

Ambasciata ta' Malta



Embassy of Malta

N.V. No. 22/2012

The Embassy of Malta presents its compliments to the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC) and has the honour to refer to the latter's Note Verbale reference: ICC-ASP/11/SP/PA/12 dated 26 June 2012 concerning the request for the submission of information with regard to the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court.

In this regard, the Embassy wishes to submit below the information in reply to the Questionnaire on implementing legislation for States Parties, which Questionnaire was provided with the above-mentioned Note in Annex III. It should be noted that the replies submitted below also reflect the request for the information referred to in paragraph 6, sub-paragraph (h) of the Plan of Action itself.

Reply by the Government of Malta on Implementing Legislation Questionnaire for States Parties

Introduction

As indicated in earlier responses, the Government of Malta wishes to inform that since it ratified the Rome Statute efforts aimed at its full implementation were undertaken which led to the promulgation into Maltese law of various legislative measures. These measures will be described below.

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To date no technical or other forms of assistance has been needed given that, implementation has taken place nor were there any Constitutional issues raised. Malta's implementation was witnessed by the fact that whenever Malta received requests from the International Criminal Court, these requests which invariably deal with legal assistance, were duly executed. During 2011 requests for legal assistance made by the ICC to Malta were invariably related to the Libyan Conflict and to the tracing and freezing of assets belonging to the Gaddafi family.

With reference to any planned activities and events, when seminars are given addressing in particular issues of jurisdiction, legal assistance and extradition, the obligations by Malta under the Rome Statute and the manner of implementation into domestic law of the Statute are always given prominence. To date no need has arisen for bilateral cooperation agreements between Malta and the ICC.

Implementing legislation questionnaire for State Parties:
Part B of the Questionnaire

5. The Statute was implemented through the enactment of a specific Act entitled the International Criminal Court Act, Chapter 453, Laws of Malta which addresses the provision of legal assistance to the ICC to implement Part 9. Amendments were also made to the Criminal Code, the Extradition Act and the Prisons Act. Moreover in 2011, the Application of Part III of the Diplomatic Immunities and I of the Diplomatic Immunities and Privileges Act (International Criminal Court) Order, 2011, were enacted through Legal Notice 412.

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8919&l=1>

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11765&l=1>

6. The Criminal Code, Chapter 9, Laws of Malta, witnessed the introduction of a new Title which deals with Genocide, War Crimes and Crimes against Humanity. The relevant articles, 54A-54I, deal *inter alia* with jurisdiction, non-applicability of rules of prescription, responsibility of commanding officers and superiors, the requisite mental element and the protection of witnesses and victims.

7 (a) and (b). The Extradition Act, Chapter 276, Laws of Malta, saw the introduction of Part VI (Articles 26A-26U) which deals with the surrender of offenders to the International Criminal Court, thus implementing provisions in Part 9 dealing with extradition.

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8765&l=1>

7 (c) (d) and (f). The salient provisions dealing with legal assistance are found in Article 649 which deals with requests for assistance in general and provides the framework for the execution of such requests. To these one must add the provisions

allowing for joint investigations with foreign officials in pursuance of a treaty or arrangement to which Malta is a party, provisions which enable the issue of investigation (production) orders for tracing of assets, freezing and confiscation orders, monitoring orders and the temporary surrender of persons in custody to Malta and to a foreign country: Articles 435AB-435E. Similar provisions which enable the execution of requests for mutual assistance are found under the Prevention of Money Laundering Act, Chapter 373 of the Laws of Malta (articles 9-11).

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8574&l=1>

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8842&l=1>

7 (e) The Prisons Act, Chapter 260, Laws of Malta was also amended to provide in Article 4(1) (c) for the confinement persons who, having been sentenced abroad by a foreign or international court or other competent authority to a punishment involving deprivation of liberty for a limited or unlimited period of time on account of a criminal offence, is sent to Malta to continue serving such sentence in Malta.

<http://justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8753&l=1>

8. Although the implementing legislative instruments do not specifically provide for a designated channel of communication with the Court, the International Criminal Court Act and the Extradition Act refer to the Minister responsible for Justice as the receiving authority. Indeed requests for legal assistance have been received by the Minister and referred to the Attorney General wherein lawyers specialised in international co-operation in criminal matters process and assist in the execution of requests for legal assistance. This does not mean that when requests for legal assistance are sent directly to the Attorney General's Office, these are not processed forthwith nonetheless.

Copies of the relevant legislation can all be obtained on the following site:

http://www2.justice.gov.mt/lom/analytical_index.asp

The Embassy of Malta 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.



5 July 2012

Secretariat of the Assembly of States Parties to the Rome Statute
of the International Criminal Court
The Hague