

# CONFIDENTIAL

## ANNEX

Amendments highlighted:**Rule 16****Precedence**

- (1) [unchanged]
- (2) <sup>1</sup>Following the President, **and the** Vice-President ~~and elected Presiding Judges~~, precedence is determined by date of appointment. <sup>2</sup>Judges appointed on the same date shall take precedence according to age.

Clean:**Rule 16****Precedence**

- (2) <sup>1</sup>Following the President and the Vice-President, precedence is determined by date of appointment. <sup>2</sup>Judges appointed on the same date shall take precedence according to age.

Amendments highlighted:**Rule 2****Definitions**

Independent Body of Specialist Counsel	Representative	Independent Representative Body of Specialist Counsel, <b>established in referred to in Article 19(4) of the Law and recognised in accordance with Article 19(4) of the Law Rule 25(4) to</b> representing the interests of Specialist Counsel and Victims' Counsel before the Specialist Chambers;
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Clean:

Independent Body of Specialist Counsel	Representative	Independent Representative Body of Specialist Counsel referred to in Article 19(4) of the Law and recognised in accordance with Rule 25(4) representing the interests of Specialist Counsel and Victims' Counsel before the Specialist Chambers;
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Amendments highlighted:**Rule 25****Lists of Counsel**

(1) – (3) [unchanged]

**(4) The Registrar shall recognise one Independent Representative Body of Specialist Counsel upon receipt of information that Counsel from the Lists of Counsel have formed such a body.**

Clean:**Rule 25****Lists of Counsel**

(4) The Registrar shall recognise one Independent Representative Body of Specialist Counsel upon receipt of information that Counsel from the Lists of Counsel have formed such a body.

Amendments highlighted:**Rule 27****Responsibilities of the Registrar for Witness Protection and Support**

(1) – (2) [unchanged]

(3) The Witness Protection and Support Office may, on order of a Panel or *proprio motu*, conduct a **medical and/or** psychological assessment **through a qualified professional**, prior to **and/or during** a court appearance, on a person's **vulnerability**, or fitness ~~to appear in relation to his or her appearance~~ and on any necessary protective measures.

(4) – (5) [unchanged]

Clean:**Rule 27****Responsibilities of the Registrar for Witness Protection and Support**

(3) The Witness Protection and Support Office may, on order of a Panel or *proprio motu*, conduct a medical and/or psychological assessment through a qualified professional, prior to and/or during a court appearance, on a person's vulnerability, or fitness in relation to his or her appearance and on any necessary protective measures.

Amendments highlighted:

**Rule 29**

**Role and Functions of the Ombudsperson of the Specialist Chambers**

(1) – (2) [unchanged]

(3) A request to the Ombudsperson may be rejected if:

- (a) [unchanged];
- (b) [unchanged];
- (c) [unchanged]; ~~or~~
- (d) [unchanged]; **or**
- (e) **it has not been filed within six months of the alleged violation, unless good cause has been shown.**

The Ombudsperson shall provide reasons for such a rejection.

(4) – (7) [unchanged]

Clean:

**Rule 29**

**Role and Functions of the Ombudsperson of the Specialist Chambers**

- (d) [unchanged]; or
- (e) it has not been filed within six months of the alleged violation, unless good cause has been shown.

Amendments highlighted:

### **Rule 31**

#### **General Minimum Safeguards**

(1) – (2) [unchanged]

(3) Information deriving from a professional relationship **between a person and their Specialist Counsel** ~~or other confidential relationship~~ as provided for in Rule 111(1) shall be privileged and shall not be subject to investigative measures, unless the privilege is abused to perpetrate a crime within the jurisdiction of the Specialist Chambers and the evidence sought was in furtherance of that crime. In this case, Rule 33(1)(a)(ii) shall apply *mutatis mutandis*.

**(4) Information deriving from any other professional or confidential relationship as provided for in Rule 111(2) and (3) shall not be subject to investigative measures, unless a Panel decides otherwise based on the circumstances of the case. In this case, Rule 33(1)(a)(ii) shall apply *mutatis mutandis*.**

Clean:

### **Rule 31**

#### **General Minimum Safeguards**

(3) Information deriving from a professional relationship between a person and their Specialist Counsel as provided for in Rule 111(1) shall be privileged and shall not be subject to investigative measures, unless the privilege is abused to perpetrate a crime within the jurisdiction of the Specialist Chambers and the evidence sought was in furtherance of that crime. In this case, Rule 33(1)(a)(ii) shall apply *mutatis mutandis*.

(4) Information deriving from any other professional or confidential relationship as provided for in Rule 111(2) and (3) shall not be subject to investigative measures, unless a Panel decides otherwise based on the circumstances of the case. In this case, Rule 33(1)(a)(ii) shall apply *mutatis mutandis*.

Amendments highlighted:

**Rule 38**

**Search and Seizure by the Specialist Prosecutor**

In accordance with Articles 35 and 39 of the Law, the Specialist Prosecutor may, without an authorisation of a Panel, search a person or property, location, premises or object and temporarily seize items found during the search under the conditions specified in Rule 37(1) to (3), if:

- (a) [unchanged];
- (b) [unchanged]; ~~or~~
- (c) [unchanged]; **or**
- d) **it is necessary to collect evidence which might be in danger of loss.**

Clean:

**Rule 38**

**Search and Seizure by the Specialist Prosecutor**

- (c) [unchanged]; **or**
- d) **it is necessary to collect evidence which might be in danger of loss.**

Amendments highlighted:

## **Rule 42**

### **General Provision**

- (1)** During an investigation by the Specialist Prosecutor, a person:
- (a)** shall not be compelled to confess guilt and shall not be compelled to testify when the testimony might incriminate himself or herself or persons referred to in Rule 152;
  - (b) – (d)** [unchanged]
- (2)** The Specialist Prosecutor shall notify the person of his or her rights as set out in paragraph (1) in a language that he or she understands.
- (3)** Any challenge to a summons, order or investigative undertaking by the Specialist Prosecutor on the basis that it adversely affects the person's rights, shall be brought before a Single Judge to be assigned pursuant to Article 25(1)(f) of the Law, if a Panel has not otherwise been assigned. Any such challenge shall be brought no later than one month from the official notification of such summons, order or investigative undertaking and acknowledgment thereof by the person concerned.

Clean:

## **Rule 42**

### **General Provision**

- (1)** During an investigation by the Specialist Prosecutor, a person:
- (a)** shall not be compelled to confess guilt and shall not be compelled to testify when the testimony might incriminate himself or herself or persons referred to in Rule 152;
  - (b) – (d)** [unchanged]
- (2)** The Specialist Prosecutor shall notify the person of his or her rights as set out in paragraph (1) in a language that he or she understands.
- (3)** Any challenge to a summons, order or investigative undertaking by the Specialist Prosecutor on the basis that it adversely affects the person's rights, shall be brought before a Single Judge to be assigned pursuant to Article 25(1)(f) of the Law, if a Panel has not otherwise been assigned. Any such challenge shall be brought no later than one month from the official notification of such summons, order or investigative undertaking and acknowledgment thereof by the person concerned.





Amendments highlighted:

## Rule 56

### General Provisions on Detention ~~Detention on Remand~~

- (1) <sup>1</sup>A person subject to a detention order shall be detained in accordance with Article 41(7) of the Law. <sup>2</sup>In exceptional circumstances, the person may be held in facilities outside the Host State or Kosovo pending transfer. <sup>3</sup>In such circumstances, the Panel may, on the application of a Party and upon consultation with the Registrar, request modification of the conditions of detention or provide comments thereon. <sup>4</sup>The detained person shall at all times remain under the authority of the Specialist Chambers.
- (2) ~~<sup>1</sup>Before the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law, the detention of a suspect shall be reviewed by an individual Judge assigned pursuant to Article 33(2) of the Law every two (2) months or at any time earlier, upon request by the suspect or Specialist Prosecutor, or *proprio motu*. <sup>2</sup>In addition to the grounds provided for in Article 41(6) of the Law, each request for an extension shall be justified by investigative measures to be taken by the Specialist Prosecutor. <sup>3</sup>The total duration of the detention under this provision shall not exceed one (1) year. <sup>4</sup>At the end of this period, unless the Pre-Trial Judge has been assigned, the suspect shall be released.~~ The Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case. In case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.
- (3) Upon request by a detained person or *proprio motu*, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release.
- (4) A detained person shall not be released in the Third State without the consent of that State. <sup>1</sup>The Panel shall hear the Third State to which the detained person seeks to be released. <sup>2</sup> A decision shall be rendered as soon as possible and no later than three (3) days from the last submission.
- (5) The Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the detained person. ~~the Accused during proceedings, in accordance with Article 41(12)(e)-(g) of the Law.~~
- (6) Without prejudice to Article 21(4)(c) of the Law, the Panel may, upon request or *proprio motu*, rule on conditions of detention and related matters for the purposes of protecting witnesses or victims, confidential information or the integrity of the proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person.

Clean:

## **Rule 56**

### **General Provisions on Detention**

- (1) <sup>1</sup>A person subject to a detention order shall be detained in accordance with Article 41(7) of the Law. <sup>2</sup>In exceptional circumstances, the person may be held in facilities outside the Host State or Kosovo pending transfer. <sup>3</sup>In such circumstances, the Panel may, on the application of a Party and upon consultation with the Registrar, request modification of the conditions of detention or provide comments thereon. <sup>4</sup>The detained person shall at all times remain under the authority of the Specialist Chambers.
- (2) The Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case. In case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.
- (3) Upon request by a detained person or *proprio motu*, the Panel may order the temporary release of a detained person, where compelling humanitarian grounds justify such release.
- (4) A detained person shall not be released in the Third State without the consent of that State. <sup>1</sup>The Panel shall hear the Third State to which the detained person seeks to be released.<sup>2</sup> A decision shall be rendered as soon as possible and no later than three (3) days from the last submission.
- (5) The Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the detained person.
- (6) Without prejudice to Article 21(4)(c) of the Law, the Panel may, upon request or *proprio motu*, rule on conditions of detention and related matters for the purposes of protecting witnesses or victims, confidential information or the integrity of the proceedings, including on the imposition of necessary and proportionate restrictions on the communications of a detained person.

Amendments highlighted:

## Rule 57

### Review and Reconsideration of Detention on Remand

- (1) **[NOTE - former Rule 56(2)]** <sup>1</sup>Before the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law, the detention of a Suspect shall be reviewed by a Single Judge assigned pursuant to Article 33(2) of the Law every two (2) months or at any time earlier, upon request by the Suspect or **the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred.** <sup>2</sup>In addition to the grounds provided for in Article 41(6) of the Law, each request for an extension shall be justified by investigative measures to be taken by the Specialist Prosecutor. <sup>3</sup>The total duration of the detention under this provision shall not exceed one (1) year. <sup>4</sup>At the end of this period, unless the Pre-Trial Judge has been assigned, the Suspect shall be released.
- ~~(1 2) <sup>1</sup>After the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law and until a judgment is final, the Panel seized with a case shall review a decision on detention on remand upon the expiry of two (2) months from the last ruling on detention, in accordance with Article 41(6), (10), (11) and (12) of the Law or at any time upon request by the Accused or the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred. <sup>2</sup>The Panel shall ensure that a person is not detained for an unreasonable period prior to the opening of the case. <sup>3</sup>In case of an undue delay caused by the Specialist Prosecutor, the Panel, having heard the Parties, may release the person under conditions as deemed appropriate.~~
- ~~(2) Where new facts are discovered which render his or her continued detention unlawful, a detained person may request reconsideration of a decision on detention on remand before the Panel that rendered that decision.~~
- ~~(3-2) Subject to Article 41(6)(b) of the Law, where sufficient grounds require the release of the detained person, subject to Article 41(6)(b) of the Law, a Panel may, upon request by the detained person or *proprio motu* and having heard the Parties, at any stage of the proceedings, order the release of the detained person.~~
- ~~(4) <sup>1</sup>Upon request under paragraphs (2) or (3), the Panel may impose such conditions upon the release as deemed appropriate to ensure the presence of the Accused during proceedings, in accordance with Article 41(12)(e) - (g) of the Law. <sup>2</sup>The Panel shall hear the Third State to which the detained person seeks to be released. <sup>3</sup>A detained person shall not be released in the Third State without the consent of that State. <sup>4</sup>A decision shall be rendered as soon as possible and no later than three (3) days from the last submission.~~

Clean:

## **Rule 57**

### **Review and Reconsideration of Detention on Remand**

- (1) <sup>1</sup>Before the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law, the detention of a Suspect shall be reviewed by a Single Judge assigned pursuant to Article 33(2) of the Law every two (2) months or at any time earlier, upon request by the Suspect or the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred. <sup>2</sup>In addition to the grounds provided for in Article 41(6) of the Law, each request for an extension shall be justified by investigative measures to be taken by the Specialist Prosecutor. <sup>3</sup>The total duration of the detention under this provision shall not exceed one (1) year. <sup>4</sup>At the end of this period, unless the Pre-Trial Judge has been assigned, the Suspect shall be released.
  
- (2) <sup>1</sup>After the assignment of a Pre-Trial Judge pursuant to Article 33(1)(a) of the Law and until a judgment is final, the Panel seized with a case shall review a decision on detention on remand upon the expiry of two (2) months from the last ruling on detention, in accordance with Article 41(6), (10), (11) and (12) of the Law or at any time upon request by the Accused or the Specialist Prosecutor, or *proprio motu*, where a change in circumstances since the last review has occurred.

Amendments highlighted:**Rule 63****Abuse of Proceedings**

- (1) If a Panel finds that Counsel or ~~Specialist a~~ Prosecutor ~~Counsel~~ is offensive, abusive or otherwise obstructs the proper conduct of the proceedings, or if such Counsel ~~or Prosecutor~~ fails to meet the standard of professional ethics in the performance of his or her duties, the Panel may, after giving ~~such Counsel~~ due warning:
  - (a) [unchanged];
  - (b) refuse audience to that Counsel or ~~to Specialist~~ Prosecutor ~~Counsel~~; or
  - (c) [unchanged].
- (2) The Panel shall communicate the finding under paragraph (1) to the Registrar if Counsel has been assigned by him or her or to the Specialist Prosecutor, as applicable. The Panel may communicate any misconduct ~~of Counsel~~ to the disciplinary board provided for in the Code of Professional Conduct, and to any competent body in Counsel's or ~~Specialist the~~ Prosecutor's ~~Counsel's~~ State of admission.
- (3) [unchanged].

Clean:**Rule 63****Abuse of Proceedings**

- (1) If a Panel finds that Counsel or a Prosecutor is offensive, abusive or otherwise obstructs the proper conduct of the proceedings, or if such Counsel or Prosecutor fails to meet the standard of professional ethics in the performance of his or her duties, the Panel may, after giving due warning:
  - (a) [unchanged];
  - (b) refuse audience to that Counsel or Prosecutor; or
  - (c) [unchanged].
- (2) The Panel shall communicate the finding under paragraph (1) to the Registrar if Counsel has been assigned by him or her or to the Specialist Prosecutor, as applicable. The Panel may communicate any misconduct to the disciplinary board provided for in the Code of Professional Conduct, and to any competent body in Counsel's or the Prosecutor's State of admission.
- (3) [unchanged].

Amendments highlighted:**Rule 65****Non-Compliance with Order of a Panel**

(1) Subject to Article 42(7) and (8) of the Law, where a person other than Counsel **or a Prosecutor** deliberately refuses to comply with an order by a Panel accompanied by a warning of sanctions in case of breach, the Presiding Judge, having heard the person, may order:

(a) – (c) [unchanged].

(2) [unchanged].

Clean:**Rule 65****Non-Compliance with Order of a Panel**

(1) Subject to Article 42(7) and (8) of the Law, where a person other than Counsel or a Prosecutor deliberately refuses to comply with an order by a Panel accompanied by a warning of sanctions in case of breach, the Presiding Judge, having heard the person, may order:

Amendments highlighted:**Rule 78****Deliberations**

- (1) [unchanged]
- (2) <sup>1</sup>Each Judge shall present his or her views and conclusions with regard to each issue under consideration during deliberations, and shall endeavour to share draft written opinions in advance of any decision or ~~judgement~~ **judgment** being issued. <sup>2</sup>The Judges of the Panel shall attempt to achieve unanimity. <sup>3</sup>When there is no unanimity, a reasoned decision or judgment shall be taken by a majority of the Judges of the Panel. <sup>4</sup>Separate or dissenting opinions may be appended.

Clean:**Rule 78****Deliberations**

- (1) [unchanged]
- (2) <sup>1</sup>Each Judge shall present his or her views and conclusions with regard to each issue under consideration during deliberations, and shall endeavour to share draft written opinions in advance of any decision or judgment being issued. <sup>2</sup>The Judges of the Panel shall attempt to achieve unanimity. <sup>3</sup>When there is no unanimity, a reasoned decision or judgment shall be taken by a majority of the Judges of the Panel. <sup>4</sup>Separate or dissenting opinions may be appended.



Amendments highlighted:**Rule 79****Power to Reconsider Decisions**

- (1) <sup>1</sup>In exceptional circumstances and where a clear error or reasoning has been demonstrated or where reconsideration is necessary to avoid injustice, a Panel may, upon request by a Party or, where applicable, Victims' Counsel, or *proprio motu* after hearing the Parties, reconsider its own decisions. ~~<sup>2</sup>Judgements~~ **Judgments** are not subject to reconsideration.
- (2) [unchanged]

Clean:**Rule 79****Power to Reconsider Decisions**

- (1) <sup>1</sup>In exceptional circumstances and where a clear error or reasoning has been demonstrated or where reconsideration is necessary to avoid injustice, a Panel may, upon request by a Party or, where applicable, Victims' Counsel, or *proprio motu* after hearing the Parties, reconsider its own decisions. <sup>2</sup>Judgments are not subject to reconsideration.

Amendments highlighted:

## Rule 82

### Classification of Filings

<sup>1</sup>Filings or parts thereof shall be classified as follows:

- (a) Public: ~~can~~ may be disclosed to the public;
- (b) Confidential: ~~can~~ may only be disclosed to the Parties and persons authorised by **the Specialist Chambers**;
- (c) Strictly confidential: ~~can~~ may only be disclosed to persons authorised to receive confidential filings where there is a specific need to do so.

<sup>2</sup>Confidential and strictly confidential filings shall be marked *ex parte* when the Registrar is ordered not to distribute them to one or more Party or other participant in the proceedings.

- (2) [unchanged]

Clean:

## Rule 82

### Classification of Filings

<sup>1</sup>Filings or parts thereof shall be classified as follows:

- (a) Public: may be disclosed to the public;
- (b) Confidential: may only be disclosed to the Parties and persons authorised by the Specialist Chambers;
- (c) Strictly confidential: may only be disclosed to persons authorised to receive confidential filings where there is a specific need to do so.

<sup>2</sup>Confidential and strictly confidential filings shall be marked *ex parte* when the Registrar is ordered not to distribute them to one or more Party or other participant in the proceedings.

Amendments highlighted:

**Rule 85**

**Functions of the Pre-Trial Judge Prior to Confirmation of the Indictment**

(1) – (3) [unchanged]

(4) All documents and information submitted by the Specialist Prosecutor to the Pre-Trial Judge during the investigation shall remain ~~strictly~~ **at the least** confidential and *ex parte*, subject to Rule 102 and Rule 103.

(5) [unchanged]

Clean:

**Rule 85**

**Functions of the Pre-Trial Judge Prior to Confirmation of the Indictment**

(4) All documents and information submitted by the Specialist Prosecutor to the Pre-Trial Judge during the investigation shall remain at the least confidential and *ex parte*, subject to Rule 102 and Rule 103.

Amendments highlighted:**Rule 93****Admission of Guilt**

- (1) <sup>1</sup>If the Accused admits guilt, the Pre-Trial Judge shall inform the President who shall assign a Trial Panel. ~~<sup>2</sup>In accordance with Rule 98, †~~The Pre-Trial Judge shall transmit the case file to the Trial Panel.
- (2) – (6) [unchanged]

Clean:**Rule 93****Admission of Guilt**

- (1) <sup>1</sup>If the Accused admits guilt, the Pre-Trial Judge shall inform the President who shall assign a Trial Panel. <sup>2</sup>The Pre-Trial Judge shall transmit the case file to the Trial Panel.

Amendments highlighted:**Rule 94****Plea Agreement**

(1) – (2) [unchanged]

(3) <sup>1</sup>If the Specialist Prosecutor and the Defence reach a plea agreement prior to the assignment of a Trial Panel, the Pre-Trial Judge shall inform the President who shall assign a Trial Panel.

~~<sup>2</sup>In accordance with Rule 98, ¶~~The Pre-Trial Judge shall transmit case file to the Trial Panel.

(4) – (8) [unchanged]

Clean:**Rule 94****Plea Agreement**

(3) <sup>1</sup>If the Specialist Prosecutor and the Defence reach a plea agreement prior to the assignment of a Trial Panel, the Pre-Trial Judge shall inform the President who shall assign a Trial Panel.

<sup>2</sup>The Pre-Trial Judge shall transmit case file to the Trial Panel.

Amendments highlighted:

**Rule 100**

**Taking of Depositions upon Decision of the Pre-Trial Judge**

(1) – (3) [unchanged]

(4) <sup>1</sup>Deposition evidence may be taken either at or away from a seat of the Specialist Chambers, and it may also be given by means of a video-conference upon request by either Party. <sup>2</sup>Rule 143 **and Rule 144** shall apply *mutatis mutandis*.

(5) – (6) [unchanged]

Clean:

**Rule 100**

**Taking of Depositions upon Decision of the Pre-Trial Judge**

(4) <sup>1</sup>Deposition evidence may be taken either at or away from a seat of the Specialist Chambers, and it may also be given by means of a video-conference upon request by either Party. <sup>2</sup>Rule 143 and Rule 144 shall apply *mutatis mutandis*.

Amendments highlighted:**Rule 101****Evidence Collected by Judicial Authorities of a Third State**

- (1) [unchanged]
- (2) <sup>1</sup>Where the competent authorities of the relevant Third State so agree, the Panel **or a Judge designated by the Presiding Judge** and the Parties may attend the questioning of the witness conducted by a judicial authority of that State on the basis of questions submitted by the Parties. <sup>2</sup>The judicial authority may allow the Parties to ask questions directly to the witness.
- (3) [unchanged]
- (4) ~~Subject to the consent of the relevant Third State, the Pre-Trial Judge or a Judge designated by the Presiding Judge of a Panel may attend the questioning of the witness.~~

Clean:**Rule 101****Evidence Collected by Judicial Authorities of a Third State**

- (2) <sup>1</sup>Where the competent authorities of the relevant Third State so agree, the Panel or a Judge designated by the Presiding Judge and the Parties may attend the questioning of the witness conducted by a judicial authority of that State on the basis of questions submitted by the Parties. <sup>2</sup>The judicial authority may allow the Parties to ask questions directly to the witness.

Amendments highlighted:

## Rule 102

### Disclosure by the Specialist Prosecutor

- (1) <sup>1</sup>Subject to the provisions of Rule 105, Rule 107 and Rule 108, the Specialist Prosecutor shall make available to the Defence and, where applicable, Victims' Counsel:
- (a) as soon as possible, but at least within thirty (30) days of the initial appearance of the Accused, the supporting material to the indictment submitted for confirmation as well as all statements obtained from the Accused; and
  - (b) within the time limit set by the Panel, and no later than thirty (30) days prior to the opening of the Specialist Prosecutor's case:
    - (i) the statements of all witnesses whom the Specialist Prosecutor intends to call to testify at trial;
    - (ii) all other witness statements, expert reports, depositions, or transcripts that the Specialist Prosecutor intends to present at trial; **and**
    - ~~(iii) the statements of additional Specialist Prosecutor witnesses upon the decision to call those witnesses; and~~
    - (iviii)** the exhibits that the Specialist Prosecutor intends to present at trial.

<sup>2</sup>The statements of all witnesses whom the Specialist Prosecutor intends to call to testify at trial shall be made available in a language the Accused understands and speaks.

**(2) Any statements of additional Specialist Prosecutor witnesses, which have not been disclosed within the time limit pursuant to paragraph 1(b) and whom the Specialist Prosecutor intends to call to testify at trial, shall be made available to the Defence as soon as possible and shall be accompanied by reasons for the late disclosure. The Defence may seize the Panel where grounds to dispute the late disclosure exist.**

~~(2 3)~~ <sup>1</sup>The Specialist Prosecutor shall, pursuant to Article 21(6) of the Law, provide detailed notice to the Defence of any material and evidence in his or her possession. <sup>2</sup>The Specialist Prosecutor shall disclose to the Defence, upon request, any statements, documents, photographs and allow inspection of other tangible objects in the custody or control of the Specialist Prosecutor, which are deemed by the Defence to be material to its preparation, or were obtained from or belonged to the Accused. <sup>3</sup>Such material and evidence shall be disclosed without delay. <sup>4</sup>The Specialist Prosecutor shall immediately seize the Panel where grounds to dispute the materiality of the information exist.

~~(3 4)~~ <sup>1</sup>Disclosure pursuant to paragraph (2) shall be finalised during the pre-trial stage. <sup>2</sup>Thereafter, the Specialist Prosecutor shall provide notice of any new disclosure accompanied by reasons for the late disclosure.



Clean:

## **Rule 102**

### **Disclosure by the Specialist Prosecutor**

- (1) <sup>1</sup>Subject to the provisions of Rule 105, Rule 107 and Rule 108, the Specialist Prosecutor shall make available to the Defence and, where applicable, Victims' Counsel:
  - (a) as soon as possible, but at least within thirty (30) days of the initial appearance of the Accused, the supporting material to the indictment submitted for confirmation as well as all statements obtained from the Accused; and
  - (b) within the time limit set by the Panel, and no later than thirty (30) days prior to the opening of the Specialist Prosecutor's case:
    - (i) the statements of all witnesses whom the Specialist Prosecutor intends to call to testify at trial;
    - (ii) all other witness statements, expert reports, depositions, or transcripts that the Specialist Prosecutor intends to present at trial; and
    - (iii) the exhibits that the Specialist Prosecutor intends to present at trial.

<sup>2</sup>The statements of all witnesses whom the Specialist Prosecutor intends to call to testify at trial shall be made available in a language the Accused understands and speaks.

(2) Any statements of additional Specialist Prosecutor witnesses, which have not been disclosed within the time limit pursuant to paragraph 1(b) and whom the Specialist Prosecutor intends to call to testify at trial, shall be made available to the Defence as soon as possible and shall be accompanied by reasons for the late disclosure. The Defence may seize the Panel where grounds to dispute the late disclosure exist.

(3) <sup>1</sup>The Specialist Prosecutor shall, pursuant to Article 21(6) of the Law, provide detailed notice to the Defence of any material and evidence in his or her possession. <sup>2</sup>The Specialist Prosecutor shall disclose to the Defence, upon request, any statements, documents, photographs and allow inspection of other tangible objects in the custody or control of the Specialist Prosecutor, which are deemed by the Defence to be material to its preparation, or were obtained from or belonged to the Accused. <sup>3</sup>Such material and evidence shall be disclosed without delay. <sup>4</sup>The Specialist Prosecutor shall immediately seize the Panel where grounds to dispute the materiality of the information exist.

(4) <sup>1</sup>Disclosure pursuant to paragraph (2) shall be finalised during the pre-trial stage. <sup>2</sup>Thereafter, the Specialist Prosecutor shall provide notice of any new disclosure accompanied by reasons for the late disclosure.

Amendments highlighted:

**Rule 113**

**Admission of Victims for Participation in the Proceedings**

- (1) [unchanged]
- (2) The Victims' Participation Office shall register and assess the applications and file them before the Panel together with a recommendation on admissibility and common representation, and a request for protective measures under Rule 80, as applicable. At the same time, the Victims' Participation Office shall submit to the Parties a confidential report thereon, **without providing any identifying information of the applicants.**
- (3) – (9) [unchanged]

Clean:

**Rule 113**

**Admission of Victims for Participation in the Proceedings**

- (2) The Victims' Participation Office shall register and assess the applications and file them before the Panel together with a recommendation on admissibility and common representation, and a request for protective measures under Rule 80, as applicable. At the same time, the Victims' Participation Office shall submit to the Parties a confidential report thereon, without providing any identifying information of the applicants.

Amendments highlighted:**Rule 115****Assignment of Trial Panel**

- (1) <sup>1</sup>Pursuant to Article 33(1)(b) of the Law, the President shall assign a Trial Panel as soon as practicable. <sup>2</sup>After the opening of the case pursuant to Rule 124 **or the start of a hearing pursuant to Rule 93(3)**, a Reserve Judge shall be present at each stage of ~~a trial~~ **the hearing**. <sup>3</sup>For proceedings under Article 15(2) of the Law, the President shall assign a Trial Panel consisting of a Single Judge.
- (2) [unchanged]

Clean:**Rule 115****Assignment of Trial Panel**

- (2) <sup>1</sup>Pursuant to Article 33(1)(b) of the Law, the President shall assign a Trial Panel as soon as practicable. <sup>2</sup> After the opening of the case pursuant to Rule 124 or the start of a hearing pursuant to Rule 93(3), a Reserve Judge shall be present at each stage of the hearing. <sup>3</sup>For proceedings under Article 15(2) of the Law, the President shall assign a Trial Panel consisting of a Single Judge.
- (2) [unchanged]

Amendments highlighted:

**Rule 125**

**Initial Information to the Accused**

- (1) [unchanged]
- (2) The Accused shall be informed of his or her obligations and the measures provided ~~for~~ **in pursuant to** Rule 61(2).

Clean:

**Rule 125**

**Initial Information to the Accused**

- (1) [unchanged]
- (2) The Accused shall be informed of his or her obligations and the measures provided pursuant to Rule 61(2).

Amendments highlighted:

**Rule 143**

**Examination of Witnesses**

(1) [unchanged]

(2) With leave of the Panel, a Party who called a witness may question that witness about the following matters, where relevant to the witness's credibility:

- (a) [unchanged];
- (b) [unchanged]; and
- (c) whether the witness has, at any time, made a prior inconsistent statement. **Any such prior inconsistent statement may be admissible for the purpose of assessing the credibility of the witness, as well as for the truth of its contents or for other purposes within the discretion of the Panel.**

(3) – (4) [unchanged]

Clean:

**Rule 143**

**Examination of Witnesses**

(2) With leave of the Panel, a Party who called a witness may question that witness about the following matters, where relevant to the witness's credibility:

- (a) [unchanged];
- (b) [unchanged]; and
- (c) whether the witness has, at any time, made a prior inconsistent statement. Any such prior inconsistent statement may be admissible for the purpose of assessing the credibility of the witness, as well as for the truth of its contents or for other purposes within the discretion of the Panel.

Amendments highlighted:

**Rule 145**

**Examination of Witnesses away from the Trial Venue**

- (1) Subject to the provisions of Rule 74, a witness, who was called or summonsed at trial, but is unable to appear due to serious illness or other impediment, may be examined at the place where **he or she** resides or is in care, unless his or her testimony has already been collected and preserved under Rule 100.
- (2) [unchanged];

Clean:

**Rule 145**

**Examination of Witnesses away from the Trial Venue**

- (1) Subject to the provisions of Rule 74, a witness, who was called or summonsed at trial, but is unable to appear due to serious illness or other impediment, may be examined at the place where he or she resides or is in care, unless his or her testimony has already been collected and preserved under Rule 100.

Amendments highlighted:

**Rule 151**

**Self-Incrimination by a Witness**

(1) – (5) [unchanged]

(6) Where appropriate, the Panel may order the Registrar to assign Counsel to the witness so that **he or she** may receive legal advice regarding the effect of his or her testimony.

Clean:

**Rule 151**

**Self-Incrimination by a Witness**

(6) Where appropriate, the Panel may order the Registrar to assign Counsel to the witness so that he or she may receive legal advice regarding the effect of his or her testimony.

Amendments highlighted:

**Rule 155**

**Admission of Written Statements of Unavailable Persons and of Persons Subjected to Interference**

- (1) Evidence in the form of a written statement, any other record written or otherwise expressed of what a person has said or transcript of a statement by a person who has died or who can no longer be traced with reasonable diligence, or who is by reason of physical or mental impairment **or other compelling reason** unable to testify orally, may be admitted, whether or not the written statement is in the form prescribed by these Rules, if the Panel is satisfied:
- (a) of the person's unavailability or inability to testify orally; and
  - (b) that the statement, the record or the transcript is *prima facie* reliable, having regard to the circumstances in which it was made, recorded and maintained.
- (2) – (5) [unchanged]

Clean:

**Rule 155**

**Admission of Written Statements of Unavailable Persons and of Persons Subjected to Interference**

- (2) Evidence in the form of a written statement, any other record written or otherwise expressed of what a person has said or transcript of a statement by a person who has died or who can no longer be traced with reasonable diligence, or who is by reason of physical or mental impairment or other compelling reason unable to testify orally, may be admitted, whether or not the written statement is in the form prescribed by these Rules, if the Panel is satisfied:
- (a) of the person's unavailability or inability to testify orally; and
  - (b) that the statement, the record or the transcript is *prima facie* reliable, having regard to the circumstances in which it was made, recorded and maintained.



Amendments highlighted:

**Rule 208**

**Arrangements with Third States, International Organisations and Other Entities**

- (1) [unchanged]
- (2) Counsel may apply to a Panel to request assistance and cooperation with a Third State, international organisation or any other entity, **if they can show that:**
  - (a) **a legal basis for such assistance or cooperation exists or where the entity concerned has expressed a willingness to assist despite the absence of a legal basis;**
  - (b) **a request by Specialist Counsel or Victims' Counsel has been refused or ignored; and**
  - (c) **the information, cooperation or assistance is material to their respective case.**
- (3) [unchanged]

Clean:

**Rule 208**

**Arrangements with Third States, International Organisations and Other Entities**

- (2) Counsel may apply to a Panel to request assistance and cooperation with a Third State, international organisation or any other entity, if they can show that:
  - (a) a legal basis for such assistance or cooperation exists or where the entity concerned has expressed a willingness to assist despite the absence of a legal basis;
  - (b) a request by Specialist Counsel or Victims' Counsel has been refused or ignored; and
  - (c) the information, cooperation or assistance is material to their respective case.