

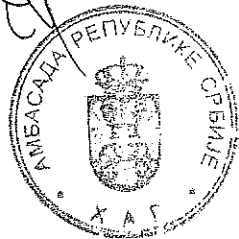
No. 701-1/2010

The Embassy of the Republic of Serbia to the Kingdom of the Netherlands presents its compliments to the Secretariat of the Assembly of States Parties and, in response to the Secretariat's Note ICC-ASP/S/PA/07 of 24 April 2010, and having in mind that Serbia has already responded to the questionnaire, has the honour to inform of the new developments regarding the measures undertaken in implementing the Rome Statute.

On 31 August 2009, the Assembly of the Republic of Serbia passed the Law on Cooperation with the International Criminal Court, which entered into force on 11 September. English translation of the said Law is attached to this note.

In accordance with the Law, the Government of the Republic of Serbia, on 12 November 2009, appointed Dr. Miodrag Majić, judge of the Appellate Court in Belgrade, as the Representative of Serbia before the Court. Following this appointment, the Ministry of Justice of the Republic of Serbia established a Working Group which will serve as a consultative body to the Representative before the Court.

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



The Hague, 7 May 2010

International Criminal Court
Assembly of States Parties
Secretariat
The Hague



14 MAY 2010

ASP/2010/181



REPUBLIC OF SERBIA
Ministry of Justice

**LAW ON COOPERATION WITH THE
INTERNATIONAL CRIMINAL COURT**

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ZAKON O SARADNJI SA MEDJUNARODNIM KRIVIČNIM SUDOM
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LAW ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT

I BASIC PROVISIONS

Subject of the Law

Article 1

This Law shall govern the manner, the scope and the forms of co-operation between the state authorities of the Republic of Serbia and the International Criminal Court, including the providing of said Court with legal assistance, and the execution of decisions thereof, as well as characteristics of the procedure relating to criminal offences defined under Article 5 of the Statute of the International Criminal Court, i.e. with respect to criminal offences committed against humanity and other property protected under international law (Chapter XXXIV of the Criminal Code).

The Meaning of Terms Used in the Law

Article 2

“International Criminal Court“ represents the court founded under the Rome Statute of the International Criminal Court, adopted in Rome on 17th July 1998.

“Statute“ shall refer to the Rome Statute of the International Criminal Court, ratified under the Law on Confirming the Rome Statute of the International Criminal Court (“Official Gazette of FRY “ – International Treaties, No. 5 /2001”).

“Prosecutor“ shall refer to an authorised Prosecutor provided under Article 42 of the Statute, to prosecute in proceedings before the International Criminal Court.

“Accused Person“ shall refer to a person who is undergoing criminal proceedings in the Republic of Serbia in respect of the criminal offence mentioned in Article 1 of this Law or said proceedings in the Republic of Serbia against the person have been completed, i.e. with respect to whom the surrender to the International Criminal Court is requested.

“Document on Charges“ shall be a request for investigation, a motion to refrain from commencing an investigation, and an indictment.

“Rules of Procedure and Evidence“ shall include rules passed in accordance with Article 51 of the Statute.

“Competent Chamber“ shall refer to the Chamber of the competent court, composed of three judges, deliberating in session on appeals against rulings passed by the Investigative Judge, passing a ruling at the request of the International Criminal Court for surrender of an accused person.

To the effect of this Law, criminal proceedings shall be considered instigated once a decision on commencing an investigation has been taken, regardless of the fact whether or not the decision has become enforceable and/or when an indictment enters into force, if the case has not been investigated.

Application of the Criminal Procedure Code and Other Regulations

Article 3

Provisions of the Criminal Procedure Code shall apply to proceedings against accused persons for criminal offences referred to in Article 1 of this Law and the procedure with respect to co-operation with the International Criminal Court, unless otherwise stipulated in said Law or any separate law.

Competence for Co-operation with the International Criminal Court and for the Execution of Decisions Thereof

Article 4

Requests for co-operation with the International Criminal Court and for the execution of decisions thereof shall be transmitted to the Ministry of Justice (hereinafter: the Ministry), unless otherwise provided for under this Law.

Once it has established that the request mentioned in paragraph 1 of this Article contains required data set forth in the Statute, the Ministry shall transmit it to the competent state authority to proceed as provided for by this Law.

Should the Ministry establish that the request mentioned in paragraph 1 of said Article does not contain required data set forth in the Statute, it shall return it to the International Criminal Court for completion and/or corrigenda.

When co-operating with the International Criminal Court, the state authorities of the Republic of Serbia are obliged to proceed with particular urgency.

Subject matter and territorial jurisdiction of courts, public prosecutor's offices and other state authorities with respect to the procedure of co-operation with the International Criminal Court shall be defined in accordance with the rules of the Criminal Procedure Code, unless otherwise provided by this Law or any separate law.

Representation of the Republic of Serbia before the International Criminal Court

Article 5

The Republic of Serbia shall be represented before the International Criminal Court by a person possessing required professional skills and minimum ten years of experience in the criminal justice area, designated in accordance with a decision passed by the Government itself.

Official Communications with the International Criminal Court

Article 6

State authorities shall officially communicate with the International Criminal Court in Serbian or in one of the official languages of the International Criminal Court, with translation into Serbian, unless otherwise decided by the Government.

Official communications between state authorities and the International Criminal Court shall be conducted through diplomatic channels.

By reason of urgency, including other justified reasons, official communications may also run directly or via the International Criminal Police Organisation (Interpol), the Ministry being notified thereabout without delay.

The Ministry may in any case require that official communications be conducted through diplomatic channels.

Application of Legislation of the Republic of Serbia

Article 7

Competent state authorities involved in co-operation with the International Criminal Court shall undertake actions in a manner provided for by laws and other legal precepts of the Republic of Serbia.

Provisions of this Law and other regulations implemented in the procedure of co-operation with the International Criminal Court shall be interpreted in accordance with the legal system of the Republic of Serbia, in a manner corresponding to the objectives and the meaning of the Statute.

Ne Bis In Idem Principles and Prohibition of Concurrent Proceedings

Article 8

In the Republic of Serbia criminal proceedings shall not be instituted or conducted against an accused person for the same criminal offence if the International Criminal Court has passed a final judgement on the culpability of the person concerned, nor may any judgement formerly passed by a national court be enforced, relating to the same criminal offence.

Criminal proceedings shall not be instituted or conducted against an accused person for the same criminal offence before the International Criminal Court if the person concerned has been acquitted or convicted by a final judgement in the Republic of Serbia, i.e. relative to whom a ruling on the termination of the criminal proceedings has been passed, except where the requirements contained in Article 20, paragraph 3, of the Statute are met.

In the Republic of Serbia criminal proceedings shall not be instituted or conducted against the same accused person for the same criminal offence if the proceedings for said criminal offence are already ongoing before the International Criminal Court, having been instituted prior to the criminal proceeding in the Republic of Serbia.

Decision of the International Criminal Court as a Reason for Re-opening Criminal Proceedings

Article 9

If an accused person has been finally convicted by a judgement formerly passed by the local court, being acquitted thereupon for the same criminal offence following a decision taken by the International Criminal Court, the competent Public Prosecutor shall, by virtue of authority, request from the court in the Republic of Serbia having proceeded in the first instance, to reopen the criminal proceeding, in accordance with analogous application of the provisions of the Criminal Procedure Code, and pass a judgement acquitting the accused person of charges, and/or a judgement dismissing the charges against the accused person.

The request from paragraph 1 of this Article may be submitted both by the accused person and the defence counsel thereof.

Complementarity Principle

Article 10

Criminal prosecution of accused persons for the criminal offences mentioned in Article 1 of this Law shall be undertaken by the competent Public Prosecutor, whereas they will be tried by the competent court in the Republic of Serbia.

The International Criminal Court shall be competent for conducting criminal proceedings against accused persons for the criminal offences mentioned in Article 1 of this Law where the state authorities of the Republic of Serbia would be normally competent, solely if the requirements from Article 17 of the Statute are met.

If the Republic of Serbia finds the jurisdiction of the International Criminal Court to be based contrary to paragraph 2 of this Article, it has the right to object to incompetence or inadmissibility to institute and conduct criminal proceedings, in accordance with Article 19 of the Statute. Prior to objecting the Ministry shall obtain an opinion from the Supreme Court of Cassation.

II CRIMINAL CHARGE AND THE RECEIVING OF PROSECUTOR'S NOTIFICATION ON CRIMINAL OFFENCE

Reporting Criminal Offence to the Prosecutor

Article 11

It is the duty of all state authorities to report to the competent Public Prosecutor the criminal offences mentioned in Article 1 of this Law which they have been notified of or they have learnt about in another manner if no criminal proceedings are in force in the Republic of Serbia, in some other State or before the International Criminal Court in respect of the criminal offence concerned.

If the criminal proceeding is not possible to instigate or conduct in the Republic of Serbia due to factual or legal obstacles or for some other reasons, the competent Public Prosecutor shall notify the Ministry thereabout.

Immediately upon receiving the notification mentioned in paragraph 2 of this Article, the Ministry shall report to the Prosecutor the commission of a criminal offence that the International Criminal Court is competent for, in accordance with Article 14 of the Statute.

Prosecutor's Notification on a Criminal Offence

Article 12

When the Prosecutor notifies the Republic of Serbia that reasons to institute criminal proceedings for the criminal offence from Article 1 of this Law exist, and that state authorities of the Republic of Serbia might be competent to prosecute, the Ministry shall notify the competent Public Prosecutor thereabout without delay.

Should the Prosecutor's notification mentioned in paragraph 1 of this Article be marked as confidential or should the content of said notification and/or other relevant circumstances imply confidentiality, the notification and all relevant data relative thereto shall be deemed classified.

Procedure Upon Receipt of Notification on Criminal Offence

Article 13

Immediately upon receiving the notification referred to in Article 12, paragraph 1 of this Law, the competent Public Prosecutor and other state authorities shall undertake required measures to identify the criminal offence, i.e. to prosecute if no criminal proceedings are already ongoing in the Republic of Serbia with respect to the criminal offence that is the subject of the notification.

Immediately upon learning about the offence, within one month at the latest from the day the notification referred to in Article 12, paragraph 1 of this Law is received, the Ministry

shall notify the Prosecutor on whether or not criminal proceedings have been instigated in the Republic of Serbia with respect to the criminal offence that is the subject of the notification.

If criminal proceedings have already been instituted in the Republic of Serbia, the Ministry shall seek from the International Criminal Court to transfer the criminal prosecution to the Republic of Serbia, if the Prosecutor is already conducting an investigation of the same criminal offence and/or if the Prosecutor intends to commence an investigation for the criminal offence concerned.

Should the Prosecutor be approved by the Pre-Trial Chamber of the International Criminal Court to conduct an investigation, contrary to the request referred to in paragraph 3 of this Article, the Republic of Serbia shall appeal against it, in accordance with the Statute and the Rules of Procedure and Evidence.

If the appeal mentioned in paragraph 4 of this Article is rejected, the criminal proceeding instigated in the Republic of Serbia shall be terminated.

The termination of the criminal proceeding in the Republic of Serbia shall be in force until the final end of the criminal proceeding conducted before the International Criminal Court, and when the Republic of Serbia receives a notification that the decision taken by the International Criminal Court has become final, the competent court shall pass a ruling terminating the criminal proceeding for the criminal offence already decided upon by the International Criminal Court.

The competent Public Prosecutor shall report to the Ministry on a regular basis about any actions undertaken in respect of the criminal prosecution for the criminal offences mentioned in Article 1 of this Law, including the criminal proceedings already instituted for said criminal offences.

The reports referred to in paragraph 7 of this Article shall be submitted to the Prosecutor by the Ministry, where necessary or upon his/her request.

III LEGAL ASSISTANCE TO THE INTERNATIONAL CRIMINAL COURT

General Rules of Co-operation and Providing Legal Assistance

Article 14

Pursuant to Article 93 of the Statute, all state authorities shall co-operate through the Ministry to a full extent and in good faith with the International Criminal Court for the purposes of providing legal assistance to said Court, in order to prosecute persons charged with the criminal offences referred to in Article 1 of this Law.

The content of the letter rogatory for providing legal assistance transmitted by the International Criminal Court shall be considered classified and may be published, partially or in full, solely when it is indispensable for the purposes of the execution of the letter rogatory or for other particularly significant circumstances, with prior consent of the International Criminal Court.

In providing the International Criminal Court with legal assistance, the competent state authority shall also undertake actions which have not been specifically sought by the International Criminal Court to be implemented if the actions to be taken are directly linked with the objective of providing legal assistance or where it is necessary for the purposes of identifying the perpetrator of the criminal offence and the collecting of evidence required for the proceedings before the International Criminal Court, and should the collecting of evidence be prevented or significantly impeded.

Attendance of Representatives of the International Criminal Court

Article 15

The state authority undertaking the action to provide legal assistance at the request of the International Criminal Court shall permit representatives thereof to witness the implementation of the legal assistance action.

The representatives of the International Criminal Court witnessing the implementation of the legal assistance action may ask questions and make proposals, and they may be granted video or sound recording of the action upon written request containing rationale should it not hinder the implementation or be inconsistent with justified interests of the persons witnessing the action and/or with the objectives of the criminal proceeding.

At their request the International Criminal Court representatives shall be provided with a copy of the minutes, and/or a copy of the video and sound recording of the legal assistance action.

The International Criminal Court representatives may be exceptionally allowed to also witness an action which excludes the public pursuant to the provisions of the Criminal Procedure Code should it not be contrary to the reasons for which the public is excluded.

In the case referred to in paragraph 4 of this Article, the state authority implementing the action shall specifically bring to the attention of the witnesses their duty to keep all facts they have learnt during the action secret, also warning them about the consequences of disclosing the secret.

Actions of International Criminal Court Representatives in the Territory of the Republic of Serbia

Article 16

By way of exception, at the request of the International Criminal Court, the International Criminal Court Representatives may be allowed to implement certain actions in the territory of the Republic of Serbia.

The actions undertaken from paragraph 1 of this Article must be witnessed by a person designated by the Minister competent for the judiciary.

The International Criminal Court Representatives shall not have the right to carry any weapons in the territory of the Republic of Serbia, and whilst undertaking the actions referred to in paragraph 1 of this Article they must not violate or limit any constitutional rights of the citizens of the Republic of Serbia or the rights relating to witnesses, court experts, suspects or accused persons from the Criminal Procedure Code.

The actions referred to in paragraph 1 of this Article must not be conducted in a coercive manner nor arrest may be resorted to relating to said actions or any other measure of procedural coercion.

Postponement of Granting Request Made by the International Criminal Court

Article 17

The Ministry may postpone to grant a letter rogatory for providing legal assistance to the International Criminal Court when it is dictated by:

- 1) the interest of the criminal proceeding conducted in the Republic of Serbia for the criminal offence included in the letter rogatory,
- 2) the protection of national interests and security of the Republic of Serbia,
- 3) an objection made to incompetence or inadmissibility to institute or conduct criminal proceedings before the International Criminal Court.

The postponement of granting the letter rogatory for providing legal assistance may be extended not later than the final completion of the criminal proceeding conducted in the Republic of Serbia for the criminal offence included in the letter rogatory or until required measures are undertaken to protect the national interests of the Republic of Serbia, i.e. until a ruling is passed on the objection made to incompetence or inadmissibility to institute or conduct criminal proceedings before the International Criminal Court.

Consultations

Article 18

Having assessed that factual or legal obstacles exist which could prevent or impede the granting of the letter rogatory for providing legal assistance to the International Criminal Court, particularly where the reasons mentioned in Article 97 of the Statute are concerned, the state authority shall inform the Ministry about it without delay which will, in turn, conduct consultations with International Criminal Court Representatives on how to remove the obstacles.

In the manner specified in paragraph 1 of this Article the Ministry shall also proceed when it learns in some other manner about the existence of factual or legal obstacles to providing the International Criminal Court with legal assistance.

Transfer of Criminal Jurisdiction to the Republic of Serbia

Article 19

When the International Criminal Court, pursuant to the Statute and the Rules of Procedure and Evidence, transfers to the Republic of Serbia the criminal prosecution of the crime from Article 1 of this Law, the competent Public Prosecutor shall instigate criminal proceedings before the competent court.

The Document on Charges in the case from paragraph 1 of this Article shall be based on evidence contained in the Prosecutor's former indictment, i.e. on evidence presented during the proceedings before the International Criminal Court, but it may be also based on other evidence in possession of the competent Public Prosecutor.

Criminal proceedings in the Republic of Serbia shall be conducted in accordance with the rules of the local law.

The evidence collected or presented by the International Criminal Court may be used in criminal proceedings in the Republic of Serbia only if it has been collected and/or presented in accordance with the Statute and the Rules of Procedure and Evidence, and if it could normally be utilised in the proceedings before the International Criminal Court.

The evidence mentioned in paragraph 4 of this Article shall be assessed by the competent court in accordance with the principle of free assessment of evidence and according to its own free conviction.

The International Criminal Court Representatives shall have the right to witness all stages of the criminal proceeding conducted in the Republic of Serbia, and the competent court shall send them timely summonses to witness certain actions and attend the main trial.

The right of the International Criminal Court Representatives to attend may not be limited even where the court, in accordance with the rules of the Criminal Procedure Code, passes a ruling on excluding the public from the main trial. In such event, the International Criminal Court Representatives shall be specifically made aware of their duty to keep all facts they learnt during such trial as a secret.

The right of the International Criminal Court Representatives to witness evidence-related actions undertaken prior to the main trial or outside the main trial may be limited where the

court is not able, due to objective difficulties, to notify in a timely manner the International Criminal Court Representatives on any action seeing possible deferral.

The Government may conclude a separate agreement with the International Criminal Court, regulating all issues in more detail pertaining to the transfer of the criminal jurisdiction from the International Criminal Court to the Republic of Serbia.

IV ARREST, CUSTODY AND SURRENDER OF THE ACCUSED PERSON

Request by the International Criminal Court for Arrest and Surrender of the Accused Person or for Provisional Arrest of the Defendant

Article 20

The request of the International Criminal Court for arrest and surrender of the accused person or for provisional arrest of the defendant residing in the territory of the Republic of Serbia or is considered by the International Criminal Court to be on the territory of the Republic of Serbia shall be transmitted to the Ministry.

The Ministry is obliged, within 8 days of the day of the receipt of the request referred to in paragraph 1 of this Article, to establish whether or not the request contains information and supporting documents in accordance with Article 91, i.e. Article 92 of the Statute

Should it establish that the request mentioned in paragraph 1 of this Article does not contain specified information and supporting documents, particularly the data required to establish the identity of the accused person, the Ministry shall return the request to the International Criminal Court accompanied with instructions to complete the request, i.e. to correct it.

Mandatory Defence in the Surrender Procedure of the Accused Person

Article 21

The accused person sought by the International Criminal Court to be surrendered must have a Defence Counsel from the very first interrogation and during the entire surrender procedure.

Should the accused person fail to secure a Defence Counsel personally within three hours from the point s/he was advised on his/her right or should s/he state that s/he shall not hire a Defence Counsel, President of the competent court shall assign to him/her an *Ex-Officio* Lawyer selected from among the lawyers listed in order, the list being submitted by the competent Bar Association.

Parties in the Surrender Procedure and the Competent Court

Article 22

Parties in the surrender procedure include the accused persons being sought for surrender, and the competent Public Prosecutor.

An International Criminal Court Representative is entitled to witness all actions during the surrender procedure, but s/he is not in the capacity of a Party in the procedure.

The Higher Court in Belgrade shall exercise jurisdiction as to the decision making in the surrender procedure.

Arrest of the Accused Person

Article 23

The Ministry shall, without delay, submit to the Police the request of the International Criminal Court for arrest of the accused person.

It is the duty of the Police to proceed upon the request of the International Criminal Court, arrest the accused person, and bring him/her in to the competent Investigative Judge without delay. The accused person arrested relative to paragraph 1 of this Article shall have all the rights which any arrested person may have in accordance with the Criminal Procedure Code.

If the accused person is hiding or in flight, the Police shall undertake all required measures to find and arrest the person concerned, bringing him/her in to the competent Investigative Judge.

The Police shall, without delay, inform the competent Public Prosecutor about the hiding or the flight of the accused person, who may, in turn, propose to the Investigative Judge the issuance of arrest warrant.

The Proceeding Before the Investigative Judge

Article 24

The competent Investigative Judge to whom the arrested accused person has been brought (Article 23, paragraph 2) shall inform the accused person about his/her rights, interrogating him/her thereupon, in accordance with the provisions of the Criminal Procedure Code, about the circumstances contained in the request made by the International Criminal Court.

If the Investigative Judge establishes that the accused is the person referred to in the request of the International Criminal Court, the former shall pass a ruling on custody for the person concerned.

Within a period of 24 hours from the moment of receipt of such ruling the accused person and his/her Defence Counsel may appeal against the ruling referred to in paragraph 2 of this Article, which shall be addressed by the competent Chamber.

Custody ordered by the Investigative Judge's ruling may not exceed one month, whereas the competent Chamber may by decision, at the motion of the Public Prosecutor containing a rationale, extend this period for a maximum of another two months.

During the interrogation the Investigative Judge shall specifically establish whether or not the accused person consents to voluntarily appear before the International Criminal Court. Should the accused person confirm it in a special document, at the same time renouncing all legal remedies in the surrender procedure, the Investigative Judge shall pass a ruling on custody only if some of the reasons specified in the Criminal Procedure Code exist. The accused person shall otherwise be released with the setting of a bond, forbidden to leave the place of residence, and/or imposed other measures to ensure the presence of the accused person and an unimpeded conduct of the criminal proceeding, specified in the Criminal Procedure Code.

The Investigative Judge shall promptly inform the Ministry about the consent of the accused person which will, in turn, undertake required measures for the accused person to appear before the International Criminal Court without delay.

Release from Custody of the Accused Person Provisionally Arrested

Article 25

Having ruled on custody upon request of the International Criminal Court for provisional arrest of the accused person, the Investigative Judge shall immediately inform the Ministry about it, in accordance with Article 92 of the Statute.

Should the International Criminal Court fail to submit the request for surrender of the accused person referred to in paragraph 1 of this Article within a period specified in the Rules of Procedure and Evidence or should it fail to present required evidence and documents, the ruling on imposing custody shall cease to be in force. The Ministry shall immediately inform the Investigative Judge about it who shall, without delay, pass a decision on releasing the accused person.

Decision Taking on the Request of the International Criminal Court

Article 26

The request for surrender of the accused person to the International Criminal Court shall be decided upon by the competent Chamber.

The accused person shall be introduced by the Chamber to the request of the International Criminal Court and the charges before said Court, and interrogated, by analogous application of the Criminal Procedure Code, about the criminal offence that s/he is charged with, including all other circumstances significant to taking a decision as to the request.

During the interrogation the Chamber is obliged to proceed in the manner specified in Article 24, paragraph 5 of this Law.

The Chamber shall pass a ruling on surrender of the accused person to the International Criminal Court once it has established as follows:

- 1) the request relates to the accused person who is undergoing the surrender procedure, and the identity of the accused person is confirmed,
- 2) the requirements referred to in Article 91 of the Statute concerning the content of the request are met,
- 3) the accused is undergoing criminal proceedings for the criminal offence falling under the jurisdiction of the International Criminal Court,
- 4) there are no obstacles to the surrender of the accused person to the International Criminal Court.

Where the criminal proceeding has already been instituted in the Republic of Serbia against the accused person relative to whom the surrender is requested by the International Criminal Court, and such request was transmitted to the Republic of Serbia after the beginning of said proceedings, the ruling on surrender may be passed only if the requirements provided for in Article 17 of the Statute are met.

If the Chamber establishes that the presumptions under paragraph 4 of this Article are not met, it shall rule to refuse the request for surrender of the accused person to the International Criminal Court.

Once a ruling on the request of the International Criminal Court has been passed, custody may be in force up to the point when the accused person is surrendered to the International Criminal Court, i.e. to the point when the ruling on refusing the request becomes final, within a period specified in the Constitution and law.

Appeal Against the Ruling on the Request of the International Criminal Court

Article 27

The ruling referred to in Article 26, paragraph 4 of this Law may be appealed by the accused person and his/her Defence Counsel, whereas the competent Public Prosecutor may appeal against the ruling mentioned in Article 26, paragraph 6 of this Law.

The appeal referred to in paragraph 1 of this Article may be lodged within three days from the day of receipt of the ruling. It shall postpone the enforcement of the ruling.

The appeal referred to in paragraph 1 of this Article shall be decided upon by the Chamber of the directly superior Court, composed of five Judges.

The Chamber may reject the appeal lodged by the accused person and his/her Defence Counsel as inadmissible or untimely, turn it down as unreasonable or sustain it when reversing the ruling mentioned in Article 26, paragraph 4 of this Law by their own ruling, passing a ruling according to which the request for surrender of persons to the International Criminal Court is refused.

The Chamber may turn down the appeal filed by the Public Prosecutor as unreasonable or it may sustain it when reversing the ruling mentioned in Article 26, paragraph 6 of this Law by their own ruling, passing a ruling to surrender the accused person to the International Criminal Court.

Enforcement and Rulings on Surrender

Article 28

The ruling to surrender the accused person to the International Criminal Court may be enforced when it becomes final and when no obstacles to the enforcement of the ruling exist.

The Minister competent for the judiciary may provisionally postpone the enforcement of the ruling granting surrender of the accused person when it is necessary due to an illness of the accused person or for other justified reasons.

Submission of a Ruling on Surrender

Article 29

A final and enforceable ruling granting surrender of the accused person to the International Criminal Court shall be submitted to the Ministry which shall, in turn, transmit it to the International Criminal Court

The Ministry shall submit the ruling referred to in paragraph 1 of this Article to the Police to enforce it.

Surrender of the Accused Person to the International Criminal Court

Article 30

Surrender of the accused person to the International Criminal Court shall be conducted by the Police.

V ENFORCEMENT OF DECISIONS TAKEN BY THE INTERNATIONAL CRIMINAL COURT

General Rules on Enforcement of Decisions Taken by the International Criminal Court

Article 31

The Republic of Serbia shall in good faith enforce judgements and other decisions taken by the International Criminal Court.

During the procedure of enforcement of decisions referred to in paragraph 1 of this Article the competent state authorities shall apply the Statute and other regulations that are the sources of rights applied in the proceeding before the International Criminal Court or concerning it, including appropriate rules of the national law.

The Republic of Serbia shall, without delay, notify the International Criminal Court on the existence of any factual or legal impediments as to the enforcement of the decisions referred to in paragraph 1 of this Article, for the purposes of consultations on further actions.

Execution of Prison Sentences Imposed in Judgements Passed by the International Criminal Court

Article 32

The Republic of Serbia shall allow for the execution of prison sentences imposed in judgements passed by the International Criminal Court, at appropriate institutions in the Republic of Serbia based a separate agreement between the Republic of Serbia and the International Criminal Court.

The prison sentence referred to in paragraph 1 of this Article shall be executed in accordance with the regulations of the Republic of Serbia, unless otherwise specified under a separate agreement.

Costs of the execution of the prison sentence mentioned in paragraph 1 of this Article shall be borne by the International Criminal Court, unless otherwise specified under a separate agreement.

Enforcement of Fine, Decisions on Seizure of Property of the Convicted Person's and Compensation of Damages to Victims of Crime

Article 33

When the International Criminal Court requests from the Republic of Serbia to enforce a decision on fine, seizure of property of the accused person's or compensation of damages to victims of crime referred to in Article 1 of this Law, the procedure of enforcement shall be conducted by the court in the Republic of Serbia competent for enforcement, in accordance with the law.

If the enforcement procedure has not been carried out, partially or in entirety, due to the fact that the debtor's property does not comprise funds appropriate to be the subject of enforcement, or for other reasons set forth in the law, the competent enforcement court shall notify the Ministry about it.

The Ministry shall without delay notify the International Criminal Court on the impediments referred to in paragraph 2 of this Article, for the purposes of consultations on further actions.

VI IMMUNITY AND FREE TRANSIT THROUGH THE TERRITORY OF THE REPUBLIC OF SERBIA

Agreement on Immunity and Privileges

Article 34

Judges, the Prosecutor, Deputy Prosecutors, the Secretary, Deputy Secretaries, the Prosecutor's Office staff and the International Criminal Court Secretary staff, when carrying out tasks in the interest of the International Criminal Court in the territory of the Republic of Serbia, enjoy the immunities in accordance with the agreement on the immunities and the privileges concluded between the Republic of Serbia and the International Criminal Court

Free Transit Through the Territory of the Republic of Serbia

Article 35

Competent state authorities shall, upon request of the International Criminal Court, secure free transit to persons travelling through the territory of the Republic of Serbia who work for the International Criminal Court or whose business is of importance to the International Criminal Court.

Due to circumstances of a case, where necessary, the competent state authorities shall provide the persons referred to in paragraph 1 of this Article with proper police or other type of escort

VII PARTICIPATION OF THE REPUBLIC OF SERBIA IN ACTIVITIES OF THE INTERNATIONAL CRIMINAL COURT

Representative of the Republic of Serbia in the Assembly of Member States

Article 36

A representative of the Republic of Serbia in the Assembly of Member States, including a Deputy Representative, shall be designated by the Government Predstavnik.

In addition to the Representative of the Republic of Serbia and Deputy thereof, eminent experts in international criminal justice may also participate in the work of the Assembly of Member States.

Pursuant to the Statute and other regulations of the International Criminal Court, the Government shall see to the participation of representatives of the Republic of Serbia in the work of other bodies of the International Criminal Court.

Participation of the Republic of Serbia in the Election of the International Criminal Court Judges

Article 37

When the election of the International Criminal Court Judges or staff of the Court is conducted at the motion of the Member States, if the Government considers that the Republic of Serbia should nominate a candidate, it shall publish a public advertisement inviting interested persons who meet specified requirements to apply within defined timeframe.

The Government shall conduct a selection procedure of the candidates who have applied in a manner providing the public to inspect the selection criteria, the manner of ranking the candidates as well as all other components of importance for an impartial selection.

If the Statute or some other regulation of the International Criminal Court provides for a specific manner of conducting the procedure for the election of the persons referred to in paragraph 1 of this Article, the Government shall conduct the election in the manner as specified and by analogous application of regulations of the Republic of Serbia.

The Government shall, in a separate advertisement, if it finds it justified, inform the public on the forthcoming election of the International Criminal Court Judges when candidates also apply directly to the International Criminal Court.

Professional, administrative and technical tasks for the needs of the Government and within the framework of the participation of the Republic of Serbia in the work of the International Criminal Court, shall be carried out by the Ministry.

VIII COSTS OF COOPERATION AND PARTICIPATION OF THE REPUBLIC OF SERBIA IN FUNDING THE INTERNATIONAL CRIMINAL COURT

Costs of Co-operation with the International Criminal Court

Article 38

Pursuant to the provisions of Article 100 of the Statute, any costs of co-operation with the International Criminal Court shall be borne by the International Criminal Court, unless otherwise specified in the agreement between the Republic of Serbia and the International Criminal Court.

Usual costs of proceeding upon request of the International Criminal Court in the territory of the Republic of Serbia, including the costs incurred due to the application of legislation of the Republic of Serbia shall be paid from the budget of the Republic of Serbia.

Participation of the Republic of Serbia in Funding the International Criminal Court

Article 39

Financial resources used by the Republic of Serbia to contribute to the work of the International Criminal Court, the Assembly of the Member States and other bodies linked to the International Criminal Court, shall be secured from the budget of the Republic of Serbia.

The financial resources mentioned in paragraph 1 of this Article shall be specified in scope and in manner defined under the agreement between the Republic of Serbia and the International Criminal Court.

The agreement referred to in paragraph 2 of this Article is primarily based on criteria of the United Nations Organisation pertaining to financial contributions of the Member States to the budget of the United Nations Organisation.

IX TRANSITIONAL PROVISION

Competence of the Courts

Article 40

The Ministry shall obtain the opinion referred to in Article 10, paragraph 3 hereof from the Supreme Court of Serbia until the set-up of activities of the Supreme Court of Cassation. The District Court in Belgrade exercises jurisdictions of the Higher Court in Belgrade referred to in Article 22, paragraph 3 hereof until the set-up of activities of the latter.

X FINAL PROVISION

Entry into Force of the Law

Article 41

This Law shall enter into force on the eighth day from the day it is published in the "Official Gazette of the Republic of Serbia".

ANNEX IV
Implementing legislation questionnaire for States Parties

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

Answer: 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?

Answer: Both of it. In Criminal Code we incorporate separate chapter. On the other hand several months ago Government drafted lex specialis – Low on cooperation with ICC.

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

Answer: Implementing legislation /Criminal Code/ incorporate the crimes against humanity and other values protected by international law. In that way we have implemented system of criminal acts that had been incorporated in Statute.

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

Answer: Yes it does.

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

Answer: Yes it does. Channel of communication is: contact point, Ministry of justice.