



AMBASCIATA D'ITALIA
L'AJA

The Embassy of Italy presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honor to refer to the letter dated 15 April 2008, which referred to the plan of action for achieving universality and full implementation of the Rome Statute, as contained in ICC-ASP/5/Res.3.

In this regard, Italy conveys herewith the information referred to in paragraph 6, sub-paragraph (h) of the plan of action, which will also be forwarded in its digital version to the Secretariat.

The Embassy of Italy avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties the expressions of its highest consideration.

The Hague, 16 May 2008

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The Secretariat of the
Assembly of States Parties of the
International Criminal Court
Maanweg, 174 - The Hague

Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court

(ICC-ASP/5 Res. 3 of 1 December 2006)

Italy

Signature: 18 July 1998

Ratification: The Italian Parliament authorized ratification by Law n. 232/1999 (12 July 1999, published on 19 July 1999 G.U n. 167), and Italy deposited its instrument of ratification on 26 July 1999

(i) Implementing legislation: Article 2 of Law n. 232/1999 (12 July 1999) states that “Piena ed intera esecuzione è data allo Statuto di cui all'articolo 1, a decorrere dalla data della sua entrata in vigore, in conformità a quanto disposto dall'articolo 126 dello Statuto stesso” (“Full execution is given to the Statute referred to under Article 1, starting on the date of its entry into force, in compliance with Article 126 of the Statute itself”), which means that, from a normative standpoint, the Statute has been fully introduced into the Italian legal order as of 1 July 2002. Moreover, Article 3 of the above-mentioned Law (which was renewed and modified by subsequent legislation) serves as the basis for the financing of the Court by Italy. Despite the fact that there is a clear national provision establishing the automatic and full implementation of the ICC Statute in Italy, however, many provisions of the ICC Statute are not necessarily self-executing. Since more specific provisions may be needed, the Italian Government has prepared several proposals for the multifaceted implementation of the Statute in Italy.¹ Moreover, various political groups have introduced draft legislation into the Italian Parliament.² Unfortunately this proliferation of proposals has created intense discussions and debates that have slowed down the process. It can be anticipated that the newly elected Parliament will soon resume examination of appropriate implementing legislation.

(iv) Events and activities: various workshops and conferences with the participation of Judges and/or Prosecutors of the ICC or the ad hoc Tribunals and well known Italian lawyers were held at many universities (in Milan, Trento, Florence, Naples, Palermo, Catania) as well as in other institutions (in Turin, Florence and Syracuse) to spread knowledge and awareness of the role of the ICC and more broadly the importance of international criminal justice, and discuss specific problems in view of the full implementation of the ICC Statute in Italy. In 2007, Italy held the Conference on

¹ Commissione Pranzetti (1998, Ministero degli Affari Esteri, which completed its works in 2001), Commissione La Greca-Lattanzi (1999, Ministero della Giustizia, which completed its works drafting an authorizing legislation at the end of 2001), Commissione Conforti (2002, Ministero della Giustizia, which completed its works in 2003 with two draft laws which were never published), Commissione Scandurra (2002, Ministero della Difesa, which completed its works with another draft of authorizing legislation, adopted by the Senate on 18 November 2004 - Atto Senato n. 2493, XIV Legislature).

² See e.g. Camera dei Deputati n. 2724, On. Kessler and others, XIV Legislature; Senato della Repubblica n. 1638, Sen. Iovene and others; Senato n. 893, Sen. Pianetta, XV Legislature; Senato n. 1089, Sen. Martone and others.

International Criminal Justice (Turin, 14-18 May 2007), where past, present and future activity of all international and internationalized jurisdictions was reviewed with the aim of furthering the cause of the ICC.

(vii) Constitutional activities: From a constitutional viewpoint, and despite the swift introduction into the Italian legal order of the ICC Statute, there are still several concerns that have been raised (see M. Mazziotti di Celso, 'Sulla compatibilità dello Statuto della Corte Penale Internazionale con la Costituzione italiana', in *la Comunità internazionale* Vol. 58, n. 1 (2003), pp. 3-8). There is an intense debate among scholars from various fields (constitutional law, criminal law and international law) trying to identify which amendments need to be made to the Constitution, or where the mere interpretation of the Statute may suffice, taking into account the existence in the Italian Constitution of a general provision establishing that the Italian legal order adapts to general international law. There seems, however, to be a general agreement that since the ICC Statute aims to protect fundamental values of the international community as a whole, these cannot but be reflected in the Italian Constitution. Pending problems, if any, should be solved through either interpretation of constitutional provisions or adoption of appropriate amendments to the Constitution in the implementing legislation. For a broad overview of these problems see R. Bellelli, "Italian implementation of the Rome Statute and related constitutional issues", in R. Lee (ed.), "*States' responses to issues arising from the ICC Statute: Constitutional, Sovereignty, Judicial Cooperation and International Law*".

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