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**Preparatory Commission for the International  
Criminal Court**

**Working Group on Rules of Procedure and Evidence**

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**Revised discussion paper proposed by the Coordinator**

**Rules of Procedure and Evidence related to Part 6 of  
the Statute**

**Addendum**

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**6.31 Reparations to victims**

**Rule A. Procedure upon request**

(a) A victim's request for reparations under article 75 shall be made in writing or in electronic form and filed with the Registrar. It shall contain at least the following particulars:

- Information regarding the identity and address of the claimant, subject to any protective measures ordered by the Court;
- A description of the injury, loss or harm caused by the person or persons named in the charges;
- Where restitution of assets, property or other tangible items is sought, a description of them;
- Claims for compensation;
- Claims for rehabilitation and other forms of remedy;
- Any relevant supporting documentation, including names and addresses of witnesses.

(b) Unless the person is not at the seat of the Court and cannot be located, the request shall be notified to the person or persons named in the request, and to any other interested persons and any interested States.

Those notified have the right to respond to the request.

#### **Rule B. Procedure on the motion of the Court**

(a) In cases where the Court decides to proceed on its own motion pursuant to article 75, paragraph 1, it shall ask the Registrar to notify its decision to the person or persons against whom the Court is considering making a determination, to victims to the extent possible, to any interested persons and to any interested States.

Those notified have the right to make observations.

(b) If, as a result of notification under paragraph (a), a victim makes a request for reparations, that request will be determined as if it had been brought under rule A.

#### **Rule C. Publication of proceedings**

(a) Without prejudice to any other rules on notification of proceedings, the Registrar shall, having regard to any information provided by the Prosecutor and insofar as practicable, take all the necessary measures to give adequate publicity of proceedings before the Court to victims to the extent possible, or their legal representatives, to interested persons and interested States.

(b) In taking the measures described in paragraph (a), the Court may seek in accordance with Part 9 the cooperation of relevant States Parties, and seek the assistance of organs of the United Nations, intergovernmental or non-governmental organizations in order to give publicity to the proceedings before the Court as widely as possible and by all possible means.

#### **Rule D. Assessment of reparations**

(a) The Court may award reparations on an individualized or collective basis, taking into account the scope and extent of any damage, loss and injury.

(b) At the request of victims or their legal representatives, or at the request of the convicted person, or on its own motion, the Court may appoint appropriate experts to assist it in determining the scope, extent of any damage, loss and injury to, or in respect of victims and to suggest various options concerning the appropriate types and modalities of reparations.

#### **Rule E. Trust Fund**

(a) In making an order for reparations to be awarded through the Trust Fund, the Court may take into account, *inter alia*, the number of the victims and the scope, forms and modalities of reparations.

(b) The Court may order that an award of reparations be made through the Trust Fund to an international or national organization approved by the Court to cooperate or assist the Fund.

(c) The Court may, at any time before it has made a determination relating to reparations, order the Trust Fund to provide interim relief to victims, such as medical or psychological attention or other humanitarian assistance.<sup>1</sup>

**Rule F. Evidence and standard of proof for reparations**

**N.B.** There is a need for further discussion on the necessity and, if so, on the contents of this rule.<sup>2</sup>

**Rule G. Procedure under articles 57, paragraph 3 (e) and 75, paragraph 4.**

(a) The Pre-Trial Chamber, pursuant to article 57, paragraph 3 (e), or the Trial Chamber, pursuant to article 75, paragraph 4, may, on its own motion or at the request of the Prosecutor or at the request of the victims or their legal representatives who have made a request for reparations or who have given an undertaking to do so, hold proceedings in order to determine whether measures should be requested.

(b) The Registrar shall provide notification of the proceedings to the person against whom a request is made or any interested persons or any interested States, unless the relevant Chamber determines that the notification could jeopardize the effectiveness of the measures requested.

If any such notification is made, the persons or States shall have the right to make observations.

(c) If an order is made without notification, the Court shall as soon as practicable hold an *inter partes* hearing to enable any persons against whom a request is made or any interested persons or any interested States to make observations to the effect that the order should be revoked or otherwise modified.

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<sup>1</sup> Further discussion is needed to clarify under which circumstances the Court should provide interim relief to victims. It could also be necessary to find a way to avoid conflicts between the Trust Fund and the Victims and Witnesses Unit. Consideration should also be given to the consequences of interim relief in cases where the Court ultimately makes no finding of guilt and consequently is unable to order reparations and whether receiving this kind of relief could create the appearance of bias on the part of a potential witness.

<sup>2</sup> In order to award reparations, there must be a conviction. Once there is a conviction the question arises as to what standard of proof the Court needs to use in order to make its findings on all aspects of the reparations, especially regarding causation, types and quantum of reparations.