

**Embassy of Uruguay
The Hague**

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The Embassy of the Oriental Republic of Uruguay to the Kingdom of the Netherlands greets the Secretariat of the Assembly of States Parties to the Rome Statute of the International Criminal Court and has the honor of referring to its Note Verballe ICC-ASP/18/SP/63 dated June 24, 2019 concerning the resolution of the Assembly of States Parties ICC-ASP/5/Res.3 of December 1, 2006 on the adoption and implementation of the Action Plan to achieve universality and full implementation of the Rome Statute.

In this regard, this Embassy sends attached its responses to the questionnaire in Annex III of its Note Verballe, regarding the measures taken by Uruguay to enact legislation implementing the Rome Statute.

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

[Signature]

The Hague, October 22, 2019

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

Responses by URUGUAY

Questionnaire regarding implementing legislation aimed at States

Parts- ANNEX III

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

Uruguay subscribed to the Rome Statute on December 19, 2000 and ratified it on June 28, 2002, after parliamentary approval, as provided by Law No. 17510, enacted on June 27, 2002. (Annex I).

Positive response Part B

5. 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?

The Rome Statute, once ratified by Uruguay, is fully operational in the jurisdictional and administrative aspects. Nevertheless, Law No. 18026 (Annex II), of September 25, 2006, was enacted in order to reaffirm and establish cooperation procedures with the International Criminal Court (hereinafter ICC), in addition to those already provided for in the Rome Statute.

This law had broad support within the political system and among civil society.

With its enactment, Uruguay was the first State in Latin America to fully implement its obligations regarding the repression of war crimes.

The bill's introductory portion refers to general principles, including the imprescriptibility of the aforementioned crimes, the inadmissibility of amnesties, and provisions regarding due obedience and other exemptions, as well as the hierarchical responsibility of superiors.

The second part describes not only all conduct that violates article 8 of the Rome Statute, but also serious violations of the Geneva Conventions and Additional Protocol I that are not contemplated by that article of the Statute. The text of the law also includes rules to prosecute several of the violations of international treaties that limit certain methods or means of combat and include provisions to punish conduct contrary to the Convention for the Protection of Cultural Property in the Event of Armed Conflict.

It also sets the minimum age for participation and recruitment or enlistment of children at 18 years of age in accordance with the provisions of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and its international commitments. Likewise, Uruguay was the first country in Latin America to approve the amendments to the Statute of the International Criminal Court adopted at the Review Conference held in Kampala (Uganda) in mid-2010.

These amendments were unanimously approved both in the Chamber of Senators and in the Chamber of Representatives in June 2013, and on September 26 of that same year their instrument of ratification was deposited.

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

The Crimes provided for in the Rome Statute are fully operational in Uruguayan Law since Uruguay ratified the aforementioned instrument (on June 28, 2002), however, they were reiterated in Law 18026 on Cooperation with the ICC (25 September 2006) - which classifies crimes against humanity in articles 18 and subsequent articles; crimes of genocide in articles 16 and 17, and war crimes in article 26, as well as other crimes.

Law No. 19102 enacted on June 30, 2013, approves the amendments and extensions to the Rome Statute pertaining crimes of aggression, arising from the Review Conference in

Kampala in 2010. The Kampala amendment (relating to article 8 paragraph 2, subparagraph e) of the Rome Statute) was ratified by Uruguay on September 26, 2013 (Annex III).

7. 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; and**
- f) **Witness protection;**
- g) **Other forms of cooperation (see in particular article 93 of the Rome Statute).**

On this point, refer to Law 18026, TITLE VI, PART III COOPERATION AND RELATIONS WITH THE INTERNATIONAL CRIMINAL COURT, TITLE I GENERAL PROVISIONS ON COOPERATION (Article 31 et seq.); TITLE II GENERAL PROCEDURES, OPPOSITIONS AND IMPUGNATIONS (Article 39 et seq.); Title III COOPERATION AND ASSISTANCE MEASURES, CHAPTER 1 DETENTION AND SURRENDER OF PERSONS (article 48 et seq.), CHAPTER 2, OTHER COOPERATION AND ASSISTANCE MEASURES (article 63 et seq.) and CHAPTER 3 COOPERATION IN THE EXECUTION OF SENTENCES (article 71 et seq.).

8. Does the implementing legislation designate a channel of communication with the Court?

9. Does the implementing legislation create a central national authority or designate a national focal point for cooperation with the Court?

In order to respond to this request, refer to the provisions of article 32 and 33 of Law 18026, namely:

Article 32 (Competent bodies).

32.1. The Executive Power will be responsible for representation before the International Criminal Court, acting through the Ministry of Foreign Affairs, and shall be responsible for all matters addressed by this law.

32.2. The Judiciary shall have jurisdiction through the Supreme Court of Justice and the corresponding jurisdictional entities, as provided by this law, for matters that must be submitted to its jurisdiction.

32.3. Requests for cooperation and assistance received from the International Criminal Court will be referred to the International Legal Cooperation Directorate of the Ministry of Education and Culture, who will act as the central authority.

32.4. The Executive Power will designate its representative before the Supreme Court of Justice. Without prejudice, when the Supreme Court of Justice must communicate with or notify the Executive Power in assistance or cooperation matters, it will do so to the Directorate of International Legal Cooperation of the Ministry of Education and Culture and to the body of the Executive Power that has appeared in the assistance or cooperation proceeding in question.

Article 33 (Communications with the International Criminal Court).

33.1. Communications to and from the International Criminal Court will be made through diplomatic channels and will be exempted from the legalization requirement. 33.2. Communication and documents received from the International Criminal Court or sent to it,

will be in the Spanish language or, where appropriate, they must be accompanied by the respective translation into the Spanish language.

10. Does the implementing legislation provide for the privileges and immunities of the Court? (See in particular article 48 of the Rome Statute and the Agreement on the Privileges and Immunities of the International Criminal Court)

Among others, Article 48 (Privileges and Immunities) of the Rome Statute and, in addition, the provisions of article 37 of the Law are fully applicable in this regard: *“The staff of the International Criminal Court shall enjoy in the territory of the State the privileges and immunities that are necessary to fulfil its functions, in accordance with article 48 of the Rome Statute.”*

11. What obstacles, if any, did your Government face in its efforts to implement the provisions of the Statute? How did your Government manage to overcome such obstacles?

In principle, there are no obstacles to the application of the Rome Statute beyond the natural obstacles in the case of any new law, entailing a paradigm shift in many aspects of established Criminal Law.

12. Did your Government benefit from any form of assistance in the process of implementing the Statute?

In the drafting of Law 18026, the International Committee of the Red Cross was consulted in order to incorporate obligations in the area of International Humanitarian Law.

13. Has your government initiated or considered additional steps for the implementation of the Statute in national legislation?