

No. 15.2-1/5419-1

NOTE VERBALE

The Ministry of Foreign Affairs of the Republic of Estonia presents its compliments to the Secretariat of the Assembly of the States Parties and, with reference to the 5 May 2026 note ICC-ASP/25/SP/67 of the Secretariat regarding the Plan of action for achieving universality and full implementation of the Rome Statute, has the honour to convey the replies of Estonia to the questionnaire in the annex III of the above mentioned note.

The Ministry of Foreign Affairs of the Republic of Estonia avails itself of this opportunity to renew to the Secretariat of the Assembly of the States Parties the assurances of its highest consideration.

Tallinn, 08 October 2026

Secretariat of the Assembly of States Parties

THE HAGUE

Implementing legislation questionnaire for States Parties¹ - Replies by Estonia

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

Yes. Estonia has implemented the Statute through its existing criminal law and criminal procedure legislation, in particular the Penal Code and the Code of Criminal Procedure. Estonia has not adopted a separate act to implementing the Statute. Estonia signed the Statute on 27 December 1999 and deposited its instrument of ratification on 30 January 2002. The Statute entered into force for Estonia on 1 July 2002.

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?

Estonia incorporated the relevant provisions into pre-existing legislation. The substantive crimes are regulated by the Penal Code. International cooperation in criminal proceedings, including cooperation with the International Criminal Court, is regulated by Chapter 19 of the Code of Criminal Procedure.

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

The crimes have been incorporated into domestic law. Chapter 8 of the Penal Code criminalises offences against humanity and international security. It includes specific provisions on crimes against humanity, genocide, crimes of aggression and war crimes. The provisions of the Penal Code do not incorporate these crimes merely by reference to the Statute. Criminal responsibility is determined on the basis of the elements of the offences established in Estonian law.

7. Does the implementing legislation incorporate the following aspects of cooperation with the Court and if yes, how?

Under subsection 489 (1) of the Code of Criminal Procedure, cooperation with the Court is based on the Code of Criminal Procedure unless otherwise provided by an international treaty. The general provisions on international cooperation apply together with section 489 and the Statute.

(a) Arrest and surrender;

Under subsection 489 (2) of the Code of Criminal Procedure, when the Office of the Prosecutor General receives an arrest request from the Court, it arranges the arrest and committal in custody of the person concerned. Surrender would be governed by the Statute and the applicable provisions of the Code of Criminal Procedure.

(b) Interim release and release of persons (acquittal, non-confirmation of charges, etc);

These matters would be dealt with under the Statute and the general provisions of the Code of Criminal Procedure concerning custody, judicial authorisation and release. The Code does not contain a separate provision specifically regulating interim release in ICC proceedings.

(c) Cooperation with OTP investigations;

Under subsection 489 (3) of the Code of Criminal Procedure, an ICC prosecutor performing procedural operations in Estonia has the rights and obligations of a prosecutor under Estonian law. Requested investigative measures may be performed under the relevant provisions of the Code of Criminal Procedure, including any applicable requirements for judicial authorisation.

(d) Cooperation with the Court on the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes;

Estonian law provides for the identification, tracing, restraint and seizure of property and for measures securing confiscation. The relevant provisions of the Code of Criminal Procedure would be applied together with the Statute.

(e) Enforcement of sentences;

Estonian law contains general provisions on the recognition and enforcement of sentences imposed outside Estonia. Enforcement of an ICC sentence would also require Estonia to accept the Court's designation under Article 103 of the Statute. Estonia has not concluded an agreement with the Court on

¹ Annex III to ICC-ASP/25/SP/67

the enforcement of sentences and has no practical experience in enforcing ICC sentences. However, Estonia has experience in enforcing sentences imposed by other international criminal tribunals under a bilateral agreement with the International Residual Mechanism for Criminal Tribunals. Four persons sentenced by ICTR and ICTY are currently serving their sentences in Estonia.

(f) Witness protection;

Witness-protection measures are available under the Code of Criminal Procedure and the Witness Protection Act. The particular protection measures would be agreed with the Court according to the circumstances of the case.

(g) Other forms of cooperation (see in particular article 93 of the Rome Statute).

Other forms of cooperation may be provided under the Statute and the applicable provisions of the Code of Criminal Procedure. The availability of a measure and the competent authority would be determined according to the nature of the request.

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

Under subsection 435 (1) of the Code of Criminal Procedure, the Ministry of Justice and Digital Affairs is the central authority for international cooperation in criminal proceedings unless otherwise provided by law or an applicable international legal instrument. Under subsection 489 (2), arrest requests from the Court are received by the Office of the Prosecutor General.

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

The legislation does not establish a separate authority or focal point specifically for cooperation with the Court. The Ministry of Justice and Digital Affairs is the central authority for international cooperation in criminal proceedings. The Office of the Prosecutor General has the specific functions assigned to it by section 489 of the Code of Criminal Procedure.

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)

Yes, through the ratification of the Treaty and the Agreement. The Riigikogu adopted the Ratification Act of the Agreement on 16 June 2004. Estonia deposited its instrument of ratification on 13 September 3 2004, and the Agreement entered into force for Estonia on 13 October 2004. Under § 123(2) of the Estonian Constitution, provisions of treaties ratified by the Riigikogu prevail over domestic legislation.

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?

Estonia did not encounter any fundamental constitutional or legislative obstacles to implementing the Statute. The necessary provisions were incorporated into the existing criminal-law and criminalprocedure framework. As Estonia has not received or executed cooperation requests from the Court, no practical obstacles have been identified.

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

No. Estonia did not receive specific external assistance for the legislative implementation of the Statute.

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

Estonia has considered concluding agreements with the Court on the enforcement of sentences and witness protection. No such agreements have been concluded and no specific legislative amendments are currently pending.