

## Resolution ICC-ASP/11/Res.2

*Adopted at the 8th plenary meeting, on 21 November 2012, by consensus*

### ICC-ASP/11/Res.2

#### Amendment of the Rules of Procedure and Evidence

*The Assembly of States Parties,*

*Recalling* the need to conduct a structured dialogue between States Parties and the Court with a view to strengthening the institutional framework of the Rome Statute system and enhancing the efficiency and effectiveness of the Court while fully preserving its judicial independence, and *inviting* the organs of the Court to continue engaging in such a dialogue with States Parties,

*Recognizing* that enhancing the efficiency and effectiveness of the Court is of a common interest both for the Assembly of States Parties and the Court,

*Commending*, in this regard, the judges of the Court, acting by absolute majority, pursuant to article 51, paragraph 2 (b), of the Rome Statute, and upon recommendation of the Advisory Committee on Legal Texts, for their initiative to amend the Rules of Procedure and Evidence such that the functions of the Trial Chamber, in respect of trial preparation, may be exercised by a single judge or single judges in order to expedite proceedings and to ensure cost efficiency,

*Taking note with appreciation* of the subsequent consultations undertaken by States Parties within the Study Group on Governance and the Working Group on Amendments,

*Recognizing* that each proposal to amend the Rules of Procedure and Evidence needs to be examined on its own merits, in conformity with the Rome Statute, and with appropriate time allocated to its analysis,

*Recalling* article 51, paragraph 5, of the Rome Statute, according to which in the event of conflict between the Statute and the Rules of Procedure and Evidence, the Statute shall prevail,

*Bearing in mind* the need to fully respect the rights accorded to the accused and to victims in the Rome Statute at all stages of proceedings before the Court,

1. *Decides* that the following be inserted after rule 132 of the Rules of Procedure and Evidence:<sup>1</sup>

“Rule 132 *bis*

Designation of a judge for the preparation of the trial

1. In exercising its authority under article 64, paragraph 3 (a), a Trial Chamber may designate one or more of its members for the purposes of ensuring the preparation of the trial.

2. The judge shall take all necessary preparatory measures in order to facilitate the fair and expeditious conduct of the trial proceedings, in consultation with the Trial Chamber.

3. The judge may at any time, *proprio motu* or, if appropriate, at the request of a party, refer specific issues to the Trial Chamber for its decision. A majority of the Trial Chamber may also decide *proprio motu* or, if appropriate, at the request of a party, to deal with issues that could otherwise be dealt with by the judge.

4. In order to fulfil his or her responsibilities for the preparation of the trial, the judge may hold status conferences and render orders and decisions. The judge may also establish a work plan indicating the obligations the parties are required to meet pursuant to this rule and the dates by which these obligations must be fulfilled.

<sup>1</sup> *Official Records ... First session ... 2002* (ICC-ASP/1/3 and Corr.1), part II.A.

5. The functions of the judge may be performed in relation to preparatory issues, whether or not they arise before or after the commencement of the trial. These issues may include:

- (a) Ensuring proper disclosure between the parties;
- (b) Ordering protective measures where necessary;
- (c) Dealing with applications by victims for participation in the trial, as referred to in article 68, paragraph 3;
- (d) Conferring with the parties regarding issues referred to in regulation 54 of the Regulations of the Court, decisions thereon being taken by the Trial Chamber;
- (e) Scheduling matters, with the exception of setting the date of the trial, as referred to in rule 132, sub-rule 1;
- (f) Dealing with the conditions of detention and related matters; and
- (g) Dealing with any other preparatory matters that must be resolved which do not otherwise fall within the exclusive competence of the Trial Chamber.

6. The judge shall not render decisions which significantly affect the rights of the accused or which touch upon the central legal and factual issues in the case, nor shall he or she, subject to sub-rule 5, make decisions that affect the substantive rights of victims.”