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MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF LATVIA

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The Ministry of Foreign Affairs of the Republic of Latvia presents its compliments to the Secretariat of the Assembly of States Parties of the International Criminal Court and, with reference to the Secretariat's note of 13 February 2013 ICC-ASP/12/S/008, has the honour to enclose information regarding the national implementation of the Rome Statute in the Republic of Latvia. The information mentioned herein has been prepared by the Ministry of Justice of the Republic of Latvia.

With respect to the Kampala Amendments of the Rome Statute, the Ministry of Foreign Affairs of the Republic of Latvia wishes to inform that Latvia plans to ratify the said amendments and pass the necessary implementing legislation in 2014.

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

Enclosed: "Information on the national implementation of the Rome Statute in the Republic of Latvia" on 6 pages.

Riga, 13 September 2013



**To the Secretariat of the Assembly of States Parties  
of the International Criminal Court  
THE HAGUE**

Information on the national implementation of the Rome Statute  
in the Republic of Latvia

In the Republic of Latvia the Rome Statute is in force since 1 September 2002. Liability for international crimes as mentioned in the Rome Statute is established under the Criminal Law of the Republic of Latvia (CL).

Article 71 of the CL establishes criminal liability for the crime of genocide (Article 6 of the Rome Statute), providing penalty *for a person who commits genocide, that is, commits intentional acts for purposes of the destruction in whole or in part of any group of persons identifiable as such by nationality, ethnic origin, race, or a defined religion, by killing members of the group, inflicting upon them physical injuries hazardous to life or health or causing them to become mentally ill, intentionally causing conditions of life for such people as result in their physical destruction in whole or in part, utilising measures the purpose of which is to prevent the birth of children in such group, or transferring children on a compulsory basis from one group of persons into another.* Article 71<sup>1</sup> provides penalty *for a person who commits crime of public incitement to commit genocide.*

Article 71<sup>2</sup> establishes criminal liability for the crimes against humanity (Article 7 of the Rome Statute), providing penalty *for a person who commits crime against humanity, that is, for an activity which is performed as a part of vast or systematic offensive to civilians and which has been expressed as homicide, extermination, enslavement, deportation or forced movement, unlawful deprivation or limitation of liberty, torture, rape, involvement of a person into sexual slavery, compelling the engaging in prostitution, forced fertilisation or sterilisation, or sexual violence of similar degree of severity, apartheid, persecution of any group of people or union on the basis of political, racial, national, ethnical, cultural, religious or gender affiliation or other reasons which have been recognised as inadmissible in the international law, in relation to any activity indicated in this Section or genocide, or war crime or other activity provided for in the international law binding upon the Republic of Latvia, which causes serious physical or mental suffering.*

Article 74 establishes criminal liability for war crimes (Article 8 of the Rome Statute), provided that war crimes are *violations of provisions regarding conduct of war prohibited in international law binding upon the Republic of Latvia or of international humanitarian law, including murder, torture of a person protected by humanitarian law or inhuman treatment of such person, taking of hostages, illegal deportation, movement, limitation of liberty, unjustifiable destruction of cities and other entities, or other prohibited activity.*

Article 57 of the CL establishes 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 a person who has participated in genocide*. Likewise Article 5 of the CL sets out that *a person, who has committed a crime against humanity, a crime against peace, a war crime or has participated in genocide, shall be punishable irrespective of the time when such offence was committed*.

Chapter 85 of the Criminal Procedure Law (CPL) provides the *modus operandi* for mutual cooperation in criminal matters with international courts. Article 897 of the CPL determines that *criminal-legal co-operation shall take place with international courts only in relation to the criminal offences that are under the competence of such courts. The immunity of a person provided for in Latvian laws or in international regulatory enactments, or in the special procedural provisions [...] may not be an impediment to the jurisdiction over such person implemented by an international court*. CPL contains all of the forms of cooperation which are specified under Part IX of Rome Statute.

Under the Article 899 of the CPL *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 trial on the basis of the request of such court*. At the same time under the second paragraph of this Article *person who is a Latvian citizen may be transferred for criminal prosecution and trial to 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 punishment of deprivation of liberty in Latvia*.

As stated by Article 901 of the CPL *a request regarding the transfer of a person to an international court shall be examined, a person shall be detained, arrested, and all the matters related to the request shall be decided and fulfilled in accordance with the procedures specified in Sections 698-711 of this Law*. These articles of the CPL deal with extradition of a person to a foreign state (rights of a person whose extradition has been requested, detention of a person for the purpose of extradition, application of temporary arrest, extradition arrest, examination of an extradition request, adjudication of a complaint regarding the admissibility of extradition, decision on extradition of a person to a foreign state, transfer of a person being extradited). According to Article 710 of the CPL transfer of a person shall be performed by the Ministry of the Interior.

Regarding competing requests (Article 90 of the Rome Statute) Article 901 of the CPL determines that *a request of an international court regarding the transfer of a person has priority regarding an extradition request submitted by another state*. In accordance with Article 900, *the transfer of a person to an international court shall not be admissible in cases where one of these below mentioned conditions are met:*

- 1) *the person is being held as a suspect, is accused, or is being tried in Latvia regarding the same criminal offence;*
- 2) *a decision has been taken in Latvia to not commence, or to terminate, criminal proceedings regarding the same criminal offence;*
- 3) *a court adjudication has entered into effect in Latvia in relation to the person regarding the same criminal offence;*
- 4) *the person has been prosecuted or sentenced in accordance with a Latvian law, the statutory limitations have occurred, or the person has been paroled for the same criminal offence;*
- 5) *the person has been granted clemency, in accordance with the procedures specified by law, regarding the same criminal offence.*

Regarding the implementation of provisional arrest (Article 91 and 92 of the Rome Statute) CPL provides two cases when person shall be arrested:

- 1) provisional arrest consistent with the Article 92 of the Rome Statute;
- 2) extradition arrest consistent with the Article 91 of the Rome Statute.

Article 700 of the CPL provides that *temporary arrest may be applied to a person regarding whom the request for application of provisional arrest has been issued till the request for extradition has been received from an international court. A request regarding the application of provisional arrest shall be based on a decision of an international court, on a judgment in relation to such person that has entered into force or it is indicated that the international court will issue an extradition request of the person.*

Article 701 of the CP sets out that *preliminary arrest shall be applied for 40 days from the day of the detention of a person, if an international agreement does not provide otherwise. In accordance with Article 702 a preliminary arrest for extradition shall be applied after a request regarding the extradition of a person has been received. The term of the preliminary arrest for extradition shall not exceed one year, and, in addition, shall not be longer than the term of a penalty imposed in a foreign state, if such term is less than one year, counting from the moment of the application of the detention or arrest. Norms of the CPL are fully consistent with Article 89 (surrender of persons to the Court), Article 90 (competing requests), Article 91 and 92 (regulates conditions for arrest of a person) of the Rome Statute.*

Under Article 701 of the CPL *a public prosecutor may release a person from preliminary arrest, if a request of a foreign state regarding the extradition of such person, or a report regarding justified reasons for the delay of such request, has not been received within 18 days after the detention. A public prosecutor shall release a person from temporary arrest, if an extradition request is not received within 40 days, if an extradition arrest is not applied within 40 days, or if circumstances have become known that exclude the possibility of extradition.*

Article 902 of the CPL stipulates that officials authorised by an international court have the right to perform the necessary proceedings in the territory of Latvia independently or in co-operation with another international or national authorities. If procedural measures are not related to the application of a compulsory measure, acting under a proper authorization by an international court, after holding consultations with the national authority, the authority of international court may take the measures authorized in above described manner without the presence of a representative of the national authority. In the same manner Article 902 provides that the national authority shall, on the basis of a request of an international court, organize and provide to an international court the assistance and take procedural measures as it is requested by an international court.

In accordance with Article 903 of the CPL the national authority shall take steps to ensure that a decision of an international court is fulfilled regarding the protection of victims, restitution, compensation, and exoneration. The execution of a fine or confiscation of property determined by an international court shall take place in accordance with the procedures provided for in the regulatory enactments of Latvia, without harming the bona fide rights of the third persons. The competent authority shall perform the measures provided for in this Law in order to regain the value of the income, property, or assets. Obtained property or income shall be transferred to the international court.

Article 904 of the CPL provides enforcement regulations with respect to Article 103 of the Rome Statute. If an international court has determined that a punishment of a convicted person related to the deprivation of liberty is to be executed in Latvia, the competent authority shall immediately inform the international court regarding the possibility of the execution of the punishment or also regarding circumstances that might substantially influence the execution of the punishment in Latvia. The execution of a punishment shall take place in accordance with the same procedures as the execution of a punishment imposed in criminal proceedings taking place in Latvia. A convicted person has the right to communicate with an international court without hindrance and confidentially, and the international court has the right to perform supervision of the execution of the punishment. Only an international court is permitted to change the sentence enforced under its judgment. During the execution of a punishment, the competent authority shall inform an international court at least 45 days in advance regarding the execution of previously specified conditions and regarding any circumstances that may substantially influence the provisions or term of imprisonment.

Article 902 of the CPL provides that the national authority shall, on the basis of a request of an international court, organize and provide to it the necessary assistance to proceed and to enforce the sentence imposed. The international court may also request co-operation for the enforcement of protection of victims and witnesses and for the purpose of confiscation, particularly in the interests of victims. A request

*according to the Article 93(4) of the Rome Statute may be rejected, if such a request applies to an issuance of documents or a disclosure of evidence that affects the security of the state, unless a request may be fulfilled with particular conditions or at later date. A request regarding the assistance to a foreign state in the performance of procedural actions shall be enforced in accordance with the procedures specified in this Law.*

*Article 902. and 848 of the CPL sets out that a decision on request of an international court regarding the criminal assistance shall be taken as soon as possible, but not later than within 10 days after it receipt. If the additional information is needed to take the above decision, information shall be requested from the international court that has submitted the request. The international court that has submitted the request shall be, without undue delay, informed regarding the decision taken regarding the compliance with its request.*

*Article 849 of the CPL provides the procedural rules which must be met to complying with the request of international court and identifies national authorities that carry out this procedure (institution of investigation, prosecutor's office, or court under the assignment of the competent authority). The national institution enforcing a request of an international court shall inform the international court, regarding the time and manner of the enforcement of the judgment of the international court. The competent authority shall inform the international court about the materials removed as a result of the execution of the request. If in executing the request of an international court facts are acquired that need further examination for which the performance of other procedural actions are needed, the executor of the request is entitled, in accordance with the procedural rules set out in CPL, to perform such activities, notifying the court which submitted the request thereof. If a procedural action has not been performed or has been performed partially, an international court shall be notified about the reasons for the non-compliance with a request.*

*With respect to Article 93(1)(f) of the Rome Statute CPL provides that on the basis of a request of an international court, a person who has been detained in Latvia, is being held under arrest in Latvia or is serving a sentence related to deprivation of liberty in Latvia may be transferred for a specific term to the international court to take some of the procedural actions and shall be without delay transferred back to Latvia after the completion of the respective procedural action.*

*Under Article 858 of the CPL an object necessary as material evidence may be transferred to a foreign state on the basis of a request of such foreign state. If necessary, the national authority shall request guarantees that the material evidence will be returned.*

*In relation to Article 93(8) of the Rome Statute CPL provides rules on confidentiality of enforcement of requests of an international court. Article 905 of the CPL provides*

*that the requests of an international court regarding co-operation and all documents appended to such request shall be held in secrecy. Providing legal assistance, the national authority may request for an international court to perform measures in order not to allow the disclosure of information that might harm the interests of state security, in order to protect Latvian officials, or also to protect other restricted-access information. The national authority shall be permitted to provide to international court confidential information obtained from another state only if the latter has explicitly agreed thereto.*

The Ministry of Justice of the Republic of Latvia is the national authority responsible for the communication with international courts.