

ARREST STRATEGIES

QUESTIONNAIRE

Part I - General

1. State

THE PLURINATIONAL STATE OF BOLIVIA

2. Membership in Regional Organizations

African Union – AU

Arab League – AL

Caribbean Community – CARICOM

European Union – EU

Organization of American States – OAS

YES

Organization of Islamic Conference - OIC

Other

UNASUR, CAN (Andean Community)

3. Obligations towards the ICC

State Party

State non-Party/accepted jurisdiction

State non-Party/entered voluntary agreement

State non-Party/bound by UNSC resolution

State non-Party/not obligated

4. Relevance to ongoing ICC proceedings

With respect to persons currently sought by the ICC or to the crimes investigated/prosecuted, to which of the following categories your Country belongs to?

Nationality

Territorial

Presence

Transit

Other

IDENTITY

Part II – Domestic proceedings

5. Has any investigation, prosecution or trial for crimes included in the subject matter jurisdiction of the ICC been conducted in your national jurisdiction since 1st July 2002? If the answer is yes, please give details. If the answer is no, please proceed to question 8.

THE TRIAL OF HIGH RANKING STATE OFFICIALS, "BLACK OCTOBER", AGAINST FORMER PRESIDENT GONZALO SANCHEZ DE LOZADA AND OTHERS FOR CRIMES OF GENOCIDE AND CRIMES AGAINST HUMANITY.

6. Have any unsealed arrest warrants been issued in such cases?

YES, ARREST WARRANTS HAVE BEEN ISSUED BY A COMPETENT AUTHORITY, AND AN EXTRADITION REQUEST HAS ALSO BEEN SUBMITTED TO THE UNITED STATES.

7. What is the execution rate of any such arrest warrants, in the short-term (within 1 year), medium-term (1 to 3 years) and long-term (more than 3 years) in cases where:

(i) The person sought is on the territory of the State?

THE PERSONS CONCERNED ARE IN OTHER COUNTRIES, IN PARTICULAR IN THE UNITED STATES OF AMERICA, WITH AN EXECUTION RATE OF OVER THREE YEARS.

(ii) The person is sought with an international arrest warrant, completed with an extradition request?

THE EXECUTION RATE IS OVER THREE YEARS, BY PUBLICATION OF A RED NOTICE FOLLOWED BY EXTRADITION.

8. What is the execution rate of arrest warrants issued in other cases where the status of the accused, the supporting network or other circumstances create particular challenges (e.g., organized and transnational crime, high political level suspects), in the short-term (within 1 year), medium-term (1 to 3 years) and long-term (more than 3 years)?

THE EXECUTION RATE IN THE MEDIUM-TERM IS 1 TO 3 YEARS, AND IN SOME CASES IT IS LONG-TERM.

9. Which factors were key in the arrest of fugitives, in the short to long-term?

IN THE SHORT-TERM, THE COORDINATED WORK OF THE OFFICE OF THE STATE PROSECUTION SERVICE, BOLIVIAN POLICE AND MINISTRY OF FOREIGN AFFAIRS.

IN THE LONG-TERM, THE EXCESSIVE BUREAUCRACY OF INTERPOL.

10. What was the role played by the following factors in achieving arrests?

(i) Availability of dedicated tracking resources?

FUNDAMENTAL IN FACILITATING THE PROCEEDINGS.

(ii) Availability of a coordination mechanism for national authorities?

CRUCIAL, AS RESULTS CANNOT BE ACHIEVED BY ONE INSTITUTION ALONE WITHOUT COORDINATION.

(iii) Low security threat on the ground?

NONE

(iv) Strict confidentiality of arrest warrants, until they are executed?

IMPORTANT; THE INFORMATION MUST REMAIN AS CONFIDENTIAL AS POSSIBLE.

11. Which other factors have facilitated the arrest of fugitives?

THE COOPERATION OF SOCIETY.

12. Have the Interpol Notices played a useful role in tracing and arresting fugitives?

THE WORK OF INTERPOL HAS PROVEN TO BE IMPORTANT, BUT REGRETABLY IT HAS BEEN TOO SLOW AND BUREAUCRATIC TO BRING ABOUT RESULTS.

13. With regard to suspects, accused or convicted persons - including for organized crime or others premised on supporting networks - does your domestic legislation provide for

(i) Incentives to facilitate voluntary surrender?

DOMESTIC LEGISLATION PROVIDES FOR A SHORTENED PROCEDURE AND ESTABLISHES A MINIMUM SENTENCE.

(ii) Mitigating circumstances, special reduction or commutation of sentences, as well as penitentiary benefits for collaborators of justice or those who have definitely abandoned their associates?

LAW 2006 ON THE EXECUTION OF CRIMINAL SENTENCES (*LEY 2006 DE EJECUCIÓN PENAL Y DE SUPERVICION*), LAW 004 MARCELO QUIROGA SANTA CRUZ AGAINST CORRUPTION AND ARTICLES 39 AND 40 OF THE CRIMINAL CODE (MITIGATING AND AGGRAVATING CIRCUMSTANCES).

Part III – ICC proceedings

I. Capacity to enforce

With respect to the enforcement of arrest warrants issued by the ICC, does your State have:

14. Control over the territory of location?

NO, AS THE PERSON CAN BE BEYOND ITS BORDERS.

15. Availability of minimal structures for the functioning of the Rule of Law?

YES IT DOES HAVE SUCH STRUCTURES, SUCH AS PUBLIC PROSECUTORS' OFFICES AND THE COURT OF CONSTITUTIONAL GUARANTEES.

16. Established any coordination Entity to facilitate relations with the ICC-OTP? If so, at what level (technical, operational, political)?

AT THE OPERATIONAL LEVEL.

17. Technical ability?

YES, HIGHLY QUALIFIED TECHNICAL ABILITY.

18. Ensured internal coordination for tracking fugitives, at the technical and operational level?

IT WORKS IN COORDINATION WITH THE POLICE AND INTERPOL.

19. Established or considered the establishment of a dedicated Tracking Unit/Team, including with international support (e.g. embedded/hybrid/gratis personnel/others, as JRR)?

THE TRACKING IS DONE BY PROSECUTORS, AND IN THIS SPECIFIC CASE, WITH THE SUPPORT OF VARIOUS SPECIALISED UNITS WITHIN THE STATE PROSECUTION SERVICE.

20. Need for any international or bilateral assistance for the enforcement of arrest warrants?

INTERNATIONAL COOPERATION IS ALWAYS REQUIRED FOR THE OFFICE OF THE PUBLIC PROSECUTOR TO ENFORCE ARREST WARRANTS ISSUED BY THE COMPETENT AUTHORITY.

II. Obstacles to arrest

21. What circumstances and factors have resulted or might result in challenges, substantive delays or obstacles in the enforcement of arrest warrants for crimes under the Rome Statute in your jurisdiction, as well as during the transit of fugitives or in the course of the transfer of arrested suspects to the ICC?

AN IMPORTANT FACTOR AND OBSTACLE TO THE ENFORCEMENT OF ARREST WARRANTS IS THE LACK OF WILLINGNESS OF REQUESTED STATES.

22. Is the official position of a suspect considered an obstacle to the execution of the arrest for crimes under the Rome Statute, e.g. because of immunities of constitutional or international law?

IN BOLIVIA, SPECIAL TRIALS AND IMMUNITY FROM PROSECUTION HAVE BEEN ELIMINATED; EVERYONE IS TRIED IN THE SAME WAY, IRRESPECTIVE OF THEIR SOCIAL STATUS OR OFFICIAL POSITION.

23. To what extent the following circumstances might represent an obstacle to arrest?

(i) Ability to carry out arrests, including the availability of trained staff and technical means (e.g. equipment and other resources);

QUALIFIED PERSONNEL AND RESSOURCES ARE ESSENTIAL IN ORDER TO PROCEED WITH ARRESTS AS SWIFTLY AS POSSIBLE WITHIN THE LEGALLY ESTABLISHED TIME-FRAMES.

(ii) Absence of coordination on the ground, e.g. insufficient or outdated information for the arrest staff, ineffective communication with the prosecuting authority;

POOR OR INSUFFICIENT INFORMATION IS AN OBSTACLE TO EFFECTIVE DETENTION OR ARREST.

(iii) Insufficient information on the person's details (e.g. date and place of birth);

THE PERSON SOUGHT MUST BE IDENTIFIED IN AS MUCH DETAIL AS POSSIBLE; THIS IS AN ESSENTIAL CONDITION TO PROCEED WITH THE ARREST.

(iv) Insufficient information on the person's supporting networks/connections;

FOR A DETENTION IS TO TAKE PLACE, IT IS VERY IMPORTANT TO OBTAIN INFORMATION, WHETHER THROUGH NETWORKS OR GEOREFERENCING.

(v) Threat level in the location area;

THE SECURITY LEVEL APPLICABLE TO THE PROCEDURE MUST BE MAINTAINED (STAFF, WITNESSES ETC.)

(vi) Un-sealed arrest warrants, or other publicity on the identity of the persons sought?

NON-COMPLIANCE WITH PROCEDURES MAY RESULT IN DELAYED OR, IN SOME CASES, IN FAILURE TO ACHIEVE DETENTION.

(vii) Other.

BETTER COORDINATION AMONG THE VARIOUS INSTITUTIONS CONCERNED WITH CRIMINAL PROSECUTION.

III. Efforts

Contacts

24. Have you taken up direct (bilateral) or indirect, formal or informal contact with relevant States, to facilitate the enforcement of arrest warrants?

ANY COMMUNICATION TAKES PLACE THROUGH THE CENTRAL AUTHORITY, USING THE REGULAR CHANNELS.

25. Have you established dedicated tracking resources for the arrest of fugitives?

THERE ARE SUFFICIENT RESSOURCES.

26. Would you request any international assistance for the enforcement of ICC arrest warrants and, in the affirmative, has such assistance become available?

NONE HAS BEEN NECESSARY TO DATE.

27. Interpol - Are arrest warrants regularly processed via Interpol?

INTERPOL FREQUENTLY HANDLES MATTERS, BUT DETENTION MAY BE SOUGHT DIRECTLY FROM THE REQUESTED STATE THROUGH THE DIPLOMATIC CHANNEL.

28. Networks - Do you participate as a member or an observer in any network for police cooperation?

AMERIPOL

29. Special Programmes - Is any programme for the arrest of fugitives (e.g., rewards) available in your national jurisdiction or for the enforcement of warrants requested by the ICC?

NO KNOWN SPECIAL PROGRAM IS AVAILABLE.

30. Exchange of information - Has any exchange of information for the enforcement of arrest warrants been activated with other relevant actors, including by means of active focal points or other resources, and become effective?

YES, INFORMATION IS EXCHANGED WITH THE POLICE.

Political

31. Have you carried out, adopted or contributed to any of the following in support of the enforcement of ICC arrest warrants, both nationally or within any Organization you belong to?

(i) Public statements

NO

(ii) Informal consultations

NO

(iii) Pro-ICC policies

NO

(iv) Pro-ICC clauses in bi-multilateral Agreements

NO

(v) Démarches (bi-multilateral)

NO

Diplomatic

32. Have you carried out or contributed to any of the following in support of the enforcement of ICC arrest warrants, both nationally or within any Organization you belong to?

(i) Isolation of fugitives - including by means of implementing a policy of avoidance of non-essential contacts

NO

(ii) Dialogue - by including the enforcement of arrests in agendas of high level meetings

NO

Cooperation and Legal Assistance

33. Do you have national procedures in place enabling requests for cooperation (arrest and surrender) and assistance from the ICC to be addressed?

UNDER NATIONAL LEGISLATION, ARTICLE 149 OF THE CODE OF CRIMINAL PROCEDURE PROVIDES FOR A DUTY OF INTERNATIONAL COOPERATION, WHETHER IN THE FORM OF DETENTION OR SURRENDER OF FUGITIVES; THERE ARE ALSO MANUALS AND STANDARD OPERATING PROCEDURES.

Sanctions

34. Have you adopted at the national level any restrictive measure (e.g., embargoes, freezing of assets) with respect to States under an obligation to cooperate with the arrest of a person subject to an ICC arrest warrant, or against the latter?

NO, HOWEVER, THROUGH THE MINISTRY OF TRANSPARENCY, PROPERTY AND ASSETS BELONGING TO PERSONS AWAITING TRIAL BEFORE BOLIVIAN COURTS AND TRIBUNALS (NOT THE ICC) ARE BEING TRACED ABROAD TO BE RECOVERED.

35. Have you enforced any of such restrictive measures, adopted either at the national or international level?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

IV. Incentives

A. States

Political

36. Do you have a pending candidature or application for membership in an international, regional or inter-governmental organization? If so, please specify.

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

37. Are you member of an international, regional or inter-governmental organization open to accession of new members or participation by observers?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Capacity building

38. Do you qualify as donor or recipient of any assistance programme for the development of the rule of law?

YES, THROUGH INTERNATIONAL COOPERATION.

Development aid

39. Do you qualify as donor or recipient of any assistance programme to support the economic, environmental, social, and political development?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Financial assistance

40. Do you qualify as recipient of any financial aid, either bilaterally or from the World Bank or the European Investment Bank?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Other economic assistance

41. Do you qualify as a party to any bilateral agreements aimed at providing economic assistance, or to an international debt relief plan?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Military assistance

42. Do you qualify as donor or recipient of any military assistance programme, including on bilateral and multilateral basis?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Other assistance

43. Do you qualify as donor or recipient of any other assistance programme (e.g., for drug crop eradication and/or trafficking)?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

B. Persons sought

Material and other assistance in ICC proceedings, incl. at national level

44. Would you be able to provide material or any other assistance to suspects in ICC proceedings, including at the national level (e.g., legal aid)?

NO

Family visits and other assistance

45. Would you be able to provide assistance or otherwise facilitate contacts between persons detained in ICC proceedings and their family members, including family visits, visas, communication facilities?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Agreement on the State of Enforcement/release

46. Have you entered into an agreement on sentence enforcement or on early release with the ICC, or would you be able to assist in that regard on another basis?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.

Residence status agreement

47. Would you be able to provide any residence or other relevant status to persons who have been in custody of the ICC?

NO OFFICIAL STATEMENT HAS BEEN MADE IN THIS REGARD.
