



**Lexsitus Lecturer:** Matthew Cross (Appeals Counsel, ICC Office of the Prosecutor (in personal capacity))

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**Level:** Introductory

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The Rome Statute seeks to ensure international standards of due process throughout its proceedings. This is implicit not only in article 21(3), which requires the application and interpretation of law consistent with internationally recognised human rights, but also provisions such as articles 55 and 67.

Unsurprisingly, therefore, the Statute also guarantees that sentenced persons will serve their sentences in accordance with such rights.

Thus, in article 106(1), the Statute emphasises that the sentenced person remains subject to the supervision of the Court even when they have been transferred to the State of enforcement. Moreover, it requires that the sentence shall be enforced in a fashion “consistent with widely accepted international treaty standards governing treatment of prisoners”, even though the conditions of imprisonment themselves shall be governed by the law of the State of enforcement. Indeed, article 106(2) requires that the State of enforcement may not discriminate in its treatment of ICC detainees either to their advantage or their disadvantage.

Relevant standards to article 106 may be drawn from treaties such as the Convention Against Torture and the International Covenant on Civil and Political Rights, as well as other instruments like the UN Standard Minimum Rules for the Treatment of Prisoners which are also known as the Nelson Mandela Rules, the Basic Principles for the Treatment of Prisoners, and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Finally, to ensure the effective exercise of the Court’s supervisory powers, article 106(3) requires that the communications between the sentenced person and the Court are “unimpeded and confidential”. This not only allows the sentenced person to report any concerns to the Court but also to seek appropriate remedies if required, but also to seek appropriate remedies if required, such as a request to be transferred to another State of enforcement under article 104.