

2017 Report of the Advisory Committee on Legal Texts
Issued Pursuant to Rule 16 of the Rules of Procedure of the ACLT

1. In view of the requirement in rule 16 of the Rules of Procedure of the Advisory Committee on Legal Texts (hereinafter “ACLT Rules”) that the Advisory Committee on Legal Texts (“ACLT”) shall produce an annual report summarising its activities for the previous year, which shall be made publicly available, this present report summarises the activities of the ACLT in 2017.

A. Composition of the ACLT

2. During 2017, the ACLT was composed of:
 - **Judge Chile Eboe-Osuji**, a judge in the Trial Division (Chairperson);
 - **Judge Christine Van den Wyngaert**, a judge in the Appeals Division;
 - **Judge Marc Perrin de Brichambaut**, a judge in the Pre-Trial Division;
 - **Thomas Henquet**, representative from the Registry;
 - **Fabricio Guariglia**, representative from the Office of the Prosecutor;
 - **Yaré Fall**, representative of counsel included in the list of counsel.

B. ACLT Meetings and Activities

3. Pursuant to regulation 4(2) of the Regulations of the Court (hereinafter all references to regulations are to the Regulations of the Court), the ACLT is required to “meet at least twice a year and at any time at the request of the Presidency”. In 2017, the ACLT held meetings on 23 February 2017 and 19 December 2017. At these meetings, the ACLT discussed a number of amendment proposals, as well as various procedural matters which arose on an *ad hoc* basis. As the representative of counsel from the list of counsel was not based in The Hague, he participated in ACLT meetings in 2017 by way of telephone conference call.

4. At its meeting on 23 February 2017, the ACLT's discussions focused on the finalisation and adoption of a number of amendments to the Regulations concerning appeals proceedings. These amendments concerned *inter alia*, (i) the inclusion of grounds of appeal in notices to appeal, together with a related amendment to the procedures governing the variation of grounds of appeal (regulations 57, 58 and 61); (ii) the procedure governing appeals against decisions on interim release (regulation 64) and (iii) certain terminological clarification concerning the terms "notice of appeal" and "appeal brief". On 29 March 2017, the ACLT transmitted its recommendations to amend seven regulations, regulations 57, 58, 59, 61, 63, 64 and 65, to the judges of the Court, pursuant to regulation 4(4) and rule 14 of ACLT Rules. On 12 July 2017, a plenary session of judges adopted the amendments to the Regulations as set out in the Appendix, in line with the recommendations of the ACLT, which entered into force on 20 July 2017.
5. At its meeting of 19 December 2017, the ACLT had before it four discussion papers which had been circulated through the ACLT Secretariat concerning potential amendment proposals. In addition, it was noted during the meeting that an additional proposal had been transmitted to the Chairperson, which was then subsequently circulated to ACLT members on 20 December 2017. The 19 December 2017 meeting focused on a number of procedural matters, including ensuring the availability of internal ACLT working documents in both English and French. At the ACLT meeting of 19 December 2017, it was decided that the ACLT would focus its work in early 2018 on a limited number of the proposals currently before it. Such proposals currently remain under discussion before the ACLT. Accordingly, pursuant to rule 8 of the ACLT Rules, their content remains confidential at this stage.

APPENDIX

Regulation 57	
Previous version	Amendment
<p>Regulation 57 Appeal</p> <p>For the purposes of rule 150, the appellant shall file a notice of appeal which shall state:</p> <p>(a) The name and number of the case;</p> <p>(b) The date of the decision of conviction or acquittal, sentence or reparation order appealed against;</p> <p>(c) Whether the appeal is directed against the whole decision or part thereof;</p> <p>(d) The relief sought.</p>	<p>Regulation 57 Appeal</p> <p>For the purposes of rule 150, the appellant shall file a notice of appeal which shall state:</p> <p>(a) The name and number of the case;</p> <p>(b) The title and date of the decision of conviction or acquittal, sentence or reparation order appealed against;</p> <p>(c) Whether the appeal is directed against the whole decision or part thereof;</p> <p>(d) The specific provision of the Statute pursuant to which the appeal is filed;</p> <p>(e) The grounds of appeal, cumulatively or in the alternative, specifying the alleged errors and how they affect the appealed decision;</p> <p>(f) The relief sought.</p>

Regulation 58	
Previous version	Amendment
<p>Regulation 58 Document in support of the appeal</p> <p>1. Having filed an appeal in accordance with regulation 57, the appellant shall file a document in support of the appeal within 90 days of notification of the relevant decision.</p> <p>2. The document in support of the</p>	<p>Regulation 58 Document in support of the appeal Appeal brief</p> <p>1. Having filed an notice of appeal in accordance with regulation 57, the appellant shall file an appeal brief a document in support of the appeal within 90 days of notification of the relevant decision.</p> <p>2. The document in support of the appeal brief shall contain the grounds of appeal. Each ground of appeal shall be divided into two parts:</p> <p>(a) The ground of appeal;</p>



appeal shall contain the grounds of appeal. Each ground of appeal shall be divided into two parts:

- (a) The ground of appeal;
- (b) The legal and/or factual reasons in support of the ground of appeal.

3. The legal and/or factual reasons referred to in sub-regulation 2 (b) shall be set out in separate paragraphs. Reference shall be made to the relevant part of the record or any other document or source of information as regards any factual issue. Each legal reason shall be set out together with reference to any relevant article, rule, regulation or other applicable law, and any authority cited in support thereof. Where applicable, the finding or ruling challenged in the decision shall be identified, with specific reference to the page and paragraph number.

4. Grounds of appeal may be advanced cumulatively or in the alternative.

5. The document in support of the appeal shall not exceed 100 pages.

~~(b) The legal and/or factual reasons in support of the ground of appeal.~~

~~3. The legal and/or factual reasons referred to in sub-regulation 2 (b) shall be set out in separate paragraphs set out the legal and/or factual reasons in support of each ground of appeal.~~ Reference shall be made to the relevant part of the record or any other document or source of information as regards any factual issue. Each legal reason shall be set out together with reference to any relevant article, rule, regulation or other applicable law, and any authority cited in support thereof. Where applicable, the finding or ruling challenged in the decision shall be identified, with specific reference to the page and paragraph number.

~~4. Grounds of appeal may be advanced cumulatively or in the alternative.~~

~~5.~~ ~~3.~~ The document in support of the appeal **brief** shall not exceed 100 pages.



Regulation 61	
Previous version	Amendment
<p>Regulation 61 Variation of grounds of appeal presented before the Appeals Chamber</p> <p>[...]</p> <p>5. If the variation is granted, the Appeals Chamber shall specify both the time limit within which the appellant shall file the document setting out the grounds of appeal as varied and the page limit for that document. Regulation 58, sub-regulations 2 and 3, shall apply <i>mutatis mutandis</i>.</p> <p>6. Any response to the document described in sub-regulation 5 shall be filed within the time limit specified by the Appeals Chamber. The Appeals Chamber may also fix a page limit for the response and otherwise regulation 59 shall apply <i>mutatis mutandis</i>.</p> <p>7. Regulation 60 shall apply <i>mutatis mutandis</i> with regard to any reply to the response filed in accordance with sub-regulation 6.</p>	<p>Regulation 61 Variation of grounds of appeal presented before the Appeals Chamber</p> <p>[...]</p> <p>5. If the variation is granted, the Appeals Chamber shall specify both the time limit within which the appellant shall file the document setting out the grounds of appeal as varied and the page limit for that document. and the time limit for the filing of the appeal brief is still running, the Appeals Chamber may:</p> <p>(a) maintain the time limit for the filing of the appeal brief; or</p> <p>(b) extend the time limit for the filing of the appeal brief; or</p> <p>(c) maintain the time limit for the filing of the appeal brief in relation to the grounds of appeal set out in the notice of appeal that have not been varied, but order the filing of a supplemental brief containing the varied grounds of appeal and the legal or factual reasons in support thereof within a time and page limit specified by the Appeals Chamber. Regulation 58, sub-regulations 2 and 3, shall apply <i>mutatis mutandis</i> to the supplemental brief.</p>



6. If the variation is granted and the appeal brief has already been filed, the Appeals Chamber shall specify both the time and page limit within which the appellant shall file a supplemental brief setting out the grounds of appeal as varied, including the legal and factual reasons in support of each ground of appeal. Regulation 58, sub-regulation 2, shall apply *mutatis mutandis* to the supplemental brief.

67. Any response to the document supplemental brief described in sub-regulations 5 or 6 above shall be filed within the time limit specified by the Appeals Chamber. The Appeals Chamber may also fix a page limit for the response and otherwise regulation 59 shall apply *mutatis mutandis*.

78. Regulation 60 shall apply *mutatis mutandis* with regard to any reply to the response filed in accordance with sub-regulation 67.

Regulation 64	
Previous version	Amendment
<p>Regulation 64 Appeals under rule 154</p> <p>1. An appeal filed under rule 154 shall state:</p> <p>(a) The name and number of the case or situation;</p> <p>(b) The title and date of the decision being appealed;</p>	<p>Regulation 64 Appeals under rule 154</p> <p>1. With the exception of appeals filed under article 82, paragraph 1 (b), An a notice of appeal filed under for the purposes of rule 154 shall state:</p> <p>(a) The name and number of the case or situation;</p>



(c) The specific provision of the Statute pursuant to which the appeal is filed;
(d) The relief sought.

2. Subject to sub-regulations 5 and 6, the appellant shall file a document in support of the appeal, with reference to the appeal, within 21 days of notification of the relevant decision. The document in support of the appeal shall set out the grounds of appeal and shall contain the legal and/or factual reasons in support of each ground of appeal. Each reason shall be set out in separate paragraphs. Reference shall be made to the relevant part of the record or any other document or source of information as regards any factual issue. Each legal reason shall be set out together with reference to any relevant article, rule, regulation or other applicable law, and any authority cited in support thereof. The document in support of the appeal shall, where applicable, identify the finding or ruling challenged in the decision, with specific reference to the page and paragraph number.

3. Grounds of appeal may be advanced cumulatively or in the alternative.

4. Subject to sub-regulations 5 and 6, a participant may file a response within 21 days of notification of the document in support of the appeal as follows:

(a) Each ground of appeal shall be answered separately, stating whether it is opposed, in whole or in part, together with the grounds put forward in support

(b) The title and date of the decision being appealed;
(c) Whether the appeal is directed against the whole decision or part thereof;
(d) The specific provision of the Statute pursuant to which the appeal is filed;
(e) The relief sought.

2. Subject to sub-regulations 5 and 6 and 8, the appellant shall file an appeal brief document in support of the appeal, with reference to the appeal, within 21 days of notification of the relevant decision. The document in support of the appeal brief shall set out the grounds of appeal and shall contain the legal and/or factual reasons in support of each ground of appeal. Each reason shall be set out in separate paragraphs. Reference shall be made to the relevant part of the record or any other document or source of information as regards any factual issue. Each legal reason shall be set out together with reference to any relevant article, rule, regulation or other applicable law, and any authority cited in support thereof. The document in support of the appeal brief shall, where applicable, identify the finding or ruling challenged in the decision, with specific reference to the page and paragraph number.

3. Grounds of appeal may be advanced cumulatively or in the alternative.

4. Subject to sub-regulations 5 and 6 and 8, a participant may file a response within 21 days of notification of the document in support of the appeal brief as follows:



thereof; it shall also be stated whether the relief sought is opposed, in whole or in part, together with the grounds of opposition in support thereto;

(b) The legal and/or factual reasons in support.

5. For appeals filed under article 82, paragraph 1 (b), the document in support of the appeal shall be filed by the appellant within seven days of notification of the relevant decision. The response shall be filed within five days of notification of the document in support of the appeal.

6. For appeals filed under article 82, paragraph 1 (c), the document in support of the appeal shall be filed by the appellant within four days of notification of the relevant decision. The response shall be filed within two days of notification of the document in support of the appeal.

(a) Each ground of appeal shall be answered separately, stating whether it is opposed, in whole or in part, together with the grounds put forward in support thereof; it shall also be stated whether the relief sought is opposed, in whole or in part, together with the grounds of opposition in support thereto;

(b) The legal and/or factual reasons in support.

5. For appeals filed under article 82, paragraph 1 (b) and rule 154, document in support of the appeal shall be filed by the appellant within seven days of notification of the relevant decision. The response shall be filed within five days of notification of the document in support of the appeal. the

(b) The legal and/or factual reasons in support.

5. For appeals filed under article 82, paragraph 1 (b) and rule 154, document in support of the appeal shall be filed by the appellant within seven days of notification of the relevant decision. The response shall be filed within five days of notification of the document in support of the appeal. the notice of appeal shall state:

(a) The name and number of the case or situation;

(b) The title and date of the decision being appealed;

(c) Whether the appeal is directed against the whole decision or part thereof;

(d) The specific provision of the Statute pursuant to which the appeal is filed;

(e) The grounds of appeal, cumulatively or in the alternative, specifying the alleged errors and how they affect the appealed decision;

(f) The relief sought.

6. For appeals filed under article 82, paragraph 1 (b) and rule 154, the Appeals Chamber shall, within two days of the filing of the notice of appeal, issue directions for the conduct of the



proceedings, which may, at its full discretion, include:

(a) scheduling a hearing to be held no later than 10 days from the notification of the notice of appeal. Depending on the circumstances, the Appeals Chamber may decide to adjourn the hearing following all or some of the participants' submissions and resume the hearing on a later date. The holding of a hearing is without prejudice to the Appeals Chamber also requiring the submission of written arguments or summaries thereof in advance of and/or following the hearing. The date of the hearing may be fixed after the 10 day deadline if necessary; or

(b) proceeding by way of written submissions only and setting a timetable therefor.

7. For appeals against a decision pursuant to article 60, paragraphs 2 or 4, the Appeals Chamber shall render its reasoned judgment within 45 days from the date of any hearing, or, in the event that any hearing is held after the 10 day deadline as provided for in sub-regulation 6 above, not later than 75 days from the rendering of the decision being appealed. For appeals against a decision pursuant to article 60, paragraph 3, the Appeals Chamber shall render its reasoned judgment within 30 days from the date of any hearing, or, in the event that any hearing is held after the 10 day deadline as provided for in sub-regulation 6 above, not later than 55 days from the rendering of the decision being



	<p>appealed.</p> <p>68. For appeals filed under article 82, paragraph 1 (c), the document in support of the appeal brief shall be filed by the appellant within four days of notification of the relevant decision. The response shall be filed within two days of notification of the document in support of the appeal brief.</p>
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Regulation 59	
Previous version	Amendment
<p>Regulation 59</p> <p>Response</p> <p>1. A participant may file a response within 60 days of notification of the document in support of the appeal described in regulation 58 as follows:</p> <p>(a) Each ground of appeal shall be answered separately, stating whether it is opposed, in whole or in part, together with the grounds put forward in support thereof; it shall also be stated whether the relief sought is opposed, in whole or in part, together with the grounds of opposition in support thereto;</p> <p>(b) When facts are relied on that are not already set out in the appeal or the document in support of the appeal, reference shall be made to the relevant part of the record or any other document or source of information;</p> <p>(c) Each legal reason relied on in support</p>	<p>Regulation 59</p> <p>Response</p> <p>1. A participant may file a response within 60 days of notification of the document in support of the appeal brief described in regulation 58 as follows:</p> <p>(a) Each ground of appeal shall be answered separately, stating whether it is opposed, in whole or in part, together with the grounds put forward in support thereof; it shall also be stated whether the relief sought is opposed, in whole or in part, together with the grounds of opposition in support thereto;</p> <p>(b) When facts are relied on that are not already set out in the notice of appeal or the document in support of the appeal brief, reference shall be made to the relevant part of the record or any other document or source of information;</p> <p>(c) Each legal reason relied on in support of the response shall be set out together with reference to any relevant article, rule,</p>



<p>of the response shall be set out together with reference to any relevant article, rule, regulation or other applicable law, and any authority cited in support thereof.</p> <p>2. The response shall not exceed 100 pages. To the extent possible, it shall be set out and numbered in the same order as in the document described in regulation 58.</p>	<p>regulation or other applicable law, and any authority cited in support thereof.</p> <p>2. The response shall not exceed 100 pages. To the extent possible, it shall be set out and numbered in the same order as in the document appeal brief described in regulation 58.</p>
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Regulation 63	
Previous version	Amendment
<p>Regulation 63 Consolidated appeals under rule 150</p> <p>1. Unless otherwise ordered by the Appeals Chamber, in a case of more than one appeal under rule 150:</p> <p>(a) When the Prosecutor appeals, he or she shall file one consolidated document in support of all appeals in accordance with regulation 58;</p> <p>(b) When more than one convicted person files a document in support of the appeal, the Prosecutor shall file a consolidated response in accordance with regulation 59.</p> <p>2. Regulation 60 shall apply <i>mutatis mutandis</i> and any reply filed by the Prosecutor shall be by way of a consolidated reply.</p> <p>3. For a consolidated document in support of more than one appeal and a consolidated response, as described in sub-regulation 1, the page limit shall be 100 pages plus a further 40 pages for each</p>	<p>Regulation 63 Consolidated appeals under rule 150</p> <p>1. Unless otherwise ordered by the Appeals Chamber, in a case of more than one appeal under rule 150:</p> <p>(a) When the Prosecutor appeals, he or she shall file one consolidated document in support of all appeals appeal brief in accordance with regulation 58;</p> <p>(b) When more than one convicted person files a document in support of the appeal an appeal brief, the Prosecutor shall file a consolidated response in accordance with regulation 59.</p> <p>2. Regulation 60 shall apply <i>mutatis mutandis</i> and any reply filed by the Prosecutor shall be by way of a consolidated reply.</p> <p>3. For a consolidated document in support of more than one appeal appeal brief and a consolidated response, as described in sub-regulation 1, the page limit shall be 100 pages plus a further 40 pages for each</p>



<p>additional convicted or acquitted person. The page limit for any consolidated reply as described in sub-regulation 2 shall be 50 pages plus a further 20 pages for each additional convicted or acquitted person.</p> <p>4. The time limit for filing a consolidated response by the Prosecutor shall run from notification of the last document filed in support of the appeal by a convicted person in a given case.</p>	<p>additional convicted or acquitted person. The page limit for any consolidated reply as described in sub-regulation 2 shall be 50 pages plus a further 20 pages for each additional convicted or acquitted person.</p> <p>4. The time limit for filing a consolidated response by the Prosecutor shall run from notification of the last document appeal brief filed in support of the appeal by a convicted person in a given case.</p>
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Regulation 65	
Previous version	Amendment
<p>Regulation 65 Appeals under rule 155</p> <p>[...]</p> <p>4. When leave to appeal is granted, the appellant shall file, within ten days of notification of the decision granting leave to appeal, a document in support of the appeal in accordance with regulation 64, sub-regulation 2. Such document shall also contain the precise title and date of filing of the decision granting leave to appeal.</p> <p>5. Participants may file a response within ten days of notification of the document in support of the appeal. Regulation 64, sub-regulation 4, shall apply <i>mutatis mutandis</i>.</p>	<p>Regulation 65 Appeals under rule 155</p> <p>[...]</p> <p>4. When leave to appeal is granted, the appellant shall file, within ten days of notification of the decision granting leave to appeal, an document in support of the appeal brief in accordance with regulation 64, sub-regulation 2. Such document shall also contain the precise title and date of filing of the decision granting leave to appeal.</p> <p>5. Participants may file a response within ten days of notification of the document in support of the appeal brief. Regulation 64, sub-regulation 4, shall apply <i>mutatis mutandis</i>.</p>