



LATVIJAS REPUBLIKAS VĒSTNIECĪBA NĪDERLANDĒ
AMBASSADE VAN LETLAND IN NEDERLAND

No. 2.3.4.4/333

The Embassy of the Republic of Latvia presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honour to forward the comments of the Republic of Latvia regarding the implementation of the Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court.

The Embassy of the Republic of Latvia avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties of the International Criminal Court the assurances of its highest consideration.

The Hague, 7 October 2008



Enclosure: above-mentioned document.

The Secretariat of the Assembly of States Parties of
the International Criminal Court
The Hague

Comments of the Republic of Latvia regarding implementation of the Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court.

Regarding subparagraph (h) of Article 6 of Annex 1 to the Resolution ICC-ASP/5/Res.3, the Ministry of Justice informs that the *Saeima* (Parliament) of the Republic of Latvia ratified the Rome Statutes of the International Criminal Court on 28 June 2002. In accordance with Section 4 of the law of 20 June 2002 *On the Rome Statutes of the International Criminal Court of 17 July 1998*, the Ministry of Justice co-ordinates the implementation of commitments under the International Criminal Court Statutes.

On 28 October 2004, the *Saeima* of the Republic of Latvia ratified the Agreement on the Privileges and Immunities of the International Criminal Court based on the fact that in accordance with Article 48 of the Statutes, the International Criminal Court shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes. Being a State Party to the Statutes, Latvia has the obligation to recognise and secure the above privileges and immunities for the judges of the International Criminal Court, representatives of States Parties, the Prosecutor, the Registrar and counsel and other persons involved in the work and functions of the International Criminal Court, which would facilitate the successful administration of the Court's work and ensure the independent performance of functions by these officials. The law *On the Agreement on the Privileges and Immunities of the International Criminal Court* came into effect on 18 November 2004 and stipulates that the implementation of commitments under the Agreement shall be co-ordinated by the Ministry of Justice.

When drafting the *Criminal Procedure Law* which entered into force on 1 October 2005, Chapter 76, *Criminal-legal Co-operation with International Courts*, was already included. This Chapter was introduced so as to ensure the compliance of the Criminal Procedure with the provisions of the Statutes, stipulating that a person against whom prosecution has been pursued in an international court or who has been transferred to a court may be transferred for criminal prosecution and litigation on the basis of the request of such court. In addition, a request of an international court regarding the transfer of a person has priority in comparison with an extradition request submitted by another state. The *Criminal Procedure Law* also contains provisions on assistance to an international court in the performance of procedural actions. As regards a request for the secrecy of co-operation, the *Criminal Procedure Law* provides for the confidentiality of information.

As regards the drafting of a national and regional strategy or action plans to promote ratification and full implementation, the Ministry of Justice informs that Latvia has not drafted a planning document of this kind at the national level. However, Latvia participates in the meetings of the International Criminal Court Sub-area of the Public International Law Working Group (COJUR) of the European Union, in which the EU Action Plan is debated, and has voiced support for the implementation of the Action Plan.

Latvia also takes an active part in the International Criminal Court Assemblies of the States Parties, voicing Latvia's position on the crimes defined under the Statutes and on the need for enhancement of the Statutes (to include a definition of aggression).

With regard to the provision of technical and other assistance, the Ministry of Justice informs that Latvia has not provided such assistance to other States in the ratification and implementation of the Statutes.

Regarding planned activities, the Ministry of Justice indicates that presently a draft agreement is being prepared between the Republic of Latvia and the International Criminal Court on the resettlement of witnesses. Negotiations on the text of the agreement are in progress.

In addition, Latvia is currently actively working towards defining, within the Criminal Law, crimes against humanity, genocide and war crimes, in accordance with the provisions laid down in the Rome Statutes of the International Criminal Court.

As regards the incorporation of the Rome Statutes into Latvian legislation, the Ministry of Justice indicates that the Statutes were taken into account when drafting the *Criminal Procedure Law*, which entered into force in October 2005. Chapter 76 of the *Criminal Procedure Law, Criminal-legal Co-operation with International Courts*, which contains provisions on the frameworks of criminal-legal co-operation, competent institutions in co-operation with international courts, grounds for the surrender of a person to an international court, reasons for a refusal to surrender a person, assistance to an international court in the performance of procedural actions, fulfilment of adjudications of a financial nature by an international court, execution of a judgment of conviction of an international court, and confidentiality of requests for co-operation.

The chapter included in *The Criminal Law* entitled *Crimes against Humanity and Peace, War Crimes and Genocide* stipulates criminal liability for genocide, incitement to genocide, crimes against peace, war crimes, the use of force against residents in an area of hostilities, incitement to war of aggression, and for other crimes. Latvia, however, admits that the regulation is incomplete and is currently working actively to improve the provisions so as to include criminal liability for crimes against humanity, war crimes and genocide in accordance with the Statutes. In addition, Section 57 of *The Criminal Law* stipulates that a limitation period for criminal liability is not applicable to a person who has committed a crime against humanity, a crime against peace, a war crime or who has participated in genocide.

As regards the resolution of constitutional issues that ensue from the Statutes, the Ministry of Justice informs that Article 98 of the Constitution of the Republic of Latvia stipulates that a citizen of Latvia may not be extradited to a foreign country, except in the cases provided for in international agreements ratified by the Saeima if by the extradition the basic human rights specified in the Constitution are not violated. In addition, in accordance with Section 841 of the *Criminal Procedure Law* a person against whom prosecution has been pursued in an international court, or who has been transferred to a court, may be transferred for criminal prosecution and litigation on the basis of the request of such court. Paragraph two of Section 841 of the *Criminal Procedure Law* provides for an exception, stipulating that a person who is a Latvian citizen may be transferred for criminal prosecution and litigation in an international court only if a certification has been received from the international court that, in the case of conviction, the person will serve a sentence of deprivation of liberty in Latvia. The legal grounds for the transfer of a person to an international court, in accordance with Section 841 of the *Criminal Procedure Law*, are the basic document of the establishment of the international court and the provisions of the *Criminal Procedure Law*.

In accordance with Section 842 of the *Criminal Procedure Law*, the transfer of a person to an international court shall not be admissible in cases where one of the following reasons stands:

- the person is suspected, has been charged, or is being tried in Latvia regarding the same criminal offence;
- a decision has been taken in Latvia to not commence, or to terminate, criminal proceedings regarding the same criminal offence;
- a court adjudication has entered into effect in Latvia in relation to the person regarding the same criminal offence;
- the person may not, in accordance with Latvian law regarding the same criminal offence, be held criminally liable, tried, or sentenced in connection with a limitation period, amnesty, or another lawful basis;
- the person has been granted clemency, in accordance with the procedures specified by law, regarding the same criminal offence.

In accordance with the *Criminal Procedure Law*, a request of an international court regarding the surrender of a person has priority over an extradition request submitted by another state.

As regards national contact points in cases related to the promotion of ratification and full implementation, the Ministry of Justice indicates that there is presently no national contact point; in accordance with Section 840 of the *Criminal Procedure Law*, however, the Ministry of Justice is the competent authority in criminal-legal co-operation with international courts.

Regarding Annex 1 to Resolution ICC-ASP/5/Res.3, the Ministry of Justice informs that the agreement between the Republic of Latvia and the International Criminal Court is presently at the negotiations stage. Latvia is currently working on definitions of crimes against humanity, war crimes and genocide in *The Criminal Law* so as to conform to the Statutes.