

Embassy of the Plurinational State of Bolivia
The Hague- The Netherlands

EBPB-V-142/15

The Embassy of the Plurinational State of Bolivia in the Kingdom of the Netherlands presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court, and has the honour to refer to its note verbale ICC-ASP/14/PA/45, by which it requests States Parties to convey information relevant to the promotion of ratification and full implementation of the Rome Statute.

In this regard, and in accordance with resolution ICC-ASP/5/Res.3, the Embassy hereby transmits in attachment an update containing information prepared by the Ministry of Justice on full implementation of the Rome Statute.

The Embassy of the Plurinational State of Bolivia in the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties the assurances of its highest consideration.

The Hague, 2 October 2015

To:
The Secretariat of the Assembly of States Parties to the Rome Statute
International Criminal Court
Maanweg 174, 2516 AB
The Hague

Information on the implementation of the Rome Statute in Bolivia

Information on the points raised in the questionnaire.

First question

The Bolivian State has ratified the Rome Statute of the International Criminal Court, within the meaning of its 128 articles, through Law N° 2398 of 23 March 2002. This Law provides, in its only article, that “in accordance with the powers conferred under article 59 (12) of the Political Constitution of the State, the signature dated 17 July 1998 of the Rome Statute of the International Criminal Court, within the meaning of its 128 articles, is adopted and ratified under the law of the Republic”. However, the Statute has not been fully implemented in the Bolivian legal order.

Second question

Three broad approaches prevail in comparative law for the implementation of the Rome Statute: a) incorporation by reference, by way of an implementing Statute, which provides for direct implementation of the provisions of the Statute by the State judiciary; b) adoption through specific legislation incorporating the provisions of the Rome Statute, separate from applicable criminal and procedural law; and c) systematic incorporation into domestic law, whereby the contents of the Rome Statute are incorporated into applicable criminal and procedural law.

In this respect, initially, in 2006, the Bolivian State tried the second approach and drafted a specific law on implementation of the Statute in Bolivian law; however, it did not pass in Congress at the time. Currently, and owing to the adoption of the Political Constitution of the State of 2009, the third approach is being tried, as the Bolivian State is in the process of adopting new codes in the legislative areas set out in above Constitution. To date, the following codes have been adopted: the Code of Civil Procedure, through Law N° 439; the Child and Adolescent Code, through Law N° 548; and the Code of Family Law and Procedure, through Law N° 603. The Criminal Code is being prepared since 2014 as part of this new process of codification; it will involve a full reform of both substantive and procedural criminal law. The preliminary draft is being prepared by an Inter-institutional Committee composed of the Vice presidency of the Plurinational State, both chambers of the Plurinational Legislative Assembly, the Ministry of Justice and the State Attorney General. The criminal offences of the new code are currently being drafted and adapted.

This full revision will incorporate both the substantive and procedural contents of the Rome Statute. With regard to the substantive part, under Chapter One, Title II of Book I, the preliminary draft covers crimes against humanity and other crimes which are adapted to the provisions of the Rome Statute and which the Inter-institutional Committee is currently working on. In addition, Book II of the preliminary draft on procedure provides for international cooperation mechanisms, including cooperation with the International Criminal Court.

According to the schedule of the Inter-institutional Committee, the preliminary draft should be ready by the end of December of this year and will be formally submitted to the Plurinational Legislative Assembly by the end of December or beginning of January 2016 as a draft law.

Third question

The obstacles to implementation of the Statute in the Bolivian State are mentioned above, including the inability of Congress in 2006 to adopt the specific draft implementing law. However, these obstacles have been addressed, and a new criminal code is being prepared in the context of the Political Constitution of the State of 2009, in the form of a preliminary draft implementing the provisions of the Statute on crimes and mechanisms for cooperation with the Court.

Fourth question

The Bolivian State must prepare and adopt draft domestic legislation; however, it would be beneficial to provide civil servants of the justice sector with further training on the provisions of the Rome Statute.

Conclusions

In our State, the Rome Statute is being implemented through systematic incorporation of the provisions of the Statute into domestic law, as provided in the preliminary draft of the criminal code.

The information contained herein is public.