



2014 Report of the Advisory Committee on Legal Texts

Issued Pursuant to Rule 16 of the Rules of Procedure of the ACLT

1. This report summarises the activities of the ACLT in 2014. More information on the ACLT's mandate and responsibilities can be contained in the ACLT reports issued on 21 March 2011 and 27 September 2012.

B. Composition of the ACLT

2. The ACLT, in 2014, was comprised of:
 - **Judge Akua Kuenyehia**, a judge in the Appeals Division;
 - **Judge Joyce Aluoch**, a judge in the Trial Division;
 - **Judge Silvia Fernández de Gurmendi**, a judge in the Pre-Trial Division;
 - **Fabricio Guariglia**, representative from the Office of the Prosecutor;
 - **Marc Dubuisson (until 10 November 2014) and Mr Thomas Henquet (10 November 2014 to present)**, representative from the Registry;
 - **Thomas Viles**, representative of counsel included in the list of counsel.
3. In the reporting period, Judge Joyce Aluoch served as chairperson of the committee, having been elected at the constituting meeting of this composition of the committee on 4 October 2012 pursuant to Regulation 4(2) of the Regulations of the Court. Under this provision, the elected judge shall act as chairperson for a period of three years. In respect of the representatives from the Office of the Prosecutor and the Registry, Rod Rastan and Cyril Laucci, respectively, acted as substitutes in the reporting period.

C. ACLT Meetings and Activities

4. The ACLT held a meeting on 28 January 2014 to discuss four amendment proposals. Because the representative of counsel from the list of counsel is based in the United States of America, he did not attend the meeting in person but rather participated by way of telephone conference call.

5. These proposals all involved amendments to the Rules of Procedure and Evidence. The proposals, in the manner they were drafted when discussed by the ASP, were as follows (with amended language in blue underline):

Current Rule 76(3)	Proposed Rule 76(3)
3. The statements of prosecution witnesses shall be made available in original and in a language which the accused fully understands and speaks.	3. The statements of prosecution witnesses shall be made available in original and in a language which the accused fully understands and speaks. <u>Where appropriate, the Chamber may authorise translations of relevant excerpts of the statements when, after seeking the views of the parties, it determines that full translations are not necessary to meet the requirements of fairness and would adversely affect the expeditiousness of the proceedings. For the purpose of such determination, the Chamber shall consider the specific circumstances of the case, including whether the person is being represented by counsel and the content of the statements.</u>

Current Rule 144(2)(b)	Proposed Rule 144(2)(b)
<p>2. Copies of all the above-mentioned decisions shall be provided as soon as possible to:</p> <p>[...]</p> <p>(b) The accused, in a language he or she fully understands or speaks, if necessary to meet the requirements of fairness under article 67, paragraph 1 (f).</p>	<p>2. Copies of all the above-mentioned decisions shall be provided as soon as possible to:</p> <p>[...]</p> <p>(b) The accused, in a language he or she fully understands or speaks, <u>in whole or to the extent</u> necessary to meet the requirements of fairness under article 67, paragraph 1 (f).</p>

Proposed Rule 101(3)
<p><u>3. The Court may order in relation to certain decisions, such as those referred to in rule 144, that they are considered notified on the day of their translation, or parts thereof, as are necessary to meet the requirements of fairness, and, accordingly, any time limits shall begin to run from this date.</u></p>

Proposed Rule 140 bis
<p><u>Temporary Absence of a Judge</u></p> <p><u>If a judge is, for illness or other unforeseen urgent personal reasons, unable to be present at any hearing, the remaining judges of the Chamber may exceptionally order that the hearing of the case continues in the absence of that judge for completion of a specific matter which has already commenced and can be concluded within a short timeframe, provided that:</u></p> <p>(a) <u>The Chamber is satisfied or, if it is not practicable to consult the absent judge, the remaining judges of the Chamber are satisfied that this arrangement is in the interests of justice; and</u></p> <p>(b) <u>The parties consent to this arrangement.</u></p>

6. The ACLT carried out its work on these proposals both by way of exchanges of views in the meeting referred to above and through written correspondence and proposed redrafts of the provision. The ACLT adopted the text of these proposals, but its final report on them is confidential (Rules 8 and 13 of the ACLT Rules). More information on these proposals can be found in the Report of the Bureau on Study Group on Governance of 28 November 2014 (ICC-ASP/13/28).
7. The Assembly of States Parties did not adopt these amendment proposals in its Thirteenth Session, held between 8 and 17 December 2014.
8. No further amendment proposals were sent to the ACLT in 2014 beyond these four.
9. The next ACLT meeting is scheduled to take place in early 2015.