

TRANSLATION

*Embassy of the Republic of Paraguay to the Kingdom of Belgium,
the Kingdom of the Netherlands and the Grand Duchy of Luxembourg
Brussels, Belgium*

EP/BL/N°349/21

Reference: Information on Universality

The **Embassy of the Republic of Paraguay** presents its compliments to the **International Criminal Court** and has the honour to refer to its note, Reference ICC-ASP/20/SP/43 of 5 July 2021, on the Plan of Action for achieving universality and full implementation of the Rome Statute.

In that regard, this Embassy has the honour of forwarding the report prepared by the Office of the Legal Adviser for International Law of the Ministry of Foreign Affairs of the Republic of Paraguay.

The **Embassy of the Republic of Paraguay** avails itself of this opportunity to renew to the **International Criminal Court** the assurances of its highest consideration.

Brussels, 30 September 2021

To the
International Criminal Court
The Hague – the Netherlands
RG/snl

TRANSLATION

MINISTRY OF
FOREIGN AFFAIRS

NATIONAL
GOVERNMENT

THE PEOPLE'S
PARAGUAY

Office of the Legal Adviser for International Law

Report on the implementation of the Plan of Action for achieving universality and full implementation of the Rome Statute of the International Criminal Court, the recommendations of the Bureau on the Plan of Action, and the implementing legislation questionnaire for States Parties, regarding the Republic of Paraguay.

This report has been prepared by Ambassador Inés Martínez Valinotti¹, with the collaboration of Lilian Rojas, Vanessa Gennaro, Álvaro Dos Santos and Ignacio Cazaña².

1. Plan of Action of the Assembly of States Parties for achieving universality and full implementation of the Rome Statute of the International Criminal Court and Recommendations of the Bureau on the Plan of Action (Annexes I and II)

The Republic of Paraguay is a State that accepts and respects International Law. Indeed, it has enshrined in its legislation, among other principles, those of legal equality among States, international solidarity and cooperation and the international protection of human rights; it also condemns any form of dictatorship, colonialism and imperialism.³

On 7 October 1998 Paraguay signed the Statute of the International Criminal Court (ICC), known as the Rome Statute; it was enacted, in accordance with its internal legislation,⁴ by Act N° 1663/2001, and the corresponding instrument of ratification was deposited on 14 May 2001.

Act N° 5877, "On the implementation of the Rome Statute which creates the International Criminal Court", is currently in force. Through this Act, which was enacted on 28 September 2017, the Republic of Paraguay strengthened its cooperation with the ICC as well as its commitment to fostering the universality and full implementation of the Rome Statute. A copy of the referenced legislation is provided as an attachment to this report.

¹ Director-General of the Office of the Legal Adviser for International Law, Ministry of Foreign Affairs of Paraguay.

² Officials of the Office of the Legal Adviser for International Law, Ministry of Foreign Affairs of Paraguay.

³ Constitution of the Republic of Paraguay (1992) - Article 143 - International relations.

⁴ Ibid., Article 141 - International treaties: "Those international treaties that have been duly concluded, adopted by Act of Congress and in respect of which the instruments of ratification have been duly exchanged or deposited shall form part of domestic legislation, with the rank specified in Article 137".

In this context, the Republic of Paraguay is aware of its commitment to cooperate with the ICC, pursuant to the obligations acquired under the Rome Statute.⁵

Likewise, the Republic of Paraguay had fostered a dialogue on national implementation of the Statute among public sector authorities, civil society and international organizations; furthermore, the *Instituto de Estudios Comparados en Ciencias Penales y Sociales* (Institute for Comparative Studies in Criminal and Social Sciences, INECIP/PY) has published a document entitled “*La implementación del Estatuto de Roma en Paraguay: aspectos legales, institucionales, participativos y Plan de Acción*” (Implementation of the Rome Statute in Paraguay: legal, institutional and participative aspects, and Action Plan) (2004). These activities reflect the will, shared by the public and the private sector, to disseminate information concerning the ICC and its Statute, as well as everything that its implementation implies.

At the regional level, MERCOSUR, of which the Republic of Paraguay is a founding member, issued a presidential declaration in 2005 on the bloc’s commitment to the Rome Statute; subsequently, in 2014, PARLASUR formalised a cooperation agreement with the ICC.

On the other hand, it should be noted that the Kampala Amendments to the Rome Statute, which were transmitted to the National Congress through the Executive Power’s Message N° 647/2017, were approved by Act N° 6269 of 12 December 2018, enacted on 13 February 2019. This event is a new milestone in the promotion of universality of the ICC’s jurisdiction.

Finally, any question concerning the status of ratification and full application of the Rome Statute can be addressed to the Office of the Legal Adviser for International Law, Ministry of Foreign Affairs of the Republic of Paraguay, whose contact data are as follows: +595.21.414.8025/26 and ajuridica@mre.gov.py.

2. Implementing legislation questionnaire for States Parties (Annex III)

1. Yes: on 28 September 2017 the Government of the Republic of Paraguay enacted Act N° 5877, “On the implementation of the Rome Statute which creates the International Criminal Court”.

PART B (In the original order of points 5 to 13)

2. A stand-alone Act independent of the text of the Rome Statute was approved for its implementation.
3. The implementing legislation (articles 14 through 25 of Act N° 5877/2017) incorporates the substantive crimes into domestic law, including grading of the penalties for each crime.

⁵ Rome Statute, Article 86 – General obligation to cooperate: “States Parties shall, in accordance with the provisions of this Statute, cooperate fully with the Court in its investigation and prosecution of crimes within the jurisdiction of the Court”.

4. The implementing legislation incorporates the following aspects of cooperation with the Court:
 - (a) Arrest and surrender: Requests for arrest (including detention in custody) and surrender shall be governed by the provisions of Article 97 of the Rome Statute as well as by the legal system of the Republic of Paraguay (Article 39 of Act N° 5877/2017).
 - (b) Release of persons: A person who has been arrested pursuant to a request for arrest must be released at the end of the 60-day period following the date of the arrest, in the event that the Central Authority should not have received a request for surrender from the International Criminal Court (article 59 of Act N° 5877/2017).
 - (c) Cooperation with OTP investigations: The Republic of Paraguay shall extend its full cooperation to the ICC and comply with the provisions of its Statute in the context of any requests for cooperation and assistance, pursuant to the legal regime of the Republic of Paraguay (Article 26 of Act N° 5877/2017).
 - (d) Cooperation with the Court on the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes; witness protection and other means of cooperation. Those requests for cooperation that do not relate to the arrest or surrender of persons shall be complied with pursuant to the stipulations of Article 93 of the Rome Statute (Article 40 of Act N° 5877/2017).
 - (e) Enforcement of sentences: The enforcement of prison sentences shall be governed by the provisions of Articles 103 and 111 of the Rome Statute and by the corresponding legal provisions of the Republic of Paraguay (Article 73 of Act N° 5877/2017).
 - (f) Witness protection: Requests for cooperation which are not related to the arrest or surrender of persons shall be governed by the provisions of Article 93 of the Rome Statute (Article 40 of Act N° 5877/2017);
 - (g) Other forms of cooperation: Requests for cooperation that are not related to the arrest or surrender of persons shall be governed the provisions of Article 93 of the Rome Statute (Article 40 of Act N° 5877/2017).
5. The Directorate for Legal Affairs of the Ministry of Foreign Affairs of the Republic of Paraguay is the Central Authority for the Implementation Act. It shall process any requests for cooperation and communications to or from the International Criminal Court, which shall be made through diplomatic channels.
6. Yes. It should be mentioned that the Republic of Paraguay became a State Party to the “Agreement on the Privileges and Immunities of the International Criminal Court” by means of its approval under Act N° 258/2001.
7. The greatest obstacle that has had to be overcome has been the legislative process, insofar as the draft Act was under consideration in the National Congress for a period of approximately four years. Fortunately, the Republic

of Paraguay's commitment to the ICC was reflected in the political will that has helped push through this legislation.

8. The draft Act on the implementation of the Rome Statute is the result of the joint efforts of the public entities responsible for this matter.
9. Subsequent to the enactment of the Act on the implementation of the Rome Statute, the Kampala Amendments were also approved by means of Act N° 6269 of 12 December 2018, which was enacted on 13 February 2019.