

EMBASSY OF THE REPUBLIC OF BENIN TO
THE BENELUX COUNTRIES

PERMANENT MISSION OF BENIN TO THE
EUROPEAN UNION AND TO THE ORGANISATION
FOR THE PROHIBITION OF CHEMICAL WEAPONS

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NOTE VERBALE

The Embassy of the Republic of Benin to the International Criminal Court presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute and referring to its note ICC-ASP/18/SP/63 of 24 June 2019 has the honour to provide the response of the Government of Benin to the questionnaire concerning the implementation of the Rome Statute in the Republic of Benin.

The Embassy of the Republic of Benin to the International Criminal Court wishes to thank the Secretariat of the Assembly of States Parties to the Rome Statute for its kind cooperation and avails itself of the opportunity to renew to the Secretariat of the Assembly of States Parties the assurance of its highest consideration.

Attachments: 01

Brussels, 16 October 2019

SECRETARIAT OF THE ASSEMBLY
OF STATES PARTIES TO THE ROME STATUTE
INTERNATIONAL CRIMINAL COURT
The Hague – The Netherlands

Questionnaire for States Parties about implementing legislation

The Government of Benin has adopted national legislation, which incorporates the provisions of the “Rome” statute establishing the International Criminal Court (ICC).

SECTION B:

5) With regard to the implementation of the “Rome” Statute, the government of Benin has incorporated the substantive articles and provisions of the Statute within pre-existing legislation, and specifically within the Code of Criminal Procedure (CPP) and the Penal Code (CP).

6) The main substantive crimes under the “Rome” statute were incorporated into our national law by Law No 2018-16 of 04 June 2018 on the Penal Code in the Republic of Benin (Articles 456 to 465 of the Penal Code).

7) National positive law through our Code of Criminal Procedure sets out the cooperation arrangements with the International Criminal Court (ICC):

- a) Arrest and surrender (Articles 774 to 778 of the CPP);
- b) Interim release and release (Articles 779 to 781 of the CPP);
- c) Cooperation with the Office of the Prosecutor (Articles 772 to 773 of the CPP);
- d) Cooperation with the Court regarding the identification, freezing and seizure of proceeds, property and assets and instrumentalities of crimes (Articles 785 to 786 of the CPP);
- e) Enforcement of sentences (Articles 787 to 789 of the CPP);
- f) Witness protection;
- g) Other forms of cooperation (Articles 776 to 777 of the CPP).

8) The implementing legislation designates a channel of communication with the Court, namely the Ministry of Foreign Affairs and Cooperation (Article 772 of the CPP).

9) The implementing legislation provides for the Direction des Affaires Civiles Pénales et des Grâces (DACPG – Directorate of Criminal Civil Cases and Pardons) within the Ministry of Justice and Legislation to be the national central authority for cooperation with the Court. (Article 1 of Decree No 109/MJL/DC/SGM/DACPG/SA 022SGG16 of 15 November 2016)

10) The implementing legislation made no specific provision for the application of privileges and immunities as provided for under the “Rome” statute. But under the monistic clause of Benin’s constitution, simply ratifying the “Rome” statute might enable the direct application of provisions pertaining to said privileges and immunities under Benin’s national law.

11) After the Code of Criminal Procedure took into account the rules of procedure and form laid down by the “Rome” statute in March 2013, it was not until June 2018, over five (05) years later in other words, that the crimes and offences provided for by the statute were internalised. This is proof not only of the clear challenges faced but also of the government’s desire to facilitate the implementation of the provisions of the statute.

12) All types of assistance are desirable to refine the implementation process which is underway.

13) Following the integration of certain provisions of the “Rome” statute in the Code of Criminal Procedure and also in the Penal Code, the government has not as yet begun new procedures to internalise the other provisions of the Statute.