



EMBASSY OF THE REPUBLIC OF MOLDOVA

No. 306/2014

The Embassy of the Republic of Moldova to the Kingdom of the Netherlands presents its complements to the Secretariat of the Assembly of States Parties the Rome Statute of the International Criminal Court and with reference to its Note Verbale no. ICC-ASP/13/PA/45 of 7 July 2014, has the honour to submit herewith the information regarding the promotion of the ratification and full implementation of the Rome Statute, as well as the completed questionnaire with the updated information on implementing legislation of the Republic of Moldova.

The Embassy of the Republic of Moldova to the Kingdom of the Netherlands avails itself of this opportunity to renew to the Secretariat of the Assembly of States Parties the assurances of its highest consideration.



The Hague, 30 September 2014

Secretariat of the Assembly of States Parties
International Criminal Court

The Hague

Republic of Moldova

Information relevant to promotion of the ratification and full implementation
of the Rome Statute of the International Criminal Court

(Ref: Paragraph 6, sub-paragraph h), ICC-ASP/5/Res.3 of 1 December 2006)

a) The Republic of Moldova has ratified the Rome Statute of the International Criminal Court (“the Statute”) in 2010. The Republic of Moldova has no obstacles to fully implement the Statute.

(b) There are no specific strategies or plans of action concerning ratification and full implementation of the Statute. Nevertheless, the additional upcoming measures concerning full implementation of the Statute are part of the national action plans and institutional agendas.

Full support of the ICC and the implementation of the Statute and its related instruments is one of the obligations within the Moldova-EU Association Agreement and National Plan on its implementation.

The ratification by the Republic of Moldova of the Agreement on the Privileges and Immunities of the International Criminal Court is incorporated in the National Action Plan on Human Rights for 2011 - 2014. Accordingly, all actions preceding the ratification are included in the 2014 Action Plan of the Ministry of Justice of the Republic of Moldova. These actions contain as well a feasibility study concerning the amendments of the national legislation in accordance with the Agreement.

(c) The Republic of Moldova did not receive technical and other assistance or delivery programmes. The Republic of Moldova together with its partners is in the process of evaluation of the assistance needs;

(d) The planned events and activities;

The republic of Moldova is in the process of ratification of the Agreement on the Privileges and Immunities of the International Criminal Court. A feasibility study on national legislation amendments is planned to be concluded by the end of 2014. In this regard an agreement with UNDP representation was signed. The findings of the study will serve as basis for drafting all necessary amendments of the national legislation.

(e) examples of implementing legislation for the Rome Statute;

The implementing legislation incorporates the substantive crimes under the ICC jurisdiction into domestic law without reference to the Statute.

The crimes are incorporated into Criminal Code of the Republic of Moldova, Articles 135, 135¹, 137-137⁴ as follows:

- crime of genocide (Article 135);
- crimes against humanity (Article 135¹) - that incorporates the provisions of Article 7 of the Statute and other international treaties; it is followed by war crimes articles, divided in several categories (Articles 137 - 137⁴):
- war crimes against persons (Article 137);
- war crimes against property and other rights (Article 137¹);
- use of prohibited means of warfare (Article 137²);
- use of prohibited methods of warfare (Article 137³);
- illegal use of the distinctive emblems of international humanitarian law (Article 137⁴).

The revised Article 138 of the Criminal Code regulates the responsibility of warlords and other military superiors for offenses under ICC jurisdiction.

(f) No cooperation agreement has been concluded nor negotiated between the Republic of Moldova and ICC;

(g) Before its ratification by the Parliament of the Republic of Moldova, the Statute has been subject of a complaint of the Government of the Republic of Moldova to the Constitutional Court of Moldova. Accordingly, the Constitutional Court ruled in its Decision no. 22 of 2 October 2007 in favour of the ratification, stating that the Statute is fully compatible with the Constitution of the Republic of Moldova.

(h) The national contact points in the Republic of Moldova for matters related to promotion of ratification and full implementation are designated as follows:

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Republic of Moldova

Implementing legislation questionnaire

(Ref: ICC-ASP/13/PA/45 of 7 July 2014, Annex III)

Q1. Has your Government adopted any national legislation implementing the Rome Statute (“the Statute”), or otherwise enacted legislation pertaining to the Rome Statute?

A1. Yes. In order to ensure the implementation of the Statute, on 4 April 2013, the Parliament of the Republic of Moldova adopted the Law no. 64 amending the Criminal Code of the Republic of Moldova, aimed to incorporate the provisions of the Statute into existing national criminal law. This law guarantees the criminalization of all offenses under the ICC jurisdiction.

IF NOT Part A (not applicable)

Q2. What legislative efforts, if any, has your Government taken to implement the provisions of the Statute into national law?

Q3. What obstacles, if any, has your Government faced in its efforts to implement the provisions of the Statute?

Q4. What form of assistance would benefit your Government’s efforts to implement the Statute?

IF YES Part B

Q5. In implementing the Statute, did your Government draft a stand-alone legislation or did it incorporate the articles or substantive provisions of the Statute into pre-existing law?

A5. There is no stand-alone legislation to implement the Statute. The substantive provisions of the Statute are incorporated into pre-existing legislation, namely the Criminal Code of the Republic of Moldova no. 985-XV of 18 April 2002 as amended by the Law no. 64 of 4 April 2013.

Q6. Does the implementing legislation incorporate the substantive crimes through reference to the Statute or by incorporating the crimes into domestic law?

A6. The implementing legislation incorporates into domestic law the substantive crimes under the ICC jurisdiction without reference to the Statute. The crimes are incorporated into Criminal Code of the Republic of Moldova, Articles 135, 135¹, 137-137⁴ as follows:

- crime of genocide (Article 135);
- crimes against humanity (Article 135¹) - that incorporates the provisions of Article 7 of the Statute and other international treaties; it is followed by war crimes articles, divided in several categories (Articles 137 - 137⁴);
- war crimes against persons (Article 137);
- war crimes against property and other rights (Article 137¹);
- use of prohibited means of warfare (Article 137²);
- use of prohibited methods of warfare (Article 137³);
- illegal use of the distinctive emblems of international humanitarian law (Article 137⁴).

The revised Article 138 of the Criminal Code regulates the responsibility of warlords and other military superiors for offenses under ICC jurisdiction.

- Q7. Does the implementing legislation incorporate the following aspects of cooperation with the Court and if yes, how?
- (a) Arrest and surrender;
 - (b) Interim release and release of persons (acquittal, non-confirmation of charges, etc);
 - (c) Cooperation with OTP investigations;
 - (d) Cooperation with the Court on the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes;
 - (e) Enforcement of sentences;
 - (f) Witness protection;
 - (g) Other forms of cooperation (see in particular article 93 of the Rome Statute).
- A7. No. The national legislation does not incorporate the cooperation with the International Criminal Court. The Ministry of Justice of the Republic of Moldova is drafting a new law to amend the existing national legislation, namely the Code of Criminal Procedure and the Law on international legal assistance in criminal matters, that will incorporate the aspects of cooperation with the ICC.
- Q8. Does the implementing legislation designate a channel of communication with the Court?
- A8. No. See previous answer.