

**Information by the Czech Republic
to the Secretariat of the Assembly of States Parties to the Rome Statute
on the implementing legislation of the Rome Statute**

In the first part, the Czech Republic would like make one general remark on the status of the Rome Statute in the Czech law, while the second part contains concrete answers to the ASP questionnaire. Both parts should be read together.

1. Legal force of the Rome statute in the Czech law

Under the Czech Constitution, the Rome Statute is an international treaty, through which the exercise of some sovereign powers of the Czech Republic was transferred, albeit conditionally, to an international institution (i.e., the ICC). As such, the self-executing provisions of the Rome Statute are directly binding and directly applicable (monistic approach). Following this legal approach, there was no legal need to pass any direct implementing legislation. Nevertheless, with regard to the non-self executing provisions, and because of the traditional, rather politic concept of “autonomy” of criminal law (dualistic approach), some changes were passed in the area of substantive law (crimes). From the procedural aspect (cooperation), the new Act on International Cooperation and Judicial Assistance is in process of consideration [including a draft of detailed provisions on all types of cooperation with the Court (and other international criminal tribunals and courts)]. The Czech authorities incorporated provisions of the Rome statute as follows:

a) Cooperation

The Czech authorities are currently able to cooperate with the ICC on the basis of the Code of Criminal Procedure (Act No. 141/1961 Coll., as amended). The Section 375(2) through (5) thereof provide for the application as appropriate of the Code’s Chapter XXV. on “International Cooperation and Judicial Assistance” (which regulates international judicial cooperation with foreign States, including among others surrender/extradition, transfer of the person through the Czech territory, and execution of judgments) in cases of cooperation with the international criminal courts and tribunals (both UN *ad hoc* tribunals and those established by a treaty binding the Czech Republic). On 1 January 2009, an amendment of Section 375 of the Code of Criminal Procedure has entered into force – this amendment deleted the provision barring surrender of Czech nationals to international criminal courts and tribunals.

b) Crimes

All the Crimes under the provisions of Articles 6, 7 and 8 of the Rome Statute are criminal offences under the Czech criminal law in force – the Czech Criminal Code (Act No. 40/2009 Coll., as amended). The relevant provisions of the Criminal Code can be found in the reports submitted to the Secretariat of the Assembly of States Parties on September 29, 2008 (Note No. 630/2008) and on August 18, 2009 (Note No. 478/2009).

The answers of the Czech Republic to the Secretariat’s questions are as follows:

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

Yes, the Rome Statute was fully implemented into the Czech law when the new Czech Criminal Code – that is mentioned above – was adopted. In addition, the new Act on

International Cooperation and Judicial Assistance is currently in process of drafting. The above-mentioned amendment to Section 375 of the Code of Criminal Procedure has been enacted by Act No. 457/2008 Coll.

2. 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?

The Czech Republic adapted the substance of articles or substantive provisions of the Statute into the general Criminal Code and Code of Criminal Procedure.

3. Does the implementing legislation incorporate the substantive crimes through reference to the Statute or by incorporating the crimes in the legislation itself?

The crimes within the jurisdiction of the Court are defined in the Czech law without an express reference to the Statute and their definitions in the Czech law are not simple copies of the wording of the relevant provisions of the Statute but have been adapted to suit the Czech legislative customs, traditions and practice. Some of these definitions are, as a matter of fact, even broader than those in the Statute (e. g. genocide, which has been extended to protect also groups defined by social class and other similar groups of people, reflecting the Czech Republic's historic experience with Communism).

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

Generally yes. Furthermore, the legislative draft of the new Act on International Cooperation and Judicial Assistance will most likely include more specific and detailed provisions covering different modes of the cooperation.

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

Not directly, the concrete channel will depend on the concrete mode of cooperation and is specified in the declaration made by the Czech Republic under Article 87(1)(a) of the Statute when depositing the instrument of ratification.