



საქართველოს საელჩო ნიდერლანდების სამეფოში  
AMBASSADE VAN GEORGIË IN HET KONINKRIJK DER NEDERLANDEN  
EMBASSY OF GEORGIA TO THE KINGDOM OF THE NETHERLANDS

№ 8/19-01  
„06“ „10“ 2009

**International Criminal Court**

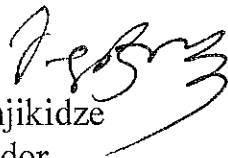
The Secretariat of the Assembly of State Parties  
Room C-0691, Maanweg 174, 2516 AB the Hague

The Hague,  
October 6, 2009

The Embassy of Georgia to the Kingdom of the Netherlands presents its compliments to the International Criminal Court and in response to your Note Verbale, dated from 24.04.2009 reference: ICC-ASP/8/S/PA/19 has the honour to submit questionnaire on the implementation of the Rome Statute in Georgian national legislation provided by the Ministry of Justice of Georgia.

Encl.: 6 pages.

Sincerely Yours,

  
Maia Panjikidze  
Ambassador



7 OCT 2009

ASP/2009/691



საქართველოს იუსტიციის სამინისტრო  
MINISTRY OF JUSTICE OF GEORGIA

№ 01/23/03-7807

27 08 2009წ.

International Criminal Court  
The Secretariat of the Assembly of State Parties  
Room C-0691, Maanweg 174, 2516 AB the Hague,  
The Netherlands

Your reference: ICC-ASP/8/S/PA/19

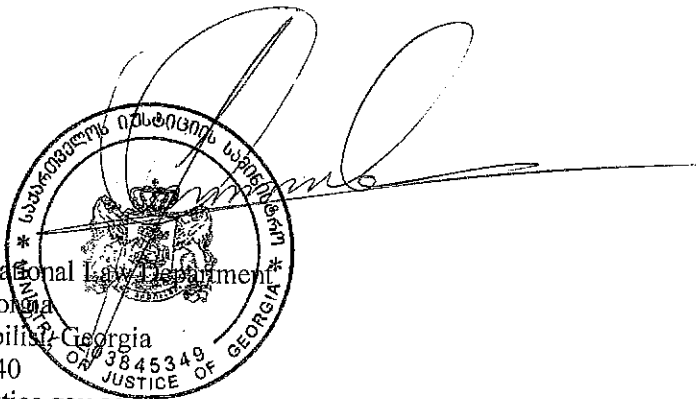
The Ministry of Justice of Georgia presents its compliments to the International Criminal Court and in response to your letter dated from 24.04.2009, we would like to send you completed questionnaire on the implementation of the Rome Statute in Georgian national legislation.

The Ministry of Justice of Georgia avails itself of this opportunity to renew to the International Criminal Court the assurance of its highest consideration and esteem.

Enclosure: 6 p.

**Shalva Kvinikhidze**

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**Annex IV**  
**Implementing legislation questionnaire for State Parties**

*1. Has your Government adopted any legislation implementing the Rome Statute (“the statute”)?*

Yes

**Part B**

*5. In Implementing the statute, did your government draft implementing legislation or did it incorporate the articles or substantive provisions of the Statute into pre-existing law?*

For achieving full implementation of the Rome Statute in Georgian national legislation the Parliament of Georgia adopted implementing legislation and also incorporated substantive provisions of the Statute in the pre-existing law. In August 14, 2003 the Parliament of Georgia adopted the “Law of Georgia on the Cooperation of Georgia with the International Criminal Court”. The law established procedural framework of cooperation of Georgia with the ICC. Furthermore, relevant enactments had been made to the Criminal Procedure Code of Georgia.

As regards the substantive provisions of the Rome Statute, it is to be noted, that crimes envisaged under the Rome Statute had been incorporated in part 14 (“Crimes against mankind”) of the Criminal Code of Georgia: crime of genocide (article 407), crimes against humanity (article 408), deliberate violation of the norms of the international humanitarian law during the armed conflict (article 411), violation of the norms of international humanitarian law during interstate or internal armed conflicts by creating danger for health or by severe physical injury (article 412) and violations of other norms of international humanitarian law (article 413). The articles: 407, 408 and 412 were reformulated by amendment #2937 to the Criminal Code of Georgia (28.04.2006) to bring national legislation in compliance with the Statute.

*6. Does the implementing legislation incorporate the substantive crimes through references to the statute or by incorporating the crimes in the legislation itself?*

The crime of genocide and the crimes against humanity had been incorporated in the Criminal Code of Georgia without the references to the Rome Statute. On the other hand, the definition of above-referred crimes is similar to the definitions stipulated by articles 7 and 8 of the Statute. Namely, the article 407 of the Criminal Code of Georgia Genocide is defined as:

“any of the following acts committed with the intent to destroy, in whole or in part national, ethnic, racial, religious or any other group, as such: killing the members of the group, causing grave injury to health, deliberately inflicting on the group grave conditions of life, imposing measures intended to prevent births within the group or forcibly transferring children of one ethnical group to another one”.

In addition, according to article 408 of the Criminal Code of Georgia crime against humanity is defined as:

“any of the following acts committed as a part of a widespread or systematic attack directed against any civilian population or persons, as such: murder, extermination, grave injury to health, deportation, illegal deprivation of liberty, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, persecution against any identifiable group

on political, racial, national, ethnic, cultural, religious or other grounds, apartheid or other inhuman acts, which cause serious physical or mental harm to a person”.

With respect to the article 9 of the Statute (“War Crimes”) relevant provisions of the Criminal Code of Georgia refer to the violations of international humanitarian law namely: article 411 (“Deliberate violation of the norms of the international humanitarian law during the armed conflict”), article 412 (“Violation of the norms of international humanitarian law during interstate or internal armed conflicts by creating danger for health or by severe physical injury”) and article 413 (“Violations of other norms of international humanitarian law”) of the Criminal Code.

Particular attention shall be paid to paragraph “d” of article 413 which declares punishable war crimes, envisaged by the international treaties of Georgia and which are not punishable under articles 411 and 412 of the Criminal Code of Georgia.

***7. Does the implementing legislation fully incorporate all modes of cooperation under Part 9 of the Statute?***

The Law of Georgia on the Cooperation of Georgia with the International Criminal Court (hereinafter the Law) fully implemented all modes of cooperation envisaged by Part 9 of the Rome Statute. Namely, Chapter IV of the Law (“Request of the International Criminal Law”) among other issues refers to the form and content of the ICC request, immunity related issues, simultaneous requests submitted by the ICC and State Party, compensation of damage and etc. Chapter V of the Law establishes procedure for the transfer of accused person to the ICC.

Chapter VI “Other Forms of Cooperation” article 32 of the Law includes carrying out such procedural measures as: identification and interrogation of persons, obtaining of evidence, service of documents, conducting search and withdrawal, protection of witnesses, establishment of location of places and objects, conducting exhumation and etc.

In addition, paragraph “m” of article 32 of the Law the cooperation with the ICC envisages “any other kind of assistance which is not prohibited by the Georgian Legislation and which contributes to investigation and prosecution of crimes within the jurisdiction of International Criminal Court”.

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

The Ministry of Justice of Georgia is the authorized state body for cooperation of Georgia with the International Criminal Court according to article 3 of the Law of Georgia on the Cooperation of Georgia with the International Criminal Court. For the fulfillment of this function, the Ministry of Justice of Georgia is authorized to:

- a) receive the request of the International Criminal Court for cooperation;
- b) decide on admissibility of cooperation with International Criminal Court, to work out the procedures of cooperation; in case of necessity, to decide on appeal against the jurisdiction of the International Criminal Court;
- c) decide on taking necessary measures for cooperation; at the same time, to determine which state body is directly authorized for the execution of the request;
- d) inform the International Criminal Court about the results of the execution of the request;
- e) consult the International Criminal Court about the issues brought in request in cases determined by the statute;

- f) in case of necessity to take measures for appointing the defender in treasury manner and/or for otherwise rendering legal assistance, in accordance with the manner established by Legislation;
- g) decide on transfer of a person to the International Criminal Court;
- h) transfer the request of International Criminal Court for conducting of criminal proceedings to corresponding authorized state body in accordance with the subparagraph "b" of the 4<sup>th</sup> Part of Article 70 of the Statute;
- i) decide upon the request of International Criminal Court for the enforcement of sentence in Georgia, concerning deprivation of liberty, also, decide about receiving of sentenced persons or/and enforcement of pecuniary penalty or reimbursement of other expenses, imposed by the International Criminal Court;
- j) determine the form of execution of request and the terms necessary for its fulfillment for the reason of undertaking urgent measures indicated in request;
- k) transfer on behalf of Georgia the evidences and information collected by the relative State Bodies to International Criminal Court, if the indicated fact makes it possible for the International Criminal Court to start the criminal prosecution;
- l) request the International Criminal Court to reimburse expenses for the execution of requests of mentioned Court in cases envisaged by the Statute;
- m) carry out other authorizations granted by the Statute and the Law.



Reference: ICC-ASP/8/S/PA/19

The Secretariat of the Assembly of States Parties presents its compliments to the Embassy of Georgia and has the honour to refer to Assembly resolution ICC-ASP/5/Res.3 of 1 December 2006, by which the Assembly decided, *inter alia*, to adopt and implement the Plan of action for achieving universality and full implementation of the Rome Statute, set out in annex I thereto (see annex I), to Assembly resolution ICC-ASP/6/Res.2 of 14 December 2007 (see annex II), and to paragraph 3 of resolution ICC-ASP/7/Res.3 of 21 November 2008, by which the Assembly, *inter alia*, endorsed the recommendations contained in the Report of the Bureau on the Plan of action (ICC-ASP/7/19) (see annex III).

The Secretariat wishes to recall, in particular, paragraph 6, sub-paragraph (h), of the Plan of action, whereby the Assembly called upon States Parties to provide to the Secretariat information relevant to promotion of the ratification and full implementation of the Rome Statute, including, *inter alia*:

- “(i) information on obstacles to ratification or full implementation facing States;
- (ii) national or regional strategies or plans of action to promote ratification and/or full implementation;
- (iii) technical and other assistance needs and delivery programmes;
- (iv) planned events and activities;
- (v) examples of implementing legislation for the Rome Statute;
- (vi) bilateral cooperation agreements between the Court and States Parties;
- (vii) solutions to constitutional issues arising from ratification;
- (viii) national contact points for matters related to promotion of ratification and full implementation.”

In accordance with paragraph 7 of the Plan of action, the Assembly agreed that the Secretariat “should support States in their efforts to promote universality and full implementation of the Rome Statute by acting as a focal point for information exchange, within existing resources, including by:

- a) Collecting and collating relevant information from States Parties, regional organizations, members of the non-governmental community and others engaged in promoting universality and full implementation of the Rome Statute;
- b) Ensuring that such information is readily and widely accessible and disseminated to interested States and others.”

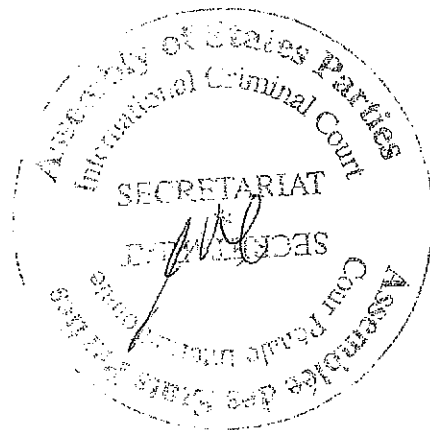
The Secretariat therefore requests that States Parties convey, by 31 August 2009, the information referred to in paragraph 6, sub-paragraph (h), of the Plan of action and in recommendations 1 through 5 of the Plan of action contained in annex I of resolution ICC-ASP/6/Res.2.

Furthermore, as regards the measures undertaken in respect of implementing legislation, the Secretariat conveys herewith a questionnaire, prepared by the Court (see annex IV), which States Parties are requested to complete and submit together with the information referred to above.

The Secretariat wishes to note that information submitted will be made public, unless a specific indication is made of the parts of the submission which are to be considered confidential.

This information should be communicated through the diplomatic channel to the Secretariat of the Assembly of States Parties, Room C-0691, Maanweg 174, 2516 AB The Hague, The Netherlands (or via fax to +31 70 515 8376 or via e-mail to [asp@asp.icc-cpi.int](mailto:asp@asp.icc-cpi.int)). If feasible, the Secretariat would appreciate receiving digital versions of the information.

The Hague, 24 April 2009



## **Annex IV**

### **Implementing legislation questionnaire for States Parties<sup>1</sup>**

1. Has your Government adopted any national legislation implementing the Rome Statute ("the Statute")?

#### **IF NOT**

##### **Part A**

2. What legislative efforts, if any, has your Government taken to implement the provisions of the Statute into national law?
3. What obstacles, if any, has your Government faced in its efforts to implement the provisions of the Statute?
4. What form of assistance would benefit your Government's efforts to implement the Statute?

#### **IF YES**

##### **Part B**

5. In implementing the Statute, did your Government draft special implementing legislation or did it incorporate the articles or substantive provisions of the Statute into pre-existing law?
6. Does the implementing legislation incorporate the substantive crimes through reference to the Statute or by incorporating the crimes in the legislation itself?
7. Does the implementing legislation fully incorporate all modes of cooperation under Part 9 of the Statute?
8. Does the implementing legislation designate a channel of communication with the Court?

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<sup>1</sup> The questionnaire was prepared by the Registry of the Court.