

march, 25th - Rolling text

## [Article 66 : Reparations to victims

1. The Court [shall] [may] establish principles relating to reparations to, or in respect of<sup>1</sup>, victims, including restitution, compensation and [compensation for the purposes of] rehabilitation. The Court may, upon request, [or upon its own motion if the interests of justice so require,] determine, in its judgment, the scope and extent of any damage, loss and injury to, or in respect of, victims.

2- In accordance with the principles established by the Court,

(a) The Court may make an order directly against a convicted person for an appropriate form of reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.

[An award by way of compensation may comprise :

- (i) an exemplary element ;
- (ii) a compensatory element ;
- (iii) both]

[Where appropriate, the Court may order that the award for reparations be made into the trust fund provided for in article 72].

(b) [The Court may also [make an order][recommend] that an appropriate form of reparations to, or in respect of, victims, including restitution, compensation and rehabilitation be made by a State] :

[- if the convicted person is unable to do so himself/herself [and  
- if the convicted person was, in committing the offence, acting on behalf of that State in an official capacity, and within the course and scope of his/her authority]]

(c) [In any case other than those referred to in subparagraph (ii), the Court may also recommend that States grant an appropriate form of reparations to, or in respect of, victims, including restitution, compensation and rehabilitation].

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<sup>1</sup> Such a provision refers to the possibility for appropriate reparations to be granted not only to victims but also to others such as the victim's families and successors (in French "ayant-droit"). For the purposes of defining "victims", reference may be made to the Declaration of basic principles of justice for victims of crime and abuse of power (UNGA resolution 40/34) and the revised draft basic principles and guidelines on the right to reparation for victims of gross violations of human rights and international humanitarian law (E/CN4/Sub.2/1996/70).

3. In exercising its power under this Article, the Court may determine whether, in order to give effect to any order it may make, it is necessary to request protective measures under article 82. 1 (l)<sup>2</sup>.

4. Before making a decision under this Article, the Court shall take account of and may invite any written or oral representations from or on behalf of the convicted person, the victim or victims, [other interested persons] or States.

5. Victims or their successors or assigns may seek enforcement of an order [or judgment] under this article by competent national authorities . In this regard, they may ask the Court to seek enforcement of the orders [or judgment] under [Part 9 and] Part 10 of the Statute.

[To that end, States Parties shall take the necessary measures to assist them].

6. Nothing in this Article shall be interpreted as prejudicing the rights of victims [, not covered by the judgment of the Court,] under national or international law.

7. [The victim, the convicted person [or any State] [or person] may appeal against judgment in accordance with [part 8 of the Statute and ] the Rules]

8. [Rules necessary to give effect to the provisions of this article shall be developed under article 19]]

NB : The following provision has been considered by the working group and it was deemed that it would be appropriate for the Rules : "The judgment of the Court under this article will be transmitted by the Registrar to the competent authorities of the State or States with which the convicted person appears to have direct connection either by reason of nationality or domicile or habitual residence or by virtue of the location of the convicted person's assets and property or with which the victim have such connection".

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<sup>2</sup> As regards the reference to paragraph 82 and to Part 10 of the Statute in general, the view was expressed that it would be necessary to clarify whether the property and assets referred to in this subparagraph must be linked to the crimes. <https://www.legal-tools.org/doc/ece1a3/>