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Hello, I'm Yvonne McDermott Rees. I am an Associate professor of law at Swansea University in the UK, and this is my commentary to article 52 of the ICC Statute.

Article 52 entrusts judges with the power to draw up Regulations of the Court necessary for its routine functioning.

Pursuant to article 52, paragraph 1, the judges shall adopt, by majority, such Regulations as are 'necessary for the routine functioning of the Court.' The Prosecutor and Registrar are to be consulted in the drafting and amendment of the Regulations under article 52, paragraph 2. The Regulations were adopted in 2004, and they cover such matters as broadcasts of Court proceedings, the required content of the documents outlining the charges, choice of defence counsel, and legal aid.

By far the most controversial Regulation adopted to date has been Regulation 55, which permits the Court to reclassify the legal characterisation of facts to accord with the crimes under articles 6, 7, or 8, or to accord with the form of participation of the accused under articles 25 and 28. In Lubanga, the status of this rule as necessary for the routine functioning of the Court was challenged, but a request to declare it contrary to the Statute and Rules was denied.

More controversially, in Katanga and Chui the defendants had initially been charged with co-perpetration as a mode of liability under article 25, paragraph 3, subparagraph a. In 2012, after the trial proceedings had ended, the Trial Chamber opted to use Regulation 55 to re-characterise Katanga's mode of liability to common purpose liability under article 25, paragraph 3, subparagraph d, sub-subparagraph ii. He was later convicted while his co-accused was acquitted. Regulation 55 has been heavily criticised for this operation in the Katanga case and the resultant impact on the ability of the accused to prepare for trial and launch a defence against the charges, given that those charges could change at any time. In this way, it clearly risks jeopardising the right to be informed of the charges under article 67, [paragraph] 1.

Although drafting of the Regulations is left primarily in the hands of the judges, the Assembly of State Parties does have some oversight over the Regulations. Article [52], [paragraph] 3 notes that the amendments shall take effect immediately upon adoption, unless otherwise decided by the judges. Upon adoption, they are to be circulated to States Parties for

comments, and if there are no objections from a majority of State Parties within six months, they remain in force.