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## **Preparatory Commission for the International Criminal Court**

Working Group on Rules of Procedure and Evidence  
New York  
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### **Proposal by Italy concerning article 70 of the Rome Statute**

#### **Rule 70.1**

1. False testimony or refusal to testify before the Court by the person who has given the undertaking referred to in article 69 (para. 1 (a); para. 1 (c)), or refusal to give the aforementioned undertaking (1 (a), 1 (c)).
2. False testimony or refusal to testify during the investigation (1 (c)).
3. Provision for exemption from penalty if the witness has spontaneously retracted his testimony before the decision is taken to conclude the proceedings of the Pre-Trial Chamber or the Trial Chambers.

#### **Rule 70.2**

1. The act of
  - (a) Fraudulently altering the truth in such a way as to cause harm, and carried out by any means, in writing or by any other means of expressing thought, or
  - (b) Tampering with the scene of a crime by altering, falsifying or removing traces of evidence, or by introducing, moving or removing any objects whatsoever, or
  - (c) Concealing or hiding or, in any manner, destroying the corpse of a person who has been the victim of a crime referred to in articles 5, 6, 7, 8 (1 (c)), or
  - (d) Destroying, removing or concealing
  - (i) Documents or records, evidence concerning an investigation or a trial, or which are to be produced before the Court or the Prosecutor, or

- (ii) Any object placed under seal or handed over to the judicial authorities.
- 2. Provision for more serious penalties when the act has been committed:
  - (a) By a member or official of the Court, or
  - (b) By an interpreter, expert or any other person who by virtue of his functions, is called on to participate in the establishment of the truth, or who has been entrusted by the Court or by the Prosecutor with any assignment whatsoever (1 (b)).

### **Rule 70.3**

- 1. The act of using promises, offers, presents, pressure, threats, assault and battery, ploys or trickery or any act of violence or intimidation committed before or during an investigation or trial, with a view to forcing another person either to give or issue a false testimony, statement or affidavit, or to refrain from giving or issuing a testimony, statement or affidavit, even if such subornation has no effect (1 (c)).
- 2. Provision for the punishment of the offences defined in paragraph 1, even if they are committed after the conclusion of the investigation or trial.

### **Rule 70.4**

- 1. The act of using pressure, threats, assault and battery, ploys or trickery or any act of violence or intimidation against or with a view to influencing
  - (a) A member or official of the Court, or
  - (b) The lawyer of one of the parties (1 (c)), or
  - (c) An expert, an interpreter, or
  - (d) Any other person entrusted by the Court or by the Prosecutor with any assignment whatsoever.
- 2. Provision for the punishment of the acts defined in paragraph 1, as well as any other form of reprisal, even if they are committed after the conclusion of the investigation or trial.

### **Rule 70.5**

- 1. The act,
  - (a) By a member or official of the Court, or
  - (b) By an expert or interpreter, or
  - (c) By any other person entrusted by the Court or by the Prosecutor with any assignment whatsoever,
    - Of improperly soliciting or accepting, directly or indirectly, any offers, promises, gifts, presents or advantages:
      - (i) In order to carry out or refrain from any of his functions, or
      - (ii) In order to abuse his real or presumed influence with a view to inducing another member or official of the Court to carry out or refrain from any of his functions.

2. Provision that the act of yielding to solicitation from a person referred to in the preceding paragraph, or proffering any offers, promises, gifts, presents or advantages with a view to inducing one of those persons to carry out or refrain from an act is punishable by the same penalties.
  3. Provision for the punishment of the offences referred to in the preceding paragraphs, even if they are committed after the conclusion of the investigation or the trial (1 (e)).
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