



**AMBASADA
E REPUBLIKËS SË SHQIPËRISË
HAGË**

**EMBASSY
OF THE REPUBLIC OF ALBANIA
THE HAGUE**

No. 34/12

The Embassy of the Republic of Albania to the Kingdom of The Netherlands presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and has the honour to enclose herewith the information relevant to promotion of the ratification and full implementation of the Rome Statute.

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

The Hague, October 10, 2012



To:

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

The Hague

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English**Information on International Criminal Court (ICC) in regard to full implementation of the Rome Statute***- Information on the issues set forth in the request*

The Republic of Albania has been one of the countries participating in the negotiation of statute and its signature in Rome Conference on July 18, 1988. The International Criminal Court was established as a permanent institution with international jurisdiction over persons who have committed serious crimes that harm international community.

The Supreme Court has reviewed the case with Prime Minister of the Republic of Albania as applicant regarding "Compatibility with Constitution of the Republic of Albania of "Rome Statute for International Criminal Court". By means of the decision no 186, dated 23.9.2002, the Constitutional Court has recommended ratification of this statute arguing that the statute as a whole and in face of spirit and content of the constitution of the Republic of Albania does not contradict the latter.

Following this decision, Parliament of Albania ratified the law no 8984, dated 23.12.2002, Rome Statute for International Criminal Court, including this act, in the internal Albanian legal order. Pursuant to article 122 of the constitution, in case of conflict with every other internal law, this statute prevails over it.

From the ratification date of Roma Statute, Albania has undertaken and continues to undertake respective measures for the full implementation of this important international instrument. In this framework on September 1, 2006, Republic of Albania has become party to the "Agreement on immunities and privileges of ICC" (ratified with the law no 9552, dated 05-06-2006) which foresees granting of immunity and privileges for officials of this court.

Republic of Albania has admitted general obligations set by this statute for full cooperation with International Criminal Court as to investigations and criminal prosecutions on war crimes under the competence of this court, as provided for in Part 9 of this Act "International Cooperation and Judicial Assistance".

In accordance with article 87, paragraph 1 of Rome Statute, requests of International Criminal Court are submitted via diplomatic channels or any other channels determined by party states. The Code of Criminal Procedure has fully foreseen in Title X, rules on relations with foreign authorities in the penal area, according to international agreements accepted by Albanian government, by generally accepted principles and standards of international law, as well as legal provisions of the code itself (article 10). This code has foreseen Ministry of Justice as the central

authority in jurisdictional relations with foreign authorities as specified by Law No. 10193 dated 03. 12. 2009 "On jurisdictional relations with foreign authorities in criminal matters".

In application of article 98 of the Rome Statute, considering that the USA is not a party to this Statute, the Republic of Albania, by Law No. 9081 dated 19. 06. 2003, has ratified the "Agreement between the Republic of Albania and the USA for the surrender of persons to the International Criminal Court", foreseeing that the US persons located in the territory of Albania will not be surrendered, neither transferred in any way to the International Criminal Court or any entity or third country and will not be expelled to a third country, for the purpose of surrender or transfer to the International Criminal Court, without the express consent of the US Government. This agreement complies with the scope and purpose of the Statute of International Criminal Court. The Parties hereby confirm the importance of bringing before justice the persons who commit genocide, crimes against mankind and war crimes and share the aim to be investigated and criminally prosecuted, actions within the jurisdiction of the International Criminal Court claimed to have been committed by their officials, employees, military personnel or other citizens.

These clauses comply with the principle of impunity stressed in the provisions of the Preamble of Rome Statute. Further, the agreement complies with article 27 of the Statute as it does not make a difference between the categories of persons, notwithstanding their position.

The agreement with the USA provides for the non-surrender of only US and non-Albanian citizens being in accordance with one of the guiding principles of the European Union providing for that every solution should cover only persons who are not citizens of a country that is party to the International Criminal Court.

During the process of rendering of justice Albania firmly supports the principle of impunity, particularly for serious crimes disturbing the international community as a whole, as the ones provided for in the Rome Statute. It has all appropriate political and legal instruments to ensure that responsible persons for similar acts are punished.

Albania is convinced that the complementary character of the jurisdiction of the International Criminal Court assigns to all member countries the obligation for the prosecution, trial and punishment in the framework of internal jurisdiction of persons who commit such offences. The impunity of genocide and other crimes against mankind basically represents a threat to peace, security and justice and affects the consolidation of trust of citizens in the rule of law.

The Ministry of Foreign Affairs of the Republic of Albania cooperates with Ministry of Justice for the finalization of internal legal procedures on the signing of international agreements in the field of justice.

- *Information regarding the completion of the questionnaire*

The Albanian legal framework does not contain a special law on the way and procedures of cooperation of Albanian authorities with International Crimes Court. Nevertheless, the judicial cooperation in view of international agreements as a whole, including the Rome Statute is sanctioned in norms and general rules of the Albanian criminal law, which foresee that relations with foreign authorities in the criminal field are regulated first by rules of these agreements as well as generally accepted principles and norms of international right. On the other hand, the priority of the norms of international agreements has been sanctioned by the constitution of the Republic of Albania, which predicts namely that: *an international agreement ratified by law has advantage on the laws of the country that does not comply with it (...) the norms issued by an international organization are advantageous, in case of conflict, on the right of the country, when the agreement ratified by the Republic of Albania on the participation in that organization foresees namely the direct implementation of the norms issued by it.*

As regards the Rome Statute implementation, necessary amendments were made to the Criminal Code of the Republic of Albania by law No. 8733 dated 24. 01. 2001 where in its article 73 "genocide", article 74 "crimes against mankind" and article 75 "war crimes", the existing criminal offences were approximated to the definitions given in the Rome Statute, whereas according to the law no. 10023, dated 27.11.2008, a new penal offense has been added, article 74/a "computerized distribution of pro-genocide material or crimes against humanity".

Following the Rome Statute implementation, other amendments were made to the Criminal Procedure Code, article 75, letter "a" providing for that the Serious Crimes Court adjudicates crimes as provided by articles 73, 74, 75, 79/c, ç etc. Further, the Law No. 9110 dated 24. 07. 2003 provides for organization and functioning of the Serious Crimes Court and Law No. 8737 dated 12.02. 2001 "On organization and functioning of the Prosecutor's Office in the Republic of Albania", as amended, provides for the functioning of prosecutor's offices attached to the serious crimes courts (law no. 9102 dated 10. 07. 2003).

Until now, the Albanian government and Albanian courts have not encountered obstacles and no problems have emerged to the effective implementation of Rome Statute. Out of the data owned by Albanian courts, it appears that during the last 4 year period (2009, 2010, 2011 and first trimester 2012), there have been no cases of registered cases or adjudicated cases and no person accused or convicted by Albanian courts for the 4 above cited penal offenses.