

Ref.: 565/2011

The Embassy of the Czech Republic to 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, in response to the request contained in the Secretariat's Note No. ICC-ASP/10/S/PA/07 of 7 February 2011 concerning the Plan of action for achieving universality and full implementation of the Rome Statute, has the honour to submit the enclosed updated information relevant to promotion of the ratification and full implementation of the Rome Statute in the Czech Republic.

The Embassy of the Czech Republic to the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court the assurances of its highest consideration.



The Hague, 22 September 2011

Enclosure: 1 (5 pages)



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

Information by the Czech Republic
for the Secretariat of the Assembly of States Parties to the Rome Statute of the ICC
on the promotion of the ratification and full implementation of the Rome Statute in the
Czech Republic

The Czech Republic would like to provide an up-date to the information regarding paragraph 6, sub-paragraph (h), of the Plan of action, which were contained in the reports submitted to the Secretariat of the Assembly of States Parties by the notes No. 630/2008 of 29 September 2008, No. 478/2009 of 18 August 2009 and No. 663/2010 of 29 October 2010.

Examples of implementing legislation for the Rome Statute

Czech Republic Rules for the Selection of a Candidate for the Position of Judge of the International Criminal Court

In 2010 the Government of the Czech Republic adopted, as an Annex to the Government Resolution No. 478 of 14 June 2010, National Rules for the Selection of a Candidate for the Position of Judge of the International Criminal Court (see Annex).

APIC

On 4 May 2011, the Czech Republic acceded to the Agreement on the Privileges and Immunities of the International Criminal Court (the Agreement entered into force for the Czech Republic on 3 June 2011).

Cooperation

The Czech authorities are able to cooperate with the ICC on the basis of the Code of Criminal Procedure (Act No. 141/1961 Coll., as amended). Section 375, paragraphs (2) to (5) of the Code provide for the *mutatis mutandis* application of the Code's Chapter XXV on "The International Cooperation and Judicial Assistance" (which regulates, among other things, the surrender/extradition, the transfer of the person through the Czech territory, and the execution of judgments) in cases of cooperation with the international criminal courts and tribunals (both UN *ad hoc* tribunals and those established by a treaty).

The Czech Republic is currently in the process of preparation of a new Act on "International Judicial Cooperation in Criminal Matters" which should replace the above Chapter XXV of the Code of Criminal Procedure. This Act, if passed, will explicitly and in detail regulate cooperation with the ICC and other international criminal courts and tribunals.

Crimes

The Czech Republic is currently in the process of preparation of a new definition of the crime of aggression in the Czech Criminal Code (Act No. 40/2009 Coll., as amended). The draft

provision on the crime of aggression is included in the above-mentioned proposal of the Act on International Cooperation in Criminal Matters (in the accompanying draft Act Amending Other Acts in Connection with the Adoption of the Act on International Cooperation in Criminal Matters).

GOVERNMENT OF THE CZECH REPUBLIC

Annex

to Government Resolution
No. 478 of 14 June 2010

**RULES FOR THE SELECTION OF A CANDIDATE
FOR THE POSITION OF JUDGE OF THE INTERNATIONAL CRIMINAL COURT**

A candidate for the position of Judge of the International Criminal Court (hereinafter referred to as the "Court") in terms of the Rome Statute of the International Criminal Court¹ shall be selected through a selection process pursuant to the following rules:

Article 1

Timetable of the selection process

The call for applications for nomination as a candidate for the position of Judge of the Court shall be published by the Ministry of Foreign Affairs (hereinafter referred to as the "Ministry"). The interval between the publication of the call on the Ministry website pursuant to Article 3 (1) below and the deadline for the submission of applications shall be at least two months. The nomination shall be presented to the Government by the Minister of Foreign Affairs as a rule eight months before the anticipated date of the election of the Judge.

Article 2

Qualification requirements for candidates

(1) A candidate for the position of Judge of the Court shall:

- a) Be a national of the Czech Republic or a national of any State Party to the Rome Statute,
- b) Be a person of high moral character and possess the qualifications required in the Czech Republic for appointment to the highest judicial offices,²
- c) Have established competence in criminal law and procedure, and the necessary relevant experience, whether as judge, prosecutor, advocate or in other similar capacity, in criminal proceedings, or have established competence in relevant areas of international law (such as international humanitarian law and the law of human rights), and extensive experience in a professional legal capacity which is of relevance to the judicial work of the Court,

¹ Published in the International Treaties Journal No. 84/2009.

² The qualification requirements for the position of Judge of the Constitutional Court, Supreme Court or of the Supreme Administrative Court shall be applied *mutatis mutandis*.

- d) Offer a guarantee of independence and impartiality in exercising the functions of Judge of the Court after his potential election,
- e) Have an excellent knowledge of and be fluent in at least one of the working languages of the Court.³

(2) A candidate for the position of Judge of the Court should:

- a) Have an active knowledge of the other working language of the Court,
- b) Be a person whose potential election would not result in the necessity to disqualify him from the Court's cases.

Article 3 **Submission of applications**

(1) The Ministry shall take the appropriate measures to give the call for applications the widest possible publicity; in particular, it shall publish the call on its website and notify it, in an appropriate manner, to courts, Public Prosecutor's Offices and to Deans of the Faculties of Law of public higher education institutions in the Czech Republic.

(2) In the call for applications the Ministry shall specify the particulars to be included in the application as well as other details regarding their submission.

(3) The individual applicants shall submit their applications to the Ministry within the deadline set in the call.

Article 4 **Composition of the Selection Board**

(1) The Selection Board shall consist of the Minister of Foreign Affairs, who shall be its Chairperson, the Minister of Justice, the Presidents of the Constitutional Court, Supreme Court and of the Supreme Administrative Court, the Supreme Public Prosecutor, the Public Defender of Rights, and members of the National Group in the Permanent Court of Arbitration.

(2) A person who has submitted an application shall not be entitled to sit on the Board. In case the Minister of Foreign Affairs submits an application, the Board shall elect a Chairperson from among its members.

(3) If necessary, for reasons other than those referred to in paragraph (2) above, the individual members of the Board may each designate an alternate from his respective institution. This rule does not apply to members of the National Group in the Permanent Court of Arbitration.

(4) The Selection Board shall constitute a quorum if at least 6 members are present.

Article 5 **Meetings of the Selection Board**

(1) Meetings of the Board shall be convened by the Minister of Foreign Affairs within two months after the deadline set by the Ministry for the submission of applications.

³ The working languages are English and French (Article 50 (2) of the Rome Statute).

Resolutions of the Board shall be adopted by a majority of votes of members present; in case of equality of votes, the Chairperson of the Board shall have the casting vote.

(2) Any applications that manifestly fail to comply with the requirements specified in Article 2 (1) above or that have been delivered after the deadline set in the call for applications shall be excluded.

(3) The Board shall review the submitted applications and exclude any incomplete applications in cases where the applicant has not given any satisfactory reason for his failure to include any of the particulars specified in the call for applications pursuant to Article 3 (2) above.

(4) The Board shall then interview the applicants whose applications have not been excluded pursuant to (2) above. During the interview it shall comprehensively evaluate the applicant's qualifications for the position of Judge of the Court and determine his motivation. It may ask for additional documents and decide to carry out an additional assessment of linguistic qualifications for the position.

(5) From the remaining applicants, the Board shall select the one who best meets the requirements specified in Article 2 above.

(6) The Board shall draw up a record of its deliberations, stating the reasons for its decisions. The Ministry shall inform the applicants about the result of the selection process not later than one month after the decision on the selection of a candidate.

(7) In case the candidate renounces his candidacy or ceases to meet the requirements specified in Article 2 (1) above, the Board shall select a substitute candidate without undue delay.

Article 6 **Approval of the candidate**

(1) The candidate shall be approved by the Government at the request of the Minister of Foreign Affairs.

(2) In case the Government does not approve the candidate, the Czech Republic shall not nominate any candidate for the given term, unless the Ministry of Foreign Affairs decides to repeat the selection process. In such case, and in the case of extraordinary elections, the deadlines mentioned in Article 1 above shall be reduced accordingly.

Article 7 **Scope of application**

These Rules shall apply, *mutatis mutandis*, to the selection of candidates for the position of Prosecutor of the Court.