparagraph (b) (i) (1):

(a) If the documents or other types of evidence have been obtained with the assistance of a State, such transmission shall require the consent of that State;

(b) If the statements, documents or other types of evidence have been provided by a witness or expert, such transmission shall be subject to the provisions of article 68.

(c) The Court may, under the conditions set out in this paragraph, grant a request for assistance under this paragraph from a State which is not a Party to the Statute.

Note included in the report of the Working Group on International Cooperation (see document A/CONF.183/C.1/WGIC/L.15):

Views have been expressed that this subparagraph should be addressed in the Rules of Procedure and Evidence.

Article 103

Role of States in enforcement of sentences of imprisonment

...

3. In exercising its discretion to make a designation under paragraph 1, the Court shall take into account the following:

(a) The principle that States Parties should share the responsibility for enforcing sentences of imprisonment, in accordance with principles of equitable distribution, as provided in the Rules of Procedure and Evidence;

...

Article 109

Enforcement of fines and forfeiture measures

...

3. Property, or the proceeds of the sale of real property or, where appropriate, the sale of other property, which is obtained by a State Party as a result of its enforcement of a judgement of the Court shall be transferred to the Court.

Note included in the report of the Working Group on Enforcement, document A/CONF.183/C.1/WGE/L.14/Add.1:

The Working Group noted that there were a number of potential complex problems which may arise in the implementation of this provision, including questions about the disposition of various types of property, which should be addressed in the Rules.

Article 110

Review by the Court concerning reduction of sentence

...

2. The Court alone shall have the right to decide any reduction of sentence, and shall rule on the matter after having heard the person.

Note included in the report of the Working Group on Enforcement, document A/CONF.183/C.1/WGE/L.14/Add.1:

The Rules of Procedure and Evidence should also provide for the person to be heard through his or her legal representative.

3. When the person has served two thirds of the sentence, or 25 years in the case of life imprisonment, the Court shall review the sentence to determine whether it should be reduced. Such a review shall not be conducted before that time.

4. In its review under paragraph 3, the Court may reduce the sentence if it finds that one or more of the following factors are present:

(a) The early and continuing willingness of the person to cooperate with the Court in its investigations and prosecutions;

(b) The voluntary assistance of the person in enabling the enforcement of the judgements and orders of the Court in other cases, and in particular providing assistance in locating assets subject to orders of fine, forfeiture or reparation which may be used for the benefit of victims; or

(c) Other factors establishing a clear and significant change of circumstances sufficient to justify the reduction of sentence, as provided in the Rules of Procedure and Evidence.

5. If the Court determines in its initial review under paragraph 3 that it is not appropriate to reduce the sentence, it shall thereafter review the question of reduction of sentence at such intervals and applying such criteria as provided for in the Rules of Procedure and Evidence.

Note included in the report of the Working Group on Penalties, document A/CONF.183/C.1/WGP/L.14/Add.2:

In view of the technical complexity of [rules on subsequent mandatory reviews], it is suggested that [said] reviews take place according to modalities specified in the Rules of Procedure and Evidence.

Article 111

Escape

If a convicted person escapes from custody and flees the State of enforcement, that State may, after consultation with the Court, request the person's surrender from the State in which the person is located pursuant to existing bilateral or multilateral arrangements, or may request that the Court seek the person's surrender. It may direct that the person be delivered to the State in which he or she was serving the sentence or to another State designated by the Court.

Note included in the report of the Working Group on Enforcement, document A/CONF.183/C.1/WGE/L.14/Add.2:

The modalities for implementation of this article would need to be established in the Rules of Procedure and Evidence.

Article 112

Assembly of States Parties

...

2. The Assembly shall:

...

(g) Perform any other function consistent with this Statute or the Rules of Procedure and Evidence.