

Public Annex B8: Electronic copy of academic authority

Appellant's submissions of the list of authorities for the oral hearing, pursuant
to the Appeals Chamber's order ICC-01/05-01/08-3579

Sluiter, G., Friman, H., Linton, S., Vasiliev, S., Zappalà, S., eds., *International Criminal Procedure - Principles and Rules*, OUP 2013, pp. 955-956

b. Standard of review on appeals against final judgments and sentence

The ICC's legal texts do not clearly define the standard to be applied by the Appeals Chamber in its appellate review of final decisions. In this respect, it remains to be seen whether the Appeals Chamber may decide that its reviews are more akin to a *de novo* trial than a correction of errors. At the same time, Article 83 which governs the proceedings on appeal provides in relevant part:

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.

3. If in an appeal against sentence the Appeals Chamber finds that the sentence *is disproportionate to the crime*, it may vary the sentence in accordance with Part 7.¹²⁹

Important elements to this provision will be the determinations that proceedings 'were unfair in a way that affected the reliability of the decision or sentence' or that the decision or sentence 'was materially affected by error of fact or law or procedural error'.

¹²⁹ Art. 83 ICC Statute (emphasis added).